

## MINUTES

### MILWAUKIE CITY COUNCIL NEIGHBORHOOD NATIONAL NIGHT OUT CELEBRATION AUGUST 5, 2003

#### CALL TO ORDER

The 1915<sup>th</sup> meeting of the Milwaukie City Council was called to order by Mayor Bernard at 7:25 p.m. at the Neighborhood Association National Night Out Event on the Milwaukie riverfront. The following Councilors were present:

Councilor Barnes  
Councilor Lancaster

Councilor Loomis  
Councilor Stone

Staff present:

Mike Swanson,  
City Manager

#### PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Mayor Bernard recognized former Milwaukie Mayor Bill Hupp.

#### CONSENT AGENDA

It was moved by Councilor Lancaster and seconded by Councilor Stone to approve the consent agenda that consisted of:

1. City Council minutes of June 30, July 1, 14 and 15, 2003;
2. Resolution No. 33-2003: A Resolution of the City of Milwaukie, Oregon, Adopting Fiscal Year 2003/2004 (Year Fourteen) Annual Waste Reduction Plan and Authorizing the City Manager to Sign an IGA with Metro.
3. Authorize Vehicle Purchases.

Motion to adopt the consent agenda passed unanimously.

#### AUDIENCE PARTICIPATION

None.

#### OTHER BUSINESS

None.

**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 7:27 p.m.

*Pat DuVal*

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Pat DuVal, Recorder

# AGENDA

## MILWAUKIE CITY COUNCIL NATIONAL NIGHT OUT AUGUST 5, 2003

MILWAUKIE RIVERFRONT PARK  
Jefferson Street Boat Ramp

1915<sup>TH</sup> 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 30, July 1, 14, & 15, 2003**
  - B. **Annual Waste Reduction Work Plan (Year 14) -- Resolution**
  - C. **Authorize Vehicle Purchases**
- 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.)*

**None scheduled**

## **VII. INFORMATION**

**Center/Community Advisory Board Minutes, June 13, 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.



TO: Mayor and City Council  
FROM: Mike Swanson, City Manager  
DATE: July 27, 2003  
RE: FYI Memo for the Weeks of July 27, 2003 through August 15, 2003

## **JULY 31, 2003 TEAMBUILDING**

The teambuilding session will be conducted at 1400 SE Lava Drive (in Waverley Greens) at 9:00 a.m. Please be on time, as we want to capitalize on our time together. You do not need to prepare anything other than a snack to share with everyone. Water and soda will be provided. Sam Imperati will conduct the session.

## **AUGUST 4, 2003 COUNCIL MEETING**

Please note two important points: First, inasmuch as the amount of business did not warrant it, the work session normally scheduled for Monday evening was cancelled. Second, the August 4, 2003 regular meeting is the annual National Night Out and is being held at the Riverfront Park on the Boat Ramp.

- (1) **Annual Waste Reduction Work Plan**: Council is requested to adopt a resolution approving the Annual Waste Reduction Work Plan and authorizing the City Manager to execute an IGA with Metro that grants the City funds to assist in implementing the Plan. This will be the 14<sup>th</sup> year in which the region and City have been involved in these activities.
- (2) **Purchase of Vehicles for Fiscal Year 2003-04**: Council is requested to authorize the City Manager to execute purchase orders in the amount of \$205,000 for vehicle purchases authorized in the FY 2003-04 Budget.

## OTHER ITEMS OF INTEREST

1. FYI, Tri Met has taken possession of the Southgate property pursuant to an action in condemnation. The lawsuit was filed for the purpose of constructing the park and ride facility. The District was required to deposit the appraised value of \$1.4 million with the Court in order to take possession. The funds were federal grant dollars that had to be obligated by October 2003 if they were not to lapse, so the action was timely. This does not, however, end the matter. Final possession will await further testimony on value and a final determination.
2. In the last FYI memo I reported that staff was meeting with Tri Met to develop a public outreach process for further discussion of the Transit Center as per the LPA. Since then it has been determined that the funds committed by Clackamas County to the Milwaukie Transit Center were in danger of lapsing if not committed to a project within fourteen months. Since it would be impossible to make such a commitment to a Milwaukie Transit Center within that time frame (given the need for a public process, environmental assessment, and design), the funds would be redirected for preliminary engineering on I-205, and Tri Met would agree to give Milwaukie a priority on its Section 5309 federal bus funds as soon as funds could be obligated to the Milwaukie Transit Center. Rather than trust this to the memory of the participants, it will be reduced to a written MOU to be executed by Tri Met's Neil MacFarland and myself. We will be negotiating the language over the next few weeks. The timing of the Center will remain during Phase 1, and we will try to establish a more specific window.
3. FYI, the City was served with a lawsuit filed by Roger Weidner, who is representing himself as Plaintiff and owner of the property formerly owned by the Heckmann's. Weidner received a quit claim deed to the property from the Heckmann's and claims an interest under various claims. The City Attorney is representing the City.
4. FYI, our July 31 teambuilding session is casual. The intention is not to set goals or to otherwise make decisions on City issues. Rather, our focus will be to improve our ability to function as a group. Often the question about whether to include staff arises. I believe that we start with this group and then expand. Your only preparation will be to bring a snack for the group. Water and soda will be provided. Please be on time so we can best use the time we have available.

## MINUTES

MILWAUKIE CITY COUNCIL  
JUNE 30, 2003

## CALL TO ORDER

The Special 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:

Pat DuVal,  
Acting City Manager  
Tim Ramis,  
City Attorney  
Alice Rouyer,  
Community Development/  
Public Works Director

Steve Smith,  
Finance Director  
Larry Kanzler,  
Police Chief

## PLEDGE OF ALLEGIANCE

## PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

**Mayor Bernard** read brief biographies of the first men on the Milwaukie City Council. Madalaine Bohl, Milwaukie Museum Curator, is preparing historical moments to be read at each Council meeting during the Centennial Year.

## CONSENT AGENDA

There were no consent agenda items.

## AUDIENCE PARTICIPATION

**Mayor Bernard** announced issues relating to the house stored at 21<sup>st</sup> Avenue and Lake Road would be discussed as other business.

## PUBLIC HEARING

2003 – 2004 Budget Hearing

**Mayor Bernard** called the public hearing on the 2003 – 2004 Budget and 2002 – 2003 Supplemental Budget continued from June 16, 2003 to order at 6:05 p.m.

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### III. A. 2

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

**Smith** provided the staff report in which he briefly reviewed the budget process and requested the City Council adopt those resolutions necessary to effect the 2003 – 2004 budget.

Correspondence: None.

Audience Testimony: **Rosemary Crites**, 4917 SE Aldercrest Road, Milwaukie. She expressed her appreciation to Police Chief Larry Kanzler for his help in solving a transient situation on Harrison Street.

**Juli Howard**, 9705 SE 37<sup>th</sup> Avenue, Milwaukie, spoke as a citizen, employee, and AFSCME president. During hard economic times and budget shortfalls, all employees are impacted in some way and are adjusting as well as possible. There is one employee, Deb Torpey, who must adjust to having her position eliminated in the budget that is before Council. Torpey was recently recognized for 10 years of service to the City while knowing on July 1 she would not have a job. Although she questioned the wisdom of the Budget Committee's transferring contingency funds to the library, she proposed allocating a little more to save Torpey's position if only for another year. If there were multiple lay offs or if the Budget Committee had not decided to transfer contingency to the library, Howard probably would not be testifying at this hearing. However, there is only one person in the organization being laid off. She requested the City Council transfer \$48,000 to the police department budget to maintain the delivery clerk position. She provided the City Council with a list of Torpey's duties, which will have to be picked up by others, particularly police officers, if the position is eliminated. Officers will be taken off the streets to transport evidence, deliver subpoenas and paperwork, shuttle cars for service. Is this fiscally responsible? If the City Council decides to allocate funds to save this position, the City will be left with over \$900,000 in contingency. At the last Budget Committee meeting, she heard members say they would be comfortable with \$900,000 to \$1 million in the contingency fund.

**Howard** discussed research she had done in May on other libraries in the network and provided information on hours and population. Based on this data, Milwaukie is fifth in hours of operation, and with the new proposed schedule it would go to eleventh. Six of the twelve libraries are closed more than one day per week. She believes it is poor management to remain open seven days a week and cut 9-1/2 hours. The City would see a huge savings in facility costs if the library, and other City buildings were closed for one additional day each week.

**Councilor Barnes** asked how much the position actually pays.

**Howard** said the salary plus benefits for this position is \$48,000, which is less than what was transferred to the library fund.

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Staff Comments: None.

Questions of Clarification: **Councilor Barnes** asked Kanzler how the department would be impacted if the delivery clerk position were eliminated.

**Kanzler** said at the beginning of the process each manager went through his or her departmental budget with the city manager to identify potential cost savings. The primary role of the department is to provide police services. If the City Council were to restore any funding, he would ask for officer positions. He does not want to see any positions lost, but when it comes to making sacrifices to get through the current budget constraints he is not in the position to do anything other than what he has done. He supports every action the City has made and will stay with his original recommendations.

**Councilor Barnes** asked who would be taking over the duties on the list.

**Kanzler** has not seen the list, so he can only comment on what he sees in the office on a daily basis. Staff from both police and public works will share the duties. There will be some costs in officer time, but it will be intermittent. He will generate some economy of scale throughout the whole department.

**Councilor Lancaster** believes, based on his one-on-one experience, that Kanzler is an outstanding individual. As the longest sitting member on the City Council, he has witnessed the transformation of the police department and has to say Crites's comments indicate the kind of astounding job the chief has done in transforming the City's law enforcement department. In many ways, it is more outstanding than any other department in the metro area. Milwaukie is lucky to have Chief Kanzler.

Close Public Testimony: **Mayor Bernard** closed the public testimony portion of the hearing at 6:20 p.m.

Discussion among Council Members:

**Councilor Barnes** does not want to see anyone lose his or her job. People do not become elected officials to see employees who work for and with the Council to lose their jobs. This is a very difficult time, and she understands that. She also supported Lancaster's remarks about the outstanding performance of the police department, and she is becoming a big fan of Chief Kanzler and the department. She thinks transferring \$50,000 to the library fund was appropriate. In her recent visits to the library, Barnes has seen it packed with children. As a teacher, parent, and resident it makes her feel good to see youth actively involved with a book. An appreciation of literature and interest in reading make her job easier when students reach high school.

**Mayor Bernard** commented that Milwaukie has a ten-member Budget Committee. He asked Howard if she addressed these issues before the full Committee.

### III. A. 4

**Howard** said she had not addressed the Budget Committee because the public testimony portion came before any deliberations and decision making. She decided to speak about Torpey's job after the Committee voted in favor of transferring \$50,000 to the library fund. She was not sure if there would be other things affected as well. Only one position is being cut, so, if that amount of money could be given to the library, then she felt she needed to address the City Council at its budget adoption hearing. When the Committee decided to transfer the funds, public testimony was over.

**Councilor Stone** commented this has been a difficult process, and when the levy was voted down everyone knew what they would be facing. No one wanted anyone to lose his or her job, and that still holds true. It is sad that some people have had to leave. The good thing is it has not been widespread in terms of the numbers lost. As far as contingency goes, which does not mean she is not supportive of the library, her gut and philosophy tell her that contingency funds should be just that and should be available for emergencies. In the next fiscal year the City will be facing a deficit, and we are not out of the woods. It is bothersome that we have to rob from Peter to pay Paul, and she is not in favor of operating that way. She certainly does not want to take anything away from the library. She appreciated what Howard did in terms of looking at different libraries and seeing how well they operate. She believes that is something Milwaukie should think about. It would have been her preference to use that money putting a library levy on the ballot. It would have cost about the same, and a levy would offer a more permanent solution. The City will be right back in this position in just a few short months when work begins on the next fiscal year's budget.

**Councilor Lancaster** has clearly stated his views throughout the budget process. He would not have liked the budget to be the way it came out, but the Budget Committee worked long and hard and labored over every element and every possibility. He is prepared to support the existing budget.

**Mayor Bernard** added the City lost a lot of people. Three library employees retired early. Michelle Gregory resigned from the neighborhood services department, which he felt was a major loss to the community and neighborhood associations. Several have resigned in the public works department. He believes a total of 8 employees have resigned, so a lot of people have left their positions in that way. It has been across the board pain, and he does not know how neighborhood services will make up the slack of Gregory's leaving. Wheeler, Wachs, and Campbell have a tough road ahead, and part of that is because the City can no longer fund neighborhood services at its previous level.

**It was moved by Councilor Barnes and seconded by Councilor Stone to adopt the resolution adopting the 2003 – 2004 Budget, making appropriations, and declaring the ad valorem tax. Motion passed unanimously.**

**RESOLUTION NO. 24-2003:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON, TO ADOPT THE BUDGET, MAKE APPROPRIATIONS AND DECLARE AND CATEGORIZE THE AD VALOREM TAX LEVY FOR FISCAL YEAR 2003 – 2004.**

**It was moved by Mayor Bernard and seconded by Councilor Barnes to adopt the resolution declaring the City's election to receive state revenues. Motion passed unanimously.**

**RESOLUTION NO. 25-2003:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUES DURING FY 2003 – 2004.**

**It was moved by Councilor Barnes and seconded by Councilor Lancaster to adopt the resolution certifying services provided for state revenue sharing. Motion passed unanimously.**

**RESOLUTION NO. 26-2003:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CERTIFYING SERVICES PROVIDED FOR STATE REVENUE SHARING.**

**2002 – 2003 Supplemental Budget**

**Smith** said the \$60,000 supplemental budget would pay for the downtown traffic study and transfer \$2,002 back to the general fund.

**It was moved by Councilor Barnes and seconded by Councilor Loomis to adopt the resolution adopting the supplemental budget and amending appropriations for fiscal year 2002 – 2003. Motion passed unanimously.**

**RESOLUTION NO. 27-2003:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO ADOPT A SUPPLEMENTAL BUDGET AND AMEND APPROPRIATIONS FOR FISCAL YEAR 2002 – 2003.**

**OTHER BUSINESS**

**Adoption of the 2004 – 2008 Capital Improvement Plan**

**Rouyer** provided the staff report in which the City Council was requested to approve a resolution adopting the City's 2004 – 2008 Capital Improvement Plan (CIP). The 5-year

### III. A. 6

plan is adopted annually by Council after review and recommendation by the Citizens Utility Advisory Board and Budget Committee.

**It was moved by Mayor Bernard and seconded by Councilor Stone to adopt the resolution adopting the 2004 – 2008 Capital Improvement Plan. Motion passed unanimously.**

#### **RESOLUTION NO. 28-2003:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON ADOPTING THE CAPITAL IMPROVEMENT PLAN FOR 2004 – 2008.**

#### **The House Stored at 21<sup>st</sup> Avenue and Lake Road**

**Patty Wisner**, Lake Road Neighborhood Association, 3325 SE Wister Street, Milwaukie. She is aware this situation is long past the eleventh hour, and the abatement is legally going through tomorrow and Wednesday. Significant salvaging will be going on with demolition on Wednesday and Thursday. As of last Monday, she realized in her final conversations with Terry Emmert that he would not sign the agreement with the City of Milwaukie due to reasons in his best interest. Her hopes of getting the house moved were completely dashed. In a last minute attempt, she called preservationist non-profit organizations, and they referred her to Mr. Clem Ogilby who was present at this meeting. She and Ogilby started a very intense week to see if it was at all feasible to move the house out of Milwaukie permanently and meet all of City Manager Swanson's concerns. She believes she has found solutions for those concerns. She is asking the City Council to consider the material she is providing, discuss it amongst themselves, and then make a motion to redirect the city manager to allow Ogilby to move the house out of Milwaukie. The City would save \$9,800 in demolition fees. Ogilby will address what he is willing to assume in terms of financial responsibilities. He has lined up a team that is ready to go when the utility companies give a date for lowering the lines. Any mover is at the mercy of the utilities to set that coordination date. Ogilby is going to work, if allowed, with the same movers who moved Frank Lloyd Wright's Gordon House from Wilsonville to the Oregon Garden. She has seen how fast Ogilby can work on his projects.

**Wisner** has spent two years hoping in individuals who dragged their feet and did not accomplish the task to which they committed. This is a total change of scene, character, and integrity. Ogilby's informational packet speaks well of his track record and how he is thought of in his professional community in terms of meeting commitments and getting the job done the right way. Obviously, we are in the abatement phase and this can mean either moving or demolishing the structure. There is still a chance to reconsider that and save a significant house that should not be destroyed. Allow it to be purchased and used by someone else in the coming year as a residence. She provided an ad from the *Sunday Oregonian* for a house of the same age and floor plan that is worth nearly \$300,000. The Marinos house can be a viable residence, and Ogilby has the track record to restore it. It is worth his while to invest in

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saving the house and turning it for a profit. It would be wonderful publicity for people to see this house saved and moved for the City of Milwaukie and a great thing to happen in the Centennial year. There would be a lot of media coverage of that house taking off from the Milwaukie Bay and going on to a new future.

**Clem Ogilby**, 408 SW 2<sup>nd</sup>, Portland, Oregon 97204. He has fond memories of Milwaukie where he maintained an office for over a year. This community obviously has some very dedicated individuals who care deeply about this community and particularly about its history. It is apparent this particular project has been a rocky one at best, but he feels in just the short period of time he has been working with Patty Wisner and others on this project some huge advances have been made. To highlight some of these, just in the last week, Shaver Barge Lines has offered to provide transportation for the structure to a temporary location. As much as the group would like to keep the structure within the environs of Milwaukie, it recognizes the challenges of permitting and the fact there are a number of people who have grown tired of seeing an abandoned, unoccupied structure. The feasibility of the proposal has also been confirmed by Hoskings and Hildebrand who are highly reputable professionals with combined experience in excess of 40 years. They were entrusted with the relocation of the Frank Lloyd Wright Gordon House and safely delivered that structure to the Oregon Garden in Silverton. The Union Pacific (UP) Railroad has given permission to remove and relocate the structure. He believes UP is interested in seeing that structure moved from its site and to move on. The individual who initially moved the structure, Wayne Grippen, has pledged his cooperation to allow the use of his equipment. This is an important point because it will facilitate removal of the structure from its current site. He does wish to interject he has been in conversation a great deal with Mr. Grippen in the last 48 hours, and he is very concerned about what may happen to his equipment in the event the abatement is conducted. There is a significant investment under that structure. Grippen has been in contact with his attorney and is intending to seek restitution if he does not get it back the way it was left.

Ogilby said we are at a point where we are appealing to the City Council to essentially grant a stay of execution. We feel that it is unfortunate that the circumstances have been such over the past 26 – 27 months. It is a long time to many. To others that is not eternity when looking at the individual who had the wherewithal to construct that building. Sam Marinos is a man he would have liked to know. A very hard working Greek refuge that came to this country with what he had on his back and went on to build up a successful business in Portland. His track record as a philanthropist is absolutely staggering. He supported over five families during the depths of the depression and was clearly a guy intent on giving back more than he took. Ogilby concluded by saying he welcomed questions but would like to be afforded the time and opportunity to negotiate with the City of Milwaukie to come up with a peaceful resolution to this most unfortunate set of circumstances.

**Councilor Lancaster** said Ogilby had elucidated a number of the key elements it would take to make this actually happen. He asked if there are any pieces still missing.

### III. A. 8

**Ogilby** said Ms. Wisner made reference to the utility companies. There is a process by which an application has to be made for the removal of the wires that is not insurmountable by any means. In order to remove the structure, the utility companies will have to be contacted. Hoskings and Hildebrand's preliminary feasibility gave him reassurance that this is possible. This is the last remaining piece that would need to be in place.

**Councilor Lancaster** asked Ogilby the maximum amount of time it would take to move the house.

**Ogilby** said the proposal identifies a 60 – 75 day window. The intent would be to accelerate that, and there is a strong likelihood that could be moved up considerably.

**Wisner** said at a meeting with Pat DuVal and Steve Campbell on Friday, Ogilby brought up a good point. Because his firm does have a good reputation, the utilities might be more friendly in granting his request than other companies that have caused trouble in the past with moving structures. Since they would be working with a reputable firm and an individual with a good reputation and no record of causing problems, there is a chance the utilities may work look more favorably on Ogilby's application.

**Councilor Lancaster** asked what the earliest time would be if the process were expedited.

**Wisner** said it is dependent upon the utility companies. They would be totally at their mercy as far as a coordination date.

**Ogilby** pointed out that Swanson pledged the issuance of a moving permit in a most expeditious fashion. We are not dependent upon receiving a building permit.

**Councilor Stone** understands Swanson said Ogilby would not need a permit to do this.

**Ogilby** clarified a moving permit would be needed.

**Councilor Stone** understands Ogilby has been in contact with Swanson.

**Ogilby** said he had been in contact with Swanson by telephone only. He has been a tough guy to get a hold of.

**Councilor Stone** had a question about Ogilby's reference to the equipment under the structure. What is the problem with that in terms of going forward with the abatement versus not?

**Ogilby** said the problem with going through the abatement while maintaining the integrity of the materials currently supporting the structure is that it is very difficult to get in there with a piece of equipment and essentially knocking the structure down without damaging the steel I-beams and crib locks. If we were looking at a deconstruction, it

would be a different story altogether. The preferred methodology is the use of a track hoe.

**Councilor Stone** asked Ogilby how he knew that is what would be used.

**Ogilby** said he was privy to the dollar amount of the contract and knowing the differences between heavy equipment machinery and salvage operations. There is a considerable cost differential. The first is less labor intensive than the latter.

**Councilor Stone** asked, in terms of cost to the City since there is a signed contract with the demolition contractor, what can the City expect? Will the City have to pay it back? Has Ogilby talked to the demolition contractor?

**Ogilby** has talked about that very issue, and he is prepared to make a proposal to the demolition contractor, Dan Obrist, to essentially cash him out of that dollar amount.

**Mayor Bernard** said the City Council voted to find this structure a nuisance. Under City code, the city manager by law has to abate the nuisance. The abatement has taken place. It is his understanding that in order to change that, the Council members who made the motion to abate would need to move to reconsider.

**Ramis** said that is correct.

**Mayor Bernard** said all members were present when the vote was taken with the exception of Councilor Loomis. Anyone on the prevailing side could make the motion.

**Councilor Stone** said the vote was unanimous because of the conditions. She made a point of clarification from that meeting on January 21, 2003. This is from Gary Firestone who was the city attorney at that meeting. She read from the minutes: *"The Council has a decision to make on whether or not the house is a nuisance, and under the code this is the Council's sole decision to make. Once it is determined to be a nuisance, if that is the Council's decision, the city manager may cause it to be abated. The word "may" gives the manager and the rest of city staff acting as the city manager's designees to take action and gives authority to take action but does not necessarily require the action to be taken. The Council can give instructions to the city manager as to how his discretion is to be exercised that could involve a timeline."*

**Ramis** said that is correct. Action could be taken to delay this demolition without rescinding the Council order declaring it to be a nuisance. It seems to him the more difficult and thorny issue is the judgment that will have to be made as to whether or not this can actually happen and if the pieces are really in place. The second issue is the existing contract of which Council spoke and how to deal with that. Council could direct the administration of the City to deal with it, but there would no doubt be a cost. We have someone with whom we have entered into a contract who is entitled to be compensated for the work. It probably will not be easy for the City to extract itself from the contract. There was a comment that an offer could be made.

### III. A. 10

**Councilor Stone** asked Ogilby if the contractor indicated he would make this agreement.

**Ogilby** has not broached that subject, but he does know this particular contractor has been in similar situations and has negotiated for a settlement amount. It is possible, but Ogilby has not approached him.

**Councilor Stone** understands the contract is under \$10,000 if it is carried out.

**Mayor Bernard** said the contract is for \$9,800.

**Councilor Stone** understood it would not necessarily be that total; it would be whatever was invested in the work so far.

**Ogilby** said exactly.

**Ramis** said it would be whatever is negotiated.

**Councilor Stone** understood it could potentially be whatever was negotiated so far. She asked Ogilby if he was willing to negotiate.

**Ogilby** said he would be.

**Councilor Stone** understands the City would not then be liable.

**Mayor Bernard** believed the City would have to negotiate since it is the City's contract.

**Ramis** said the contract is between the City and the demolition contractor. One relevant issue is that, if the City did negotiate such a termination or rescinding of the contract, there would clearly be a dollar amount. The City would need to have the funds to do that.

**Mayor Bernard** asked Ogilby if he would be willing to pay a performance bond.

**Ogilby** said yes, that is a totally acceptable part of doing business. That does not offend him nor is it unconstitutional or discriminatory.

**Mayor Bernard** said the Council voted to support the city manager, who will return in the morning, and it is entirely up to him. If Swanson feels it will get done, Bernard would require signage that says this house is being saved by Ogilby. The contract has been signed, and the City has already been billed for a portion of the work. As far as he is concerned it is up to the city manager. The City Council asked Swanson to handle the situation. He has been on vacation and was interrupted numerous times. As far as he knows, nothing has happened at the house. He is concerned about citizens, such as Horton, who is trying to lease the former Clackamas County Mental Health facility. That is why he wants the sign. As far as he is concerned it is up to the city manager, and the City Council voted 4 – 1 to support Swanson.

**Councilor Stone** thinks the city manager is doing what the Council asked him to do and is carrying its wishes. The Council did declare it a nuisance, and the abatement process has been proceeding. It is up to the Council to give him direction as to how it wants him to go from here. That is part of the Council's charge to make those kinds of decisions. The city manager works for the Council.

**Mayor Bernard** asked Stone if she wished to make a motion.

**Councilor Stone** indicated she had more comments.

**Mayor Bernard** said she could for a short time because he is calling for a motion. Discussion can continue after the motion is made. He is trying to find out if there would be a second to a motion leading to further discussion.

**Councilor Stone** asked if she makes the motion and there is no second could she not finish her comments?

**Mayor Bernard** said that is correct.

**Councilor Stone** said she would make the motion after her statements. That is her feeling about how the Council operates as a governing body by directing the city manager and giving him direction on how he should proceed. That is her understanding of the Council's role. The Council's role is also about upholding the mission statement and community goals. This whole scenario is in direct conflict with the mission statement and community goals. She read part of the mission statement into the record: *"we have a commitment to achieving and maintaining a sense of place, history, and future that defines Milwaukie and distinguishes it from other areas; and to a livable, safe environment including preservation and enhancement of both built and physical environments."* This house and other structures like it in the City certainly fall under that. In terms of community goals, one of the goals is to support the preservation of historic and architecturally significant structures. She believes we have an opportunity as a Council to uphold what we value. Supposedly we are valuing it on paper, but what good is it on paper if we do not put these values into motion and put them into action? She encouraged people; we have a chance to have yet another person step forward. Maybe this time, the batter up at the plate will hit a home run. As long as we have someone out there willing to take this on, she thinks the Council owes it to the citizens to let this happen. She just wanted to remind everyone at the last meeting there was a lot of testimony about this house, and it was greatly in favor of preserving it. About 17 of the 20 people testifying wanted to keep the house, and the Council needs to hear that. She thinks the Council actions need to speak to that. She asked the city attorney to help her word the motion. She understood the Council could change its course of action while keeping the house declared a nuisance.

**Ramis** said the Council could direct the city manager to negotiate a stay of the contract and negotiate with Ogilby compensation to the City for expenses incurred.

### III. A. 12

**Councilor Stone** asked if it would have to specifically say to stop the abatement process until this is done.

**Ramis** said the Council could direct the city manager to stop the proceedings.

**Councilor Lancaster** interjected before Stone made her motion he would like to hear from Councilor Loomis and DuVal.

**Councilor Loomis** is in favor of Swanson's talking with Ogilby to find out if the proposal is legitimate and can be done within the time limit. He really admires people like Patty Wisner who work so hard for a cause. He admires that in citizens and wants to support that any time he can. He is in favor of supporting it if there is a way to get it done. He likes how the City stepped forward to help save the house originally. His fear is this will set a precedent that the City will not bend over and try to help citizens. The City will go by the letter of the law because it is such a pain. This has been a pain. We all want it to end. If it is that important and there is a chance to save the house, he would be in favor of that.

**DuVal** commented on recent discussions and voice mails from Swanson, which she had covered with Wisner and Ogilby at the Thursday morning meeting. The city manager indicated he had spoken with Ogilby earlier in the week about the proposal. Swanson felt it was time to move forward and as of Thursday afternoon he directed her and Steve Campbell to sign the demolition contract with Obrist beginning work on Monday morning.

**Mayor Bernard** agreed. He felt Swanson could deal with it on the morning of July 1. Nothing has been done. If the city manager feels comfortable face-to-face, he feels comfortable too. Just like everyone else, Bernard wants to save the house. He thinks when an employee is asked to get a job done and the boss keeps jerking the rug out from under him, then that employee would question continuing to work for that person. The City Council has already asked the city manager a number of times to take care of the problem, and he has. Now he has an opportunity to do what the Council has asked tomorrow morning when he returns. He is sure Swanson would be willing to sit down with Ogilby and see if a deal could be worked out. Trying to talk to Swanson while he was driving in Florida on his vacation was not the best circumstances.

**Councilor Lancaster** understands if the City Council does not support a motion to change the abatement, the city manager still has the flexibility in his conversation tomorrow to reach a feasible outcome. Does the Council need to rescind its previous motion for Swanson to have that flexibility, or can he still use his latitude?

**Ramis** said the city manager has authority to make these judgments. Earlier in the discussion it was recognized the abatement step and carrying it out does say "may", so there is latitude for the city manager to make some judgments. That is inherent. He has that authority.

It was moved by Councilor Stone and seconded by Councilor Loomis for the City Council to direct the city manager to stop the abatement process on the Sam Marinos house and enter into negotiations with Mr. Obrist regarding the demolition contract so as to allow Mr. Ogilby to move and preserve this structure.

Mayor Bernard said in order for him to support the motion, it would have to have a time limit.

Councilor Lancaster was trying to move through the dynamics, and it seems to him that the City Council probably does not really need a motion. If the city manager has the leeway, and he has all the instruction the Council has given him and the word "may" allows him to delay any amount of time he deems necessary, that it is clear the Council has communicated clearly to him what the community's desires are. Swanson's goal has always been to make it happen somehow. He is perfectly comfortable putting it in the city manager's hands. A motion does not really change things in terms of what the Council is trying to accomplish.

Councilor Stone hoped by declaring a motion Swanson would understand the City Council was behind this and help him make his decision.

Mayor Bernard knows the Council is behind it, and if Swanson feels comfortable with Ogilby, he will be comfortable. He hopes tomorrow morning a decision will be made that both protects the citizens of Milwaukie and the house. That, however, is as far as he was willing to go.

Councilor Loomis agreed with Lancaster and seconded the motion for more discussion. He has great faith in Swanson who is the expert in this. Loomis wants to see it happen and trusts Swanson to determine if the move could happen in a short amount of time.

Councilor Stone's concern is that Swanson is just coming back from vacation, and this will be on his desk. The contract has been signed and things are moving forward. She does not know the demolition company's schedule.

DuVal understands Obrist will be at the site tomorrow at 7:00 a.m.

Councilor Stone said this needs to happen quickly in terms of getting the word out to Swanson.

Councilor Barnes understands Swanson has been called constantly during his vacation. If he does not know what is going on, Barnes would be very surprised. The man has read his e-mail or has been in touch with people on a daily basis. There is no doubt in her mind Swanson is up to the minute on everything that has happened and will know even more in an hour when he is deluged with phone calls.

**III. A. 14**

The motion to direct the city manager to stop the abatement process on the Sam Marinos house and enter into negotiations with Mr. Obrist regarding the demolition contract so as to allow Mr. Ogilby to move and preserve this structure failed with the following vote: Councilor Stone aye; Mayor Bernard, Councilor Barnes, and Councilor Loomis nay; Councilor Lancaster abstained.

**ADJOURNMENT**

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

Mayor Bernard adjourned the meeting at 7:06 p.m.

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Pat DuVal, Recorder

**MINUTES****MILWAUKIE CITY COUNCIL  
JULY 1, 2003****CALL TO ORDER**

The 1913<sup>th</sup> 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:**

### III. A. 16

- 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

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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.

### III. A. 20

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

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### III. A. 22

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 to 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 grant 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

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### III. A. 24

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.

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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 39<sup>th</sup> 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

### III. A. 30

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.

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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.**

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Pat DuVal, Recorder

## MINUTES

### MILWAUKIE CITY COUNCIL WORK SESSION JULY 14, 2003

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

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

Staff present: City Manager Mike Swanson, Community Development/Public Works Director Alice Rouyer, Engineering Director Paul Shirey, and Associate Engineer Jay Ostlund.

#### Information Sharing

The group discussed the upcoming July 26 Riverfront Event and promotional efforts for the North Main Street Redevelopment Project.

**Councilor Lancaster** asked for comments on the July 8, 2003 letter from Clackamas County Commissioner Bill Kennemer in response to the Mayor Bernard's June 23 letter regarding Milwaukie's MTIP application. The group discussed communications and negotiations related to the JPACT decision not to fund the Lake Road Multi-Modal Plan. Mayor Bernard will respond to Kennemer that the Milwaukie City Council looks forward to partnering in the future.

#### Open Public Forum

None.

#### Water Cost of Service Study Recommendation

**Ostlund** said the last water rate adjustment was in 1994, and rates have gone unchanged since then. The City contracted with Donovan Enterprises last April to conduct a water cost of service study. The consultant presented his findings and alternatives to the Citizens Utility Advisory Board (CUAB) in May and June, and a recommendation was prepared. Ostlund introduced Steve Donovan.

**Donovan** discussed the study and recommendation. His agenda included an explanation of how rates and charges are built, an analysis of the financial wherewithal of the utility, the existing rate structure and where the money is coming from, key issues affecting Milwaukie, CUAB analysis and the alternatives that were rejected, the recommendation, and finally the proposed rates.

### III. A. 35

Rates are considered using history, audits, budgets, and a determination of how much the City department as a business enterprise needs to operate. Within that, there is further consideration of fiscal policies; amount of cash to have on hand, depreciation funding, replacement, and similar issues related to operating a water utility. From that, revenue requirements are generated. Also taken into account are the resources required to fund system replacements and improvements. Finally, a financial model is constructed and rates are proposed.

Milwaukie is a residential community. 88% of all customers are residences served by ¾-inch meters. These customers currently pay a flat rate of \$5.95 every two months and \$1.35 for every 100 ccf of metered water supplied. In 2002 residential customers consumed 63% of the water sold. The balance went to multi-family, commercial, and industrial class customers. The only difference in rates is the fixed portion. All customers pay the same \$1.35 per 100 ccf.

Donovan said one key point to remember is that Milwaukie has not adjusted its rates since 1995. The real key is the legal fees associated with the groundwater contamination litigation. Since 2002, the City has spent \$330,000, and another \$200,000 is budgeted this year. That money is not coming from ratepayers; it is coming out of the capital reserve fund. The outcome of the litigation will drive the future well being of the water utility. He understands from the city attorney that the litigation phase of this will be completed in about a year, and appeals are anticipated. For planning purposes, \$50,000 is being budgeted for the next 5 years for the lawsuit.

Further, the City is not currently funding replacement. Money is taken out of rates to fund the depreciation expense, and some portions of the system are over 50 years old. As in any business, replacement needs to be funded out of current income. The surrogate used is the audited depreciation expense. The City is currently not funding anything because rates have not been adjusted since 1995. The department has been careful with its money, and the reserves are in good shape.

Finally, Milwaukie is residential and is at build out, so growth cannot be the engine to fund future requirements. Over the past 10 years, the customer growth in the base is about 0.29% per year. The rule of thumb in the utility industry is about 0.50% per year for infill, so Milwaukie is growing less than the infill and redevelopment rate.

The CUAB wants to fund the legal fees from the reserves, not by raising rates because that action would generate a large spike. The Board also wanted to phase in rate increases over a five-year period. The CUAB wants to find ways to implement level, understandable increases over the forecast horizon. Depreciation phasing starts immediately in 2004 and is fully funded by 2009. This approach fully funds all the operating requirements and has enough cash

generated to fund future capital improvements based on the approved plan. This option meets the CUAB's desire to have level, predictable rates.

He provided graphs of the anticipated rate increases in the preferred alternative. These did not include any outcomes of the groundwater litigation since these are unknown. A 4.17% increase is anticipated this year with legal fees being funded from reserves and phasing in depreciation expenses. Donovan briefly reviewed the alternatives the CUAB did not recommend because they resulted in undesirable rate spikes. Milwaukie is fortunate in that it can fund its legal fees through its reserves.

Donovan showed the Council a bar graph that indicated how Milwaukie's rates compared to those of neighboring providers based on customer use of 10 ccf. Milwaukie customers currently pay \$16.48. The preferred alternative results in a \$.69 per month rate increase. Relative to other communities in the metropolitan area, Milwaukie would still be quite low.

**Councilor Lancaster** asked for an example of the volume of 10 ccf.

**Donovan** said 1 ccf of water is about 7.48 gallons of water.

**Councilor Lancaster** understands the CUAB is recommending a 5-year phase in, so that by 2009, the department will be funding for its infrastructure based on anticipated replacements. At that level, would the City be able to fund for all future infrastructure on an ongoing basis?

**Donovan** said that would fund replacement but not necessarily improvements. This depreciation and replacement recommendation simply replaces and maintains the current level of service. It would not cover improvements, expansions, or enhancements.

**Councilor Lancaster** asked how much was in reserves for unanticipated early failure of the infrastructure.

**Donovan** said the City has about \$2 million in cash for unanticipated failures. Milwaukie is in very good shape for a community its size; it has been prudent and costs have been controlled. However, while the City has not adjusted its rates since 1995, operating costs including energy and labor have gone up.

**Councilor Lancaster** asked Donovan his opinion of an adequate amount of reserve.

**Donovan** said typically a reserve should be 1% of the original costs plus depreciation or book value of the assets, and Milwaukie meets that. There was a bond issue for the packed towers, and the City is paying those on time.

### III. A. 37

Milwaukie is in very good financial shape. He believes the rate on the current bond is 4.5% - 5%.

**Councilor Lancaster** asked if there would be a refinancing opportunity.

**Swanson** said the bonds have been refinanced and believes the City has to go to term on these.

**Donovan** said these are refunded bonds, and typically there are covenants in the bond ordinance that would preclude advanced refunding. Refinancing can usually be done once under certain conditions.

**Swanson** said this and the public safety building bond have covenants that prohibit another refunding.

**Councilor Stone** asked the interest rate, and **Donovan** offered to get that information for her.

**Swanson** said any decision to get into a lawsuit carries a certain amount of risk, and that is the question to ask the lawyers. If there is a recovery in this lawsuit, because the money was generated by the water fund, it will go back to that fund. He asked if the City Council might revisit the rate structure if there is a recovery.

**Donovan** said there could be a surplus to the water fund that could, based on policy guidance, result in any number of things including lowering rates.

**Mayor Bernard** said every business owner likes to put money aside for depreciation, but the City does not. If the City does not, does it sell bonds to make major repairs and maintenance or take it out of reserves?

**Donovan** said that is typically how it is done. The last two rate studies he conducted for other cities took into account bond sales and the incremental interest expense and raising rates. If an entity has the wherewithal to write the check by raising fees, the pipe is much cheaper in the long run.

**Bob Hatz**, CUAB Chair, said the Board feels it is definitely much better to go on a steady rate of pay rather than getting reserves down and trying to catch up. The group feels most of the Milwaukie ratepayers would agree.

**Mayor Bernard** supported the CUAB option.

**Donovan** discussed public involvement, education, and implementation.

**Shirey** said the intent is to bring the rate adjustment to Council for formal approval on September 16. The plan is to mail customers an insert in their utility bills about the rate adjustment and why it is needed.

**Councilor Barnes** recommended an article in *The Pilot* regarding the rate adjustment. She believes there are a lot of people who do not remember or who need an update on the lawsuit itself with an explanation of where the funds are coming from to cover it.

**Councilor Stone** said the result of the lawsuit could be positive for everyone.

**Mayor Bernard** suggested a recommendation at a City Council meeting.

**Councilor Stone** asked when the lawsuit was filed.

**Swanson** said activity on the packed towers has been going on for more than 10 years. The City just filed the lawsuit within the past year or year and one half. There were about eight months of quiet study of groundwater samples, and as those came in, it looked more and more like there was a good case for recovery. Even though there was a period of 10 years, laws allowed the City to proceed. The groundwater analysis consultant and attorneys, even though they are conservative, felt we had a very promising defendant.

**Councilor Stone** thought it would be a good idea to recap this for the public so they know what is happening with their money.

**Councilor Loomis** would not object to lowering the sewer charge as staff recommended in order to counterbalance the water rate increase. The consultant recommended lowering the sewer rate, but Council decided not to proceed with that recommendation. He suggested lower the sewer rate if the water rate goes up.

**Mayor Bernard** said there is still the \$1 million surprise treatment bill the City is trying to pay off.

**Councilor Lancaster** said that is intended to be dedicated to the unanticipated liability, which has a serious impact on the City's viability.

**Councilor Loomis** said he was just considering the staff recommendation based on the health of the reserve fund.

**Mayor Bernard** said he was satisfied holding off until September. The water rate increase, although it could be significant to some, is not really that great.

**Councilor Lancaster** felt the City was on the right track by making the increases incremental and more predictable for personal budgeting.

**Mayor Bernard** asked how many customers have six-inch meters.

### III. A. 39

**Donovan** said these are industrial meters, and one of these customers is Precision Castparts.

**Shirey** corrected Donovan's comment and explained Precision Castparts uses a four-inch meter.

The group discussed business recruitment calling attention to Milwaukie's competitive water and sewer rates within the metropolitan area.

The group briefly discussed the upcoming teambuilding session.

#### **Advisory Board Interview**

The City Council interviewed Rob Gabrish for a position on the Park and Recreation Commission.

The work session ended at 7:05 p.m.

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Pat DuVal, City Recorder

**MINUTES**

**MILWAUKIE CITY COUNCIL  
JULY 15, 2003**

**CALL TO ORDER**

The 1914<sup>th</sup> 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

JoAnn Herrigel,  
Program Administrator  
Jeff King,  
Project Manager

**PLEDGE OF ALLEGIANCE**

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

**Mayor Bernard** read brief biographies of the first city officials, Recorder Frederick Lechler, Treasurer Charles McCann, and Marshal Jesse Keck. Milwaukie Museum Curator Madalaine Bohl is preparing this series of historical notes in honor of the City's Centennial Year.

**AUDIENCE PARTICIPATION**

**Jason Seibert**, 2515 SE Lake Road, Milwaukie. He discussed his background as a long time Milwaukie area resident and his eventual purchase of the house on Lake Road when he got out of the Air Force. It is known as the Pioneer Failing House and at one time was the Milwaukie Museum. It is adjacent to the Lake Road Professional Building that houses several attorneys and accountants. He was pleased to see the business move and bring value into the neighborhood. As the City has grown, Seibert has been impressed by the actions taken to attract new business owners and welcome people to the community. He has thought of coming before the City Council to compliment it on its efforts, but there were constraints on his time with raising a family and conducting his own business.

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Seibert asked the City Council to lend an eye and ear to his situation, not to make a decision or force any policy on those good folks who have already helped him. Seibert explained he has been called back to the Air Force. The house is for sale, and he has qualified his buyers. One of the requirements is that they preserve the house. He and his wife spent four years working on the home to overcome the atrocities done by the previous owners. He is looking for someone who will make a long-term commitment to the neighborhood and not paint the house black and put aluminum foil on the windows. He wants someone who will make a commitment to serving the community as much as he wanted to. In this process, he found a buyer. He is an attorney who wants to use the home as an office. This is a trend of businessmen wanting to come to Milwaukie, setting up shop, providing services for the community, and helping the City grow. The potential buyer has already committed to preserving the property. There is 150-year old documentation of this house being in downtown Portland then floated for \$10 dollars to the current Milwaukie Presbyterian site. It was subsequently moved to its present location.

All were saddened when the home stored by the railroad tracks was destroyed. His 3-year old son commented a bulldozer and two trucks were destroying the house. It made Seibert and his family all the more proud they had found a buyer who was going preserve their home. The potential buyer met with the City to start the process of getting the zoning changed from residential to conditional use commercial so he could open his law office there. That process was delayed because of the Safeway development, and there was no time to fit him in. As a result, he has backed out of the deal and no longer wants to buy the home. It would be October or November before he could get an answer on whether the home could be converted back to a commercial property which it was when it housed the Milwaukie Museum.

The process should not take until November for him to find out if he can move his business to Milwaukie. Seibert was not asking the Council to make a decision. He only wanted the Council to be aware there is another home in Milwaukie that is now in danger. He will have to accept the first bid on the house because he has to leave. He had the luxury of helping the community ensure the home would be preserved, but he no longer has a choice because of the process.

**Councilor Stone** asked when the process with the potential buyer began.

**Seibert** said it began last month. The buyer was told on Friday as he went through the process. One of the problems is parking; however, the Lake Road Professional Building people provided a note stating they would be willing to let the occupant use their parking lot. No additional parking or manipulation to the property would need to be made. The community is for this with only a little opposition to another commercial building. He did think those objecting understood the house would be preserved as an historical monument on the

National Registry. He needs to let those individuals know that it would be in their best interest when the choice is between an historical home or a home painted black with aluminum foil on the windows. If it is not a lawyer's office, it could be a drug house. Seibert does not want to go off to the Air Force and get a call from his father saying a bulldozer has just chopped it down. He is asking the City Council to watch this and help him get his buyer into the house. Seibert asked the buyer to postpone backing out of the deal, and he has agreed to give it some time. Rouyer had dedicated herself to helping him with the process. He knows this can be done.

**Councilor Stone** asked Seibert why he thought there was a hold up and why a decision could not be made until October.

**Seibert** said the response he got was that the development of the Safeway location is on the books and is anticipated to monopolize the Planning Commission meetings. Because of the workload related to that development, Seibert's application is on hold. There are good things and bad things about living in a small community, and it seems the workload here has come into a varying degree of bad. Unfortunately, he and his buyer did not get the process in the works before Safeway. The application would be to change the zone back to commercial conditional use. If someone could say, sure it was the museum before, and it is number 19 on a list of 44 historical homes contributing to the community's historical value. It is already qualified to be a bed and breakfast without any zoning questions at all; that is a conditional use. In fact, because it is on the list of contributing homes, it is one of the only structures that could be a bed and breakfast. He is not asking that it not have to meet code. He just wants to get to the process where the buyer can say he wants to put his money into Milwaukie and do business. Right now it is too uncertain, and the process is taking too long. It is a zoning question, but it is also a matter of time. There is growth because of the good things going on here. If he could turn back time, he would do so.

**Councilor Barnes** how much time there is to deal with this issue?

**Seibert** said the buyer was going to back out yesterday. The plan was to close on August 1 if everything fell into line and looked like it would move in a positive direction. The buyer agreed to stay his decision until he was able to talk to staff about what could be done. Seibert can only report that he has spoken with Council and see what can be worked out with the buyer. The potential buyer and owners of the adjacent business have already talked about conjoining the properties with a greenspace park area for community use. These are all great things, but it is coming apart quickly. He hopes to have good information for the potential buyer by the end of the week. The house has been off the market for a month while trying to work through this. Seibert has to sell his home, so unless he can get some kind of positive information that would convince the potential

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buyer to purchase the house, he would have to sell to the first person who comes along.

**Catherine Brinkman**, 2513 SE Lake Road, Milwaukie. She said for the record the Seibert family has been a great neighbor. She would like to see a family come along just like them. What is before the City right now is whether to become a Sellwood where all the historic properties eventually turn into commercial because no one wants to raise a family next to a business, or will Milwaukie become an Eastmoreland where there is a strong sense of community and family and residential flavor of people who support the community, the downtown, and other commercial opportunities that exist. She is very much against turning this property into a business. In some general conversations with other neighbors, she believes that sentiment is broad based. Brinkman encouraged the City Council to follow the established process vested with the Planning Commission. It is there for a reason, and although she regrets it takes so long, it ensures due process.

She understands from talking with the Planning Commission the potential buyer has not submitted an application or fee. The buyer was advised of the process when the pre-application was submitted. Part of the process is notice to neighbors. The other reasons to go to the Planning Commission is to provide opportunity for hearing. The final reason is the appeal process, and Brinkman announced her intention to appeal if the conditional use is granted. This house has a lot of historical significance to Portland and Milwaukie. She finds it hard to believe anyone buying the house at the asking price would turn it into a drug house with aluminum foil-covered windows.

Brinkman urged the City Council to follow the existing procedure. She understands the application could not be heard until October. From a brief reading of the code, the Planning Commission has 120 days to make a decision at which time she has 15 days to notify the City of her intent to appeal. The City Council has to provide a hearing within 40 days. At that point in the process, it would be mid-April. She is a fan of the City of Milwaukie and believes it is important that homes, historic and otherwise, be occupied by people who would be there in the evenings and on week ends to patronize local businesses and make sure this is a community that retains a sense of hominess and neighborliness instead of using its historical properties while its other commercial properties are underused.

**Councilor Stone** asked Rouyer for an update on what has happened thus far with the request. Is the department looking at granting it? Could it be addressed in a timelier manner?

**Rouyer** said the planning director is out of the office. She does know there has as yet been no application submitted. Typically between the time of submission and the hearing there is about a 45-day period to allow for notice and internal

review. If the application were submitted today, the soonest it could get to hearing, based on all the requirements, would be September 9. That is the Planning Commission meeting at which the Safeway proposal will be heard. When Seibert was speaking of Safeway being in the way, the Commission and staff anticipate a lengthy hearing so likely will not have time for two hearings that night. Staff advised the buyer that October might be the earliest possible hearing date. The Planning Commission has hearings only once a month leaving the second meeting for a work session. There is some flexibility, but it would be up to the planning director and Commission chair to determine the agenda. She is committed to working with Seibert, but September 9 would be the earliest date.

**Councilor Stone** asked Rouyer to speak to this home's being of historical value to community since it is not yet on the registry. Has staff spoken to the Design and Landmarks Commission about this issue? Maybe something could be done there to expedite that process.

**Seibert** understands the potential buyer would go through that process.

**Rouyer** added this house is already on Milwaukie's historic inventory.

**Councilor Stone** asked if that would protect it from being demolished.

**Rouyer** said the house is ranked as a contributing property, and there are some safeguards. No property on that list is completely protected from demolition, but there are some safeguards the Design and Landmarks Commission can use. She understands this is more of a use issue than a development issue. For that reason the Commission would not be involved until there is an exterior modification to the property.

**Councilor Stone** was speaking to the fear of losing this house like the Sam Marinos house.

**Seifert** said if he has to sell the house to a developer who wants to turn it into a multi-unit or a townhouse, he would not be able to tell them no. It is his fear that the house would be moved or bulldozed to put up a different type of structure.

**Rouyer** said it is zoned for higher density residential.

**Seifert** said the lot is deep and meets up with the retirement center.

#### **Update on July 26 Riverfront Event**

**Herrigel** reported on July 26 Riverfront Blast at the Jefferson Street Boat Ramp. The festivities will include dragon boat races, food and craft vendors, a beer tent, music, fireworks, and a toilet seat hurling contest. The event is free, but people are encouraged to donate to the riverfront development project as well as to

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bring canned goods for the Annie Ross House. She discussed the advertising efforts.

**Mayor Bernard** announced the "Catch the Flicks" event on August 2 at dusk on the Waldorf School grounds. Sonny and Sharon Phillips and the Portland Waldorf School are sponsoring the event.

#### **CONSENT AGENDA**

The consent agenda consisted of:

- A. City Council Minutes of June 9, 2003;
- B. O.L.C.C. Application, Asahi Beer USA, Inc., 9696 SE Omark Drive;
- C. Non-represented Employees FY 2003 – 2004 Salary Schedule and Proposed Cost of Living Adjustment; and
- D. Personal Services Agreement with Clackamas County Cable Access;

Councilor Loomis requested item C be removed for discussion.

**It was moved by Councilor Stone and seconded by Councilor Barnes to adopt the remaining items on the consent agenda. The motion to adopt the consent agenda passed unanimously.**

#### **OTHER BUSINESS**

##### **Annual Solid Waste Rate Review**

**Herrigel** provided the City Council with information on the garbage haulers' rate of return. There is no request to adjust the rates this year. She introduced David White who is representing the haulers after Estele Harlan's retirement. Also present were Jackie Keizer, Wichita Sanitary, and Terry Waddell, Waste Management. Milwaukie has seven franchised garbage haulers, and these are a subset of the 20 County haulers. Each year Milwaukie's seven haulers submit complete financial reports to both the City and the County. Herrigel briefly discussed the review process. Typically, after the City, County, and haulers agree on the expense allocation, the haulers' representative prepares a composite sheet of expenses and rates of return information. If the rate of return is between 8% and 12%, no rate adjustment is requested unless there is a major program change proposed. For 2002, the composite rate of return was 10.29%, so no adjustment is being requested.

Herrigel discussed several related topics. In 2001, the City of Milwaukie increased the residential rate and decreased the commercial rate with the intent of getting closer to an actual cost of service for both types of customers. Residential had historically been subsidized by commercial rates. The Metro disposal fee will increase by 1.4%, which may affect next year's rates slightly. In

a recent sampling of customers, Milwaukie haulers received a 93% satisfaction rating from residential customers and a 97% rating from commercial customers. Staff has begun negotiating with the current solid waste franchisees to complete new agreements to replace the current ones that expire in October 2004. She will keep the Council updated on the progress.

**Councilor Lancaster** commented, if he had been one of those customers surveyed, he would have been among that 93%. He is a Wichita customer, and they do a great job.

**Mayor Bernard** discussed recent complaints about garbage truck noise coming from Omark Industrial Park.

**Herrigel** will look at that during negotiations because there is a conflict between the City's noise ordinance and the haulers' administrative rules.

#### **North Main Mixed Use Site Redevelopment Project Memorandum of Understanding and Vertical Housing Development Zone Program**

**Jeff King**, Project Manager, provided the staff report in which the City Council was requested to take two actions. The first was to authorize the city manager to sign the memorandum of understanding (MOU) with Peak Development, LLC. The second was to authorize staff to apply to the State to create a Vertical Housing Development Zone. The MOU is non-binding but clarifies roles and responsibilities and addresses design, financing, infrastructure, city assistance, adjacent property owner considerations, and scheduling. The site plan prepared in response to Milwaukie's request for proposals (RFP) is undergoing refinement and will be unveiled in September. He pointed out several minor changes to the MOU from the one provided in the Council packet. The city attorney has reviewed the document.

**Mayor Bernard** hopes the updated drawings will be available soon because there is a lot of interest at the Sunday Market. He appreciated having one at Windhorse Coffee because it attracts a lot of attention.

**Councilor Stone** referred to MOU page 2, #6 – project assistance. It looks like the City will be responsible for doing traffic studies and obtaining environmental entitlements. What kind of costs will the City incur, and is this something the City would typically assume?

**King** said, since this is a public/private partnership, the City is taking on certain responsibilities. The City is not required to do all studies. For example, the traffic study will be satisfied with the Kittleson report that is already in progress. There may be some future requirements imposed by the Planning Commission, for example. King spoke to the environmental entitlements and meeting Metro Title 3 requirements.

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It was moved by Mayor Bernard and seconded by Councilor Lancaster to authorize the city manager to sign the memorandum of understanding with Peak Development, LLC. Motion passed unanimously.

It was moved by Mayor Bernard and seconded by Councilor Lancaster to authorize staff to apply to the State for a Vertical Housing Development Zone. Motion passed unanimously.

#### Advisory Board Appointment

Mayor Bernard, with consent of Councilors, appointed Rob Gabrish to the Park and Recreation Board.

#### Non-Represented Employees FY 2003 – 2004 Salary Schedule and Proposed Cost of Living Adjustment

Councilor Loomis understood items on the consent agenda were routine, and he did not feel, since the motion on this item failed at the last session, it was routine.

It was moved by Councilor Barnes and seconded by Councilor Lancaster to adopt the 2003 - 2004 pay table for management, non-represented, and seasonal employees.

Councilor Loomis stated his reasons for voting no. It has nothing to do with staff. His concern is the City has a budget shortfall. The savings was listed at \$423,000, but that was the amount cut. We do not have that \$423,000 in salaries saved somewhere. When the City has a shortfall and another one is projected for next year, the \$34,000 will be added on next year's for a total of \$68,000. To him that is *The Pilot* or a police officer. He would like to see the City work on things that do not cost anything to keep employees with the City. It was stated at the last meeting that most of the people have made it through the salary steps, so they have been with the City for about 7 years. People do not work here just for the salary. Money is important, but it is not the only thing. Satisfaction, appreciation, and challenge also count. He understands why Swanson brought this recommendation forward because people are working hard for him and making his job easier. He suggested giving preference to hiring people who live in Milwaukie. He has great respect for staff and appreciates their knowledge. He feels he would have an easier time looking staff in the eye and saying no than explaining a yes vote to the voters.

Councilor Stone understands Loomis's concerns; however, this \$34,000 is not all coming out of the general fund. The shortfall is in the general fund, and all the other funds in the City are good. What percentage of the \$34,000 comes out of the general fund?

**Swanson** said it difficult to say because there are library aids whose positions are funded both by the general fund and the county money. He estimated about 60% of the \$34,000 was out of the general fund.

**Councilor Stone** asked if this was something the Council considered every year.

**Swanson** said that is correct, but last year, for example, the Council did not consider non-represented employee cost of living increases until September. Generally, it does come up each year.

**Mayor Bernard** commented that Swanson did not take the 3% last year and did not want to be included this year. The Council, however, insisted. There was also a 5% increase to employees in health insurance premiums this year. If a company is downsizing, the work still needs to be done. Herrigel has taken over additional work, and Swanson is now in charge of neighborhood services. The planning director has been struggling with reduced staff, and engineers have been retiring. People have to do a lot more, and he intends to vote yes on this increase.

**Councilor Lancaster** commented that in the course of the work he does with company presidents and CEOs, a strategic issue that comes up is the ability to stay competitive by retaining quality employees. This is instrumental to the success of any business. The City of Milwaukie is an enterprise. Now and next year as the shortfall continues, the City needs to hold on to the quality people it has. The cost of living increase is nothing more than helping them take the bite out of the loss of buying power due to inflation. From a business perspective and his experience, the cost of living increase is a no-brainer.

**Councilor Barnes** agreed. She truly believes when people ask for more money to pay for their gasoline, grocery, and water bills, the Council has no right to say anything but we understand the positions you are in and we respect you as our City employees. A 3% cost of living increase is not asking for too much.

**Motion passed 4 – 1 with the following vote: Mayor Bernard, Councilor Barnes, Councilor Lancaster, and Councilor Stone aye; Councilor Loomis nay.**

#### **Change of Council Meeting Location for National Night Out**

**It was moved by Mayor Bernard and seconded by Councilor Stone to adopt the resolution changing the August 5 Council meeting location to the Riverfront to observe National Night Out with the neighborhoods. Motion passed unanimously.**

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**RESOLUTION NO. 32-2003:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DETERMINING THE FIRST REGULAR SESSION OF AUGUST WILL BE HELD ON AUGUST 5, 2003, AT THE JOINT NEIGHBORHOOD DISTRICT ASSOCIATIONS' NATIONAL NIGHT OUT.**

**ADJOURNMENT**

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

**Mayor Bernard** adjourned the meeting at 7:00 p.m.

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Pat DuVal, Recorder



To: Mayor and City Council  
Through: Mike Swanson, City Manager  
From: JoAnn Herrigel, Program Administrator  
Subject: Annual Waste Reduction Work Plan (Year 14)  
Date: July 19, 2003

**Action Requested**

Adopt a resolution approving the activities in the 2003-2004 Annual Waste Reduction Plan and authorizing the City Manager to sign the attached Intergovernmental Agreement (IGA) with Metro. The IGA will grant the City \$8,928 in Metro Challenge funds to assist with implementation of the tasks in this year's Waste Reduction Plan.

**Background**

For the past thirteen years the City of Milwaukie, along with all the other Metro-region local governments has received Challenge Grant funds from Metro. These funds are intended to assist local governments in maintaining and expanding our recycling and waste reduction activities. The funding level has remained relatively constant for the past several years although the Milwaukie allocation has declined due to the fact that allocations are based on population figures for the region.

**Concurrence**

Staff has worked closely with Metro personnel to develop a realistic agenda for solid waste activities for this year.

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**Fiscal Impact**

The funds assist the City in maintaining and enhancing existing recycling programs.

**Work Load Impacts**

The activities listed in the waste reduction program have been factored into City staff's existing work plan for this year.

**Alternatives**

Do not authorize the City Manager to sign the IGA, thereby rejecting the grant funds.

Year	Total Challenge Grant Fund	Milwaukie Challenge Grant Allocation
Year One 90/91	\$ 681,000	\$ 5,373
Year Two 91/92	\$ 544,800	\$ 9,496
Year Three 92/93	\$ 496,106	\$ 8,012
Year Four 93/94	\$ 350,000	\$ 5,556
Year Five 94/95	\$ 450,000	\$ 7,127
Year Six 95/96	\$ 550,000	\$ 8,590
Year Seven 96/97	\$ 600,000	\$ 9,264
Year Eight 97/98	\$ 600,000	\$ 9,145
Year Nine 98/99	\$ 600,000	\$ 9,064
Year Ten 99/00	\$ 600,000	\$ 9,002
Year Eleven 00/01	\$ 600,000	\$ 8,849
Year Twelve 01/02	\$ 618,000	\$ 8,876
Year Thirteen 02/03	\$ 618,000	\$ 8,761
Year Fourteen 03/04	\$ 636,540	\$ 8,928

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY OF MILWAUKIE, OREGON, ADOPTING FISCAL YEAR 2003/2004 (YEAR FOURTEEN) ANNUAL WASTE REDUCTION PLAN AND AUTHORIZING THE CITY MANAGER TO SIGN AN IGA WITH METRO.**

**WHEREAS**, all local governments within the metropolitan area are required by the State through the leadership of Metro to provide an Annual Waste Reduction Work Plan; and

**WHEREAS**, the Waste Reduction Work Plan for the City of Milwaukie is based on the Metro Regional Solid Waste Management Plan (RSWMP), and

**WHEREAS**, the City recognizes the need and importance of coordinated regional effort to ensure a fair and equitable distribution of the waste reduction efforts in our region,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE** to adopt the attached Fiscal Year 2003-2004 Annual Waste Reduction Plan and to authorize the City Manager to sign an IGA with Metro granting the City \$8,928 in Metro Challenge Funds for implementation of this year's waste reduction plan.

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

This resolution is effective upon adoption.

\_\_\_\_\_  
James Bernard, Mayor

ATTEST:

\_\_\_\_\_  
Pat DuVal, City Recorder

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

\_\_\_\_\_  
City Attorney



**To:** Mayor and City Council

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

**From:** Kelly Somers, Fleet/Facility Manager

**Subject:** Purchase of Vehicles for Fiscal Year 2003/2004

**Date:** July 15, 2003 for the August 5, 2003 Meeting

### **Action Requested**

Authorize the City Manager to sign Purchase Orders totaling \$205,000 for the purchase of five new vehicles with specialized equipment.

### **Background**

Fleet Services has a vehicle replacement program that is designed to replace vehicles on a regular schedule to insure the lowest overall cost and to provide safe and reliable vehicles.

Fleet Services' replacement schedule for FY 2003/2004 calls for the replacement of five vehicles.

The replacement schedule includes the following:

1. One new service truck for the Water Department. The new water service vehicle will replace vehicle # 6325, a 1994 GMC service truck with 86,000 miles. This vehicle will be surplus.
2. Three new Ford Crown Victoria police vehicles. The new units will replace units #54, 1998 Crown Victoria with 70,800 miles; #66 a 1999 Crown Victoria with 72,400 miles; and unit #05 a 1994 Chevrolet Caprice with 93,700 miles. These vehicles will be surplus.
4. One new Ford Expedition police patrol sergeant's vehicle is being purchased to replace #3216, a 1995 Chevrolet pickup with 68,000 miles. This vehicle is not a police equipped vehicle and will be rotated into a staff motor pool.

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The new police units will be delivered in March of 2004; the units being surplus are expected to have close to 80,000 or more miles on them by this time.

The new vehicles will most likely be purchased through the Oregon State Cooperative Purchasing Program. If the city doesn't use this program, staff will instead follow city-purchasing rules when procuring the vehicles.

The amount budgeted for the replacement of these vehicles is \$194,582 for Police and \$65,928 for Water. The estimated cost of the new Police vehicles is \$165,000. The estimated cost of the new water service truck is \$40,000.

The replaced vehicles not rotated into staff vehicles will be declared surplus. The surplus vehicles will be sold at auction and that money will be returned to the fleet reserve fund for future purchases.

The Budget Committee approved these purchases in the 2003/2004 budget, and Council adopted this budget on June 30, 2003.

#### **Concurrence**

The Fleet /Facility Manager has conferred with the Police Chief and Sergeant on the type and number of vehicles needed for the Police Department purchases. The Fleet/Facility Manager also discussed the water service truck purchase with the Water Operations Supervisor.

#### **Fiscal Impact**

The funds to purchase this equipment comes from the fleet reserve fund. The fleet reserve fund operates like a savings account for each department and division to put aside monies each year to replace vehicles and equipment on a regular replacement schedule. All of the funds have been approved in annual budgets.

#### **Work Load Impacts**

Each new vehicle requires set up costs and fleet staff time. This is figured into the overall cost of each vehicle and is included in the \$205,000 total.

#### **Alternatives**

1. Approve as presented.
2. Approve with modification.
3. Deny request.

North Clackamas Parks and Recreation District  
Milwaukie Center/Community Advisory Board  
Minutes of June 13, 2003

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

**Member excused:** Lynn Wright

**Guests present:** Robert Pierson

**Staff:** Pat Kennedy, Cheryl Nally, Joan Young, Charlie Ciecko

**Call to Order:** Eleanor Johnson called the meeting to order at 10:15 am. The minutes of the May 9, 2003 meeting were approved as printed. There was no correspondence.

**Action Items:** Katie Rudfelt was unanimously recommended to serve on the Board. The report of the Nominating Committee was received for Board officer positions. There were no additional nominations from the floor. The following nominees were elected unanimously and will take office on July 1, 2003: Chairman: Kim Buchholz, Vice Chairman: Joan Staley, Secretary: Molly Hanthorn.

**Board/Committee Reports**

**NCPRD Board:** Eleanor reported that the Board recognized six Eagle Scout projects. The Board elected Don Trotter as Chair and Mart Hughes as Vice Chair. They discussed establishing a committee of interested groups to examine program and services priorities for the next budget. River Villa Park cottonwood trees will be removed and some re-planting is planned. The IGA with WES on the Village Green/Sieben Park project will be approved with attorney's ok. Laura Zentner gave a budget report. The Friends donated the fertilizer for the Rose Garden. Commissioner Martha Schrader toured the Park's District facilities. Happy Valley terminated their current IGA but talks continue. June 25 is the date for dedication of a new park, Ashley Meadows, on Oregon Trail Rd.

**Budget/Finance:** No meeting.

**Programs and Services:** Cheryl reported on the continuing process of service reductions; Marty is training to take over Meals on Wheels and other assessments, and Cheryl will be doing more assessments. Lisa has been working on entering programs for the Fall schedule for the District in the computer and will be processing scholarships for the whole district also.

**Nutrition/Transportation:** Ben reported a \$1700 PGE grant through Milwaukie High for home meals delivery boxes.

**Building Review:** Jim and Janet agreed that since the "wish list" is accomplished this committee would like to meet quarterly. Eleanor offered to join this group.

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**History:** Pat and Joan presented the final draft of the History of the Center. The Friends have allotted \$250 to print several copies.

**Milwaukie Centennial Update:** Sharon reminded the group of the Parade, Carnival, Milwaukie Museum Quilt display and Library book sale on June 20, 21 & 22.

**Friends of the Milwaukie Center:** The annual campaign continues. Bingo is going strong. Remember to recycle newspapers. The Rose Garden will have signage acknowledging major donors. Casino Night netted a good return. The AARP tax preparers were chosen for a Friends of the Center award. The Friends can use any old S&H green stamps. Pizza coupons are still on sale. This year the Friends have contributed over \$60,000 to programs and services at the Center.

**Director's Report:** Joan emphasized the importance of the Park District prioritization for 2004-2005. She is working on updating the fee and cost of services study. Jeff Milkes has resigned to take a military recreation job in Germany, and Molly King is moving to a job with the City of Portland. Social Services is working on systemizing service delivery with Pat Prenger. Joan and the Board thanked Eleanor for her service as Chair. Pat Kennedy handed out a flyer for the Arts Action Alliance meeting and thanked the Board Members for volunteering their time to help staff.

Meeting adjourned.

m. hanthorn, secretary

Programs/Services:

June marked the end of long-standing social service programs offered by the Milwaukie Center, resulting in changes in relationships with nine community organizations and loss of service to 1,000 older adults: Emergency Firewood Program, Grocery Delivery Program, Senior Health Insurance Benefits Assistance (SHIBA) program, three support groups (Arthritis, Stroke and Grandparents Raising Grandchildren), Senior Health Fair, Flu Shot Clinic, Fraud Answer Center, Project Cover-Up, Friendly Visitor Program, and 911 Donated Cell Phone Program.

The Milwaukie Center Community Garden is growing for 20 older adult gardeners thanks to the partnership with Clackamas County Master Gardeners! Master Gardeners have taken on the operation of the Community Garden at a time the program was to be cut due to budget constraints. Clackamas High School is putting the finishing touches on the shelter, the fountain, plumbing and electricity in the Community Garden.

A Place at the Center (APAC) is a respite group for older adults with mild to moderate memory impairment due to Alzheimer's disease and other related disorders. The respite group has one staff member and many volunteers who work in the program. APAC is held two afternoons each week, and is based on a social interaction model. During this past year a total of 30 participants and their families have benefited from A Place at The Center.

Milwaukie Center provided it's last month of Medical Escort service in June. This service is being transferred to Clackamas County Volunteer Connection, Transportation Reaching People (TRP) effective July 2003. Many volunteer drivers have been willing to transfer their services to TRP. In last 5 years alone our Medical Escort program provided over 10,000 rides to 1,000 different clients, using only volunteer drivers.

Meals on Wheels served in the last year totaled 57,864, or an average of 158.5 meals per day provided to homebound folks in our community for the last 352 days.

The annual Golden Wedding celebration on June 13 brought 19 couples together to celebrate a combined total of 638 years of marital bliss. The longest married couple celebrate 72 years together. The groom was over heard saying that he learned early on that "agreeing with his bride worked in his favor" for a smooth marriage.

Class registrations for summer term are down from last year by around 100 participants, due to a reduction in the number of classes offered due to budget constraints.

Fund-raisers:

At their Annual Meeting June 18, The Friends of the Milwaukie Center gave gifts to Center departments: Social Services received \$10,000, Transportation \$4,000, Nutrition \$2,000, A Place at the Center \$2,000, and Recreation/Education for scholarships \$1,600.

Staff:

The past few months staff has worked on determining how to provide programs and services to the greatest number of participants with staffing reductions. As of June 30, the Milwaukie Center bid farewell to Pat Kennedy, who worked at the Center as the Recreation/Education Coordinator for 9 years, Jakob Litman, who worked at the Center as the Client Services Coordinator for 5 years, and Derald Richards, who worked as a janitor for 4.5 years.

VII. 4

Center/Community Advisory Board  
 Membership Status  
 2003-2004

City Appointments  
Positions 1 thru 9

<u>POSITION</u>	<u>Term Expires</u>
Position 1 Alice Neely 14404 SE Webster Rd #235 Milwaukie 97267	3/04 503-654-7178
Position 2 Molly Jo Hanthorn 12014 SE 19th Milwaukie 97222	3/05 503-654-3587
Position 3 Jane Hanno 3115 SE Madison St Milwaukie 97222	3/06 503-654-3574
Position 4 Joan Staley 10905 SE 52 Ave Milwaukie 97222	3/04 503-654-3036
Position 5  Milwaukie 97222	3/05
Position 6  Milwaukie 97222	3/06
Position 7 Sharon Phillips 11028 SE 28 <sup>th</sup> Ave Milwaukie 97222	3/04 503-653-8926
Position 8 Janet Witter 4515 SE Adams Milwaukie 97222	3/05 503-654-0342
Position 9  Milwaukie 97222	3/06

District Appointments  
Positions 10 thru 18

<u>POSITION</u>	<u>Term Expires</u>
Position 10 Kim Buchholz 12705 SE River Rd Milw Milwaukie 97222	10/05 (w) 503-652-6233
Position 11 Katharine (Katie) Rudfelt 6522 SE Molt St Milwaukie 97267	10/06 503-659-0458
Position 12 James (Jim) McCready 15650 S.E. Hanwood Lane Milwaukie 97267	10/03 503-654-1048
Position 13 Joan Newman 13557 SE Kuehn Rd Milwaukie 97222	10/04 503-654-4502
Position 14 Carol Storment 2975 S.E. Walta Vista Ct. Milwaukie 97267	10/03 503-654-0931
Position 15 Eleanor Johnson 4343 SE Robin Rd. Milwaukie 97267	10/03 503-654-4420
Position 16 Lynn Wright 10633 SE Melita Drive Portland, OR 97236	10/04 503-761-2328
Position 17 Ben Tabler 14741 SE 132 <sup>nd</sup> Ave. Clackamas 97015	10/05 503-698-3640
Position 18	10/03