

MINUTES

MILWAUKIE CITY COUNCIL SEPTEMBER 16, 2003

CALL TO ORDER

Mayor Bernard called the 1918th meeting of the Milwaukie City Council to order at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Councilor Deborah Barnes
Councilor Larry Lancaster

Councilor Joe Loomis
Councilor Susan Stone

Staff present:

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

Paul Shirey,
Engineering Director
Jeff King,
Project Manager
Barb Kwapich,
Administrative Specialist

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Announcements

Mayor Bernard noted the passing of Molly Hanthorn's mother Mrs. Rowe. He also wished Centennial Committee member Jim Newman a speedy recovery from his recent illness.

Sharon Phillips is sponsoring a Centennial event at City Hall on Saturday, October 18 from 1 p.m. – 4 p.m. People are invited to meet, share memories, and enjoy refreshments provided by Mayor Bernard.

Mayor Bernard will be making a State of the City Address to the Rotary Club of Milwaukie on September 30 at Odd Fellows Hall.

Historic Moments

Mayor Bernard read excerpts from the 1892 *Oregon City Courier* regarding the East Side Electric Railroad's arrival in Milwaukie on its way to Oregon City. Milwaukie

Museum Curator Madalaine Bohl is preparing this series of historical notes in honor of the City's Centennial Year.

AUDIENCE PARTICIPATION

Carl Jacob presented a petition signed by 150 people who wish to keep large trucks of 55-feet or more off Milwaukie's small streets. He used 44th Avenue as an example, which is only 50 feet wide in his area. He has no problems with the supermarket that was approved by the Planning Commission last week, but he does have problems with the trucks. There is a utility pole very close to where the trucks will be exiting. People have told him they are tired of the trucks and are concerned about them going through small residential streets. The Safeway supermarket will push traffic further away from 42nd Avenue and Harrison Street and King Road and 44th Avenue. He presented it to the City Council for the record and hoped it would help them make the proper motion.

CONSENT AGENDA

Councilor Stone requested the Design and Landmarks Commission Bylaws be discussed in Other Business.

It was moved by Councilor Loomis and seconded by Councilor Stone to approve the Consent Agenda that consisted of the City Council minutes of September 2, 2003. Motion carried unanimously.

PUBLIC HEARING

Citizen Utility Advisory Board Work Plan

Discussion of this topic began at 6:15 p.m.

Engineering Director Paul Shirey presented the staff report. The following Citizens Utility Advisory Board (CUAB) members joined him: Chair Bob Hatz, Betty Chandler, and Ed Miller.

Hatz said CUAB members make field trips to City wells, streets, storm water facilities, and the Kellogg Treatment Plant to get a better understanding of how these facilities operate. The Board suggests that the Council join them occasionally to find out how it operates. The Board hopes the proposed work plan is well received.

Shirey summarized the 13 items in the work plan. The Board is seeking Council direction on two items: the options for creating additional revenue through a transportation utility maintenance fee and a street lighting fee or utility privilege tax. The third item is the annual capital improvement plan (CIP) update. The fourth is a carry over from last year which is a code amendment having to do with system development charges. The storm water master plan, item number 5, is also from last year, and the Board anticipates bringing it to Council for consideration at the end 2003. Item 6,

annexation project, has to do with helping property owners in the unsewered areas to annex and utilize City services. The pavement management system, item number 7, will give the City a systematic means of evaluating the quality of the street system and provide a means for prioritizing improvements. Number 8, the sanitary sewer master plan, is an update that gives a 5- to 7-year window of system improvements and repairs, and the Board expects to have this before the City Council spring 2004. Item number 9, Oak Lodge sewer rate adjustment, addresses equalizing Milwaukie rates for Island Station residents being served by Oak Lodge. Number 10 looks at providing service to those property owners in North Milwaukie who currently received sanitary sewer service from the City of Portland. The wastewater consolidation study, item number 11, looks at the alternatives for providing wastewater treatment in north Clackamas County. The CUAB will review the outcome and prepare a recommendation for the City Council at the beginning of next calendar year. Item number 12, the water system vulnerability report is a federal requirement that mandates a study and plan to deal with threats to the City's water system. This report must be completed by the June 30, 2004. The final item, number 13 is the City's intergovernmental agreement with Clackamas River water for a backup water source that is due for a review and possible revision.

Mayor Bernard was impressed by the list of projects. The transportation utility fee is going to a vote in November, so he suggested delaying the study until after the election.

Shirey said the Board is waiting for Council direction on this item.

Mayor Bernard asked how the water system vulnerability study was being funded.

Shirey said the study is federally mandated and locally funded.

Councilor Lancaster commented on the large number of projects and asked Chair Hatz if he believed the Board could accomplish everything.

Hatz said the Board would give it its best.

Councilor Lancaster understands the items in this work plan have not been prioritized and presumes there will be some sort of process. Is the Board looking for Council direction on prioritization?

Shirey said the Board simply plans to work through the items if the Council approves them.

Councilor Barnes commented this group seems to have put a lot of thought into these projects. If one had to choose, what would be the top priority?

Hatz responded the roads are important because funding is so hard to obtain. In addition, the City's water supply is very important.

Councilor Stone thanked the Board and staff for the good work. It is an ambitious work plan, and she wanted people to know the Council is appreciative of the time given to the City.

There was no additional correspondence for Council consideration, and there was no public testimony.

Mayor Bernard closed the public testimony portion of the hearing at 6:25 p.m.

It was moved by Councilor Stone and seconded by Councilor Barnes to approve the Citizens Utility Advisory Board Work Plan. Motion passed unanimously.

Water Cost of Service Rate Adoption

Mayor Bernard called the public hearing on the proposed water rate increase to order at 6:27 p.m. The purpose of the hearing was to consider public comment on the proposed increase.

Engineering Director Paul Shirey and Associate Engineer Jay Ostlund presented the staff report. Ostlund explained the City had contracted with Donovan Enterprises. After meeting with the Citizens Utility Advisory Board (CUAB) on two occasions, the Board drafted a recommendation. There was a Council work session on June 4, 2003. Ostlund introduced Steve Donovan.

Donovan said the review of the water financial system began in April, and there were meetings with the CUAB on May 7 and June 4. The original schedule was to meet with the CUAB one time, but, at the May 7 meeting, the Board created such a list of homework assignments and options to review that the members convened again in June. The Board is very thorough, and the members are totally engaged. The City Council is well served by having this advisory board. There was a Council work session on July 14, and at this hearing Donovan provided a condensed version of that work session. There have been no significant events or changes in numbers since the July work session.

Donovan covered five key points: the rate study process and timeline; existing rates and structures; key points affecting Milwaukie's rates; CUAB recommendation; and chart of proposed rates for a sample single family residential home. The scope of the project was to look at the numbers and to review the City's rate structure and costs to provide water service. The purpose of the study was to ensure the water utility is fully recovering its service provision costs. The CUAB discussed this issue at two meetings and came up with a preferred option from a group of several. There have been no changes to the CUAB recommendation since the July Council work session.

Milwaukie is a residential community with 88% of the utility customers served by a standard 3/4-inch meter. The billing system is set up on a bi-monthly basis with a fixed charge of \$5.95 over the two-month period with a fee of \$1.35 per hundred cubic feet

(ccf). In fiscal 2002, 63% of all water was sold to residential customers. The balance was sold to the multi-family, commercial, and industrial base. The metered charge for these customers varies based on meter size, which is 1- to 6-inches.

Donovan discussed the key points affecting the water rates. A rate adjustment to the water system has not been implemented since 1995. The greatest impact to the utility cash flow at this time is legal fees associated with the groundwater contamination litigation. The City has spent \$330,000 since 2002, and Donovan anticipates an additional \$200,000 this fiscal year.

The City is not currently funding replacement or depreciation. The CUAB and consultant recommend phasing this funding in over a five-year period to avoid a large rate increase. Milwaukie is a community at build out, and growth cannot be counted upon to help fund the system. The compounded annualized growth rate in the customer base is 0.29%. The only way to increase that is through annexation or infill and redevelopment. The CUAB further recommends funding legal fees through the capital reserve fund because it is the only fund in the water systems accounts that has a sufficient amount of cash to fund these legal expenses. If the City were to attempt to fund legal fees through rates, there would be another spike that the CUAB found unacceptable.

With those two key points, revenue requirements can be fully funded while meeting capital requirements. The proposed option meets the CUAB requirements of small steady rate increases over time. If the litigation is settled, all bets are off, and the City Council will have to determine what to do at that point with an infusion of resources. This is a conservative approach assuming a judgment at the end of this fiscal year and conclusion to the trial phase. It is assumed the City will receive a positive judgment, but appeals are anticipated in the amount of about \$50,000 to the end of 2010 for the appellate process. Donovan believes this is a prudent approach when forecasting. Depreciation expenses will reach the audited amount of \$325,000 by 2010. At that point, the rate curve will fall because depreciation will be fully funded.

Finally, Donovan provided a comparison of a monthly rate for a water customer using 100 ccf per month. Currently the cost is about \$16.48 per month. Based on the CUAB recommendation, it would go up to \$17.17 or \$.69 per month increase for water service.

Councilor Barnes asked what the average water bill is for a Milwaukie residential customer.

Donovan responded the monthly average is about \$15 for a customer consuming 700 – 800 ccf per month.

Councilor Barnes finds that amount hard to believe based on her own experience. Her average bill is \$102 - \$110 every two months. She has heard from others they are also paying over \$100. She asked if there were a way to verify this.

Donovan explained that summer irrigation peaks would impact customers' bills. Conversely, senior citizens using low volumes of water may have a \$10 bill every two months. Because this is a consumption-based rate, there is a normalized curve. The beauty of this type of system is that one's bill is a function of one's consumption. The customer has the choice of changing his or her habits.

Correspondence: None.

Audience Testimony: None.

Councilor Loomis said at last night's work session the Council discussed holding this decision over so there can be a review of the volume based sewer rate.

It was moved by Councilor Loomis and seconded by Councilor Stone to postpone and reset the water rate item scheduled for September 16, 2003 to November 18, 2003 and to schedule reconsideration of the sanitary sewer rate action of July 14, 2003 for the same evening. Motion passed 4 – 1 with the following vote: Councilor Barnes, Councilor Lancaster, Councilor Loomis, and Councilor Stone aye; Mayor Bernard nay.

OTHER BUSINESS

Natural Hazard Mitigation Plan -- Resolution

Administrative Specialist Barb Kwapich, Risk Manager and Natural Hazard Committee Chair, provided the staff report in which the City Council was requested to approve a resolution adopting the Multi-Jurisdictional Clackamas County Natural Hazards Mitigation Plan including the Milwaukie Addendum. She introduced Cindy Kolomchuck who acted as the Committee's technical advisor in preparing the plan.

The Disaster Mitigation Act of 2000 required that all entities develop a natural hazard mitigation plan to remain eligible for funding after emergencies and for mitigation funding prior to emergencies. Milwaukie will be the first city in Clackamas County to, upon approval, enter the mitigation grant program, the third in Oregon, and the ninth in the nation.

Kolomchuck said after November 2004, all jurisdictions would be required to have these plans to be eligible for nationally competitive grants. Milwaukie should be in a good position for grants to fund such things as seismic upgrades.

Councilor Lancaster said this was a very comprehensive piece of work. When looking at the itemized list of those participating in developing the plan, he did not see anyone from the state or the private sector.

Kolomchuck said this is a multi-jurisdictional plan, so the City Council is actually adopting the Milwaukie addendum to the Clackamas County Natural Hazards Mitigation

Plan. Milwaukie has a Hazard Mitigation Advisory Committee, and there is also an advisory committee at the county level. Milwaukie has representation on the county committee, and resources are pooled.

Councilor Lancaster understands all incorporated cities will be required to have a plan.

Kolomchuck said jurisdictions are required to have a plan to be eligible for 2004 funding. Grants are funded at \$150 million, so Milwaukie, as one of nine cities in the nation to have adopted its plan, is in a very good position.

Councilor Lancaster asked who coordinates and integrates the plans of multiple jurisdictions and monitors potential overlap.

Kolomchuck said that is the purpose of the plan because natural hazards do not adhere to jurisdictional boundaries. If there is a flood prevention project upstream, downstream residents would be affected. As this program evolves and other cities start adopting their plans, the recommended action is for all jurisdictions to work together in developing grant applications.

Councilor Lancaster said he does not wish to continually revise Milwaukie's as other cities adopt their plans.

Kolomchuck said Milwaukie would not have to adopt another city's mitigation plan. The action being considered is adoption of Clackamas County's plan with Milwaukie's addendum. Each plan addresses an annual update and mitigation action items. As those are checked off, new projects can be incorporated in the annual review. This is a dynamic document with ongoing updates.

Councilor Lancaster referred to page 18, Section 3: Hazard Assessment. Item 3 addresses risk analysis and estimating potential losses and notes there is "insufficient data for conducting a risk analysis for the natural hazards affecting Milwaukie." It seemed to him this would be a critical first step. If we do not know what we are dealing with, how do we develop a plan to deal with it? What data do we need, and how do we get it? This paragraph goes on, "a risk assessment will be conducted when the resources are available." What resources does the City need and when might one expect them to be available?

Kolomchuck said there are three pieces within a hazard assessment. One is identifying and mapping where the hazards exist. The second is a vulnerability assessment that looks at the infrastructure and properties that overlay the hazard areas. Some people see that as a risk assessment. Right now Milwaukie has good hazard data and a good GIS department that has helped develop the maps. There is a good idea of where Milwaukie's vulnerabilities lie. Making a risk analysis involves modeling particular natural hazard scenarios such as a 6.7 earthquake at 12:10 p.m. with school in session. This would result in a quantitative assessment of causalities and damage to public facilities. This data would help prioritize mitigation activities. The problem with

that is the only current model is one developed by FEMA used at the national level. What would be needed on the more local level is information unique to the area such as a building inventory and population capacity. Gathering data of this detail can be developed as part of an action item in the mitigation plan. As far as FEMA is concerned, what Milwaukie has documented so far is sufficient for its approval.

Kolomchuck said the City would be able to apply for grants to conduct studies, such as a building inventory. The Hazard Mitigation Advisory Committee would consider what risk analysis needs to be performed, what data is needed, and what resources are available. Identifying available resources is somewhat premature until the desired risk analysis is selected. A lot of process and hard work will need to go into this program. Milwaukie will be eligible for funding, but it must identify its projects.

It was moved by Mayor Bernard and seconded by Councilor Barnes to adopt the resolution adopting the hazard mitigation plan. Motion passed unanimously.

RESOLUTION NO. 38-2003:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING THE MULTI-JURISDICTIONAL CLACKAMAS COUNTY NATURAL HAZARDS MITIGATION PLAN INCLUDING THE MILWAUKIE ADDENDUM, AS REQUIRED BY TITLE 44 CODE OF FEDERAL REGULATIONS PART 201 AS AUTHORIZED BY THE DISASTER MITIGATION ACT OF 2000, IN ORDER TO REMAIN ELIGIBLE FOR STATE AND FEDERAL DISASTER RELIEF FUNDING.

Intergovernmental Agreement with Clackamas County Regarding Enterprise Zone Services Provided by the County

Project Manager Jeff King presented the staff report. The City Council was requested to authorize the city manager to sign an intergovernmental agreement (IGA) with Clackamas County for Enterprise Zone services for the City of Milwaukie. This is a renewal of an expired agreement with a few changes that provided for better coordination and gives the City marketing, administration, and technical assistance. The enterprise zone provides for property tax incentives for companies adding 10% new job creation or a minimum of \$25,000 in new investment. It also provides for a 3- or 5-year incentive depending on the criteria met. The IGA was reviewed by City and County counsels. The current enterprise zone expires in 2008.

Mayor Bernard asked how many businesses have taken advantage of this enterprise zone.

King believes ODS and one or two others have used the enterprise zone.

It was moved by Councilor Barnes and seconded by Councilor Loomis to authorize the city manager to sign an IGA with Clackamas County for Enterprise Zone services. Motion passed unanimously.

Lien on Real Property

Firestone presented the staff report. The item under consideration is the amount of the assessment for abatement costs incurred by the City in abating the nuisance declared by Council. The nuisance was located on property within the City owned by Union Pacific Railroad.

Under Milwaukie Municipal Code (MMC) Section 8.04.200, when a nuisance is abated, City staff is required to keep account of the costs. The city recorder did that and determined the amount to be \$22,500.87. Notice was provided to the property owner as required by the code, and the property owner, Union Pacific, objected to the amount. The code provides that the Council determines the amount. Therefore, under MMC 8.04.200, the City Council is to hear and determine the objections to the costs to be assessed. The staff position is that the assessment amount is \$22,500.87. This issue was discussed at a previous meeting, and there was other testimony. It is the Council's job to determine how much the City spent on this abatement and what those costs are.

Jill Schneider, Kilmer, Voorhees & Laurick, phone 503.224.0055, located 732 NW 19th Avenue, Portland, represented Union Pacific. The nuisance that was removed was a house on property owned by Union Pacific Railroad. As Firestone noted, notice was given to the Railroad; however, the MMC says that notice may also be given to the owner of the property or the person in charge of the property. This Council has gone through a lot of administrative effort to get the person who owns that house, Emmert International, to take care of the removal costs. Unfortunately, Mr. Emmert has refused to pay for those costs. It is clear the person in charge of the property, in fact correspondence from the City supports this, is Mr. Emmert as the code recognizes.

Complicating this matter is that the City engaged in and negotiated a contract for the removal of that property assigning that responsibility to Emmert International. That contract executed in August 2002 was between the City of Milwaukie, Mr. Peterson, who owned the house, and Mr. Emmert who purchased the house. The Union Pacific Railroad, as owner of the property, was not included. If Union Pacific had been involved in that contract, some of that administrative work could have been eliminated. That contract clearly recognizes Mr. Emmert as the person in charge of the property and the person in charge of removing it. The nuisance costs do not apply to Union Pacific Railroad.

The problem before the City Council is how to get its money back. It was clearly a nuisance, and it was removed at great cost to the City. The trouble is the proposed remedy will end up costing the City additional funds. Union Pacific Railroad will not fork over \$22,000 for the removal of a nuisance for which it had a contractual release from Mr. Peterson. Mr. Peterson will be the immediate person responsible. He will not pay

the \$22,000 as Union Pacific has been informed, and he will then assign it to Mr. Emmert. Mr. Emmert may or may not pay, but if he chooses not to pay he will raise the same defenses he would have if the City had notified him as the person in charge.

The complicating factor is that if the City assesses a lien on the property of the railroad, two other attorneys will get involved. She thinks the City would rather have those legal costs going to the water problem. There are other ways to spend legal costs. The amount of money for the removal of the property properly, legally, and by all accounts by justice belongs to Mr. Emmert. By filing a lien on the railroad's property, two other attorneys will be involved. There will be two other parties to the same defenses Mr. Emmert will raise. The City will have to fight him, and it is from him recovery must be made.

Mike Walsh spoke for Jack Hammond representing Rich Peterson. He understands the City was kind enough to make the file on this issue available, and Hammond reviewed it. Hammond indicated the City had been more than patient in going through this process, and Walsh understands the City is sick and tired of this house. It would make sense the City would just want to collect its expenses. Firestone said the City Council is here to determine the amount of the assessment, but Walsh was not sure Peterson would care what amount that might be. The issue is who is responsible for paying it. Walsh is not there to object to the amount. Roughly, the City spent about \$10,000 to demolish the house and another \$10,000 or \$12,000 on administrative fees, and the City probably should get its money back. It makes sense that through its patience, the City should want to get its expenses back as soon and as simply as it can.

The thought was, at one point, to alleviate the City from any further problems it would be easiest just to lien the property and let the railroad, Emmert, and Peterson work it out. The City could then sit back and collect the money. From what Schneider has said on behalf of the railroad, that is not the way it is going to work. The railroad is not going to pay the lien. Mr. Peterson has a contract with the City that says he is relieved of all further liability regarding this house and will not pay the lien. By starting down this path, Walsh believes the City will end up in four-party litigation. Firestone could probably estimate how much the City would spend in that type of litigation. \$22,000 does not go far in litigation these days, so one gets to the point of whether it is worth it or not. Walsh was not suggesting the City back off because it is entitled to the money for its expenses. He does not think anyone in this room really feels the railroad should be paying, and as far as Walsh knows, Union Pacific did not even know about this agreement between Emmert International, the City, and Mr. Peterson. Now through some legal maneuver the City wants to put a lien on the property, and the railroad will not pay it. Walsh reiterated what Schneider said about a culpable party, and there is a contract with that corporation. The City has a straightforward case. The lien route will be more expensive.

Mayor Bernard asked for clarification of comments about an agreement.

Firestone replied there is an agreement between the City, Mr. Peterson, and Emmert International. It was signed at the time Mr. Peterson transferred his interest to Emmert. The agreement was primarily between Mr. Peterson and Mr. Emmert. The City signed on to recognize Peterson was transferring his interest in the structure to Emmert.

Walsh said Mr. Peterson's position is that he was approached by the City and Mr. Emmert to enter into this agreement.

Mayor Bernard understands the City participated to generate some activity.

It was moved by Mayor Bernard and seconded by Councilor Lancaster to authorize a lien in the amount of the City costs for abating the nuisance on certain real property owned by Union Pacific for the purpose of discussion.

Councilor Barnes said the parties involved in this fiasco, with probably the exception of the railroad, started out with the hopes and dreams of moving a house with the expectations of making money. It was not good will efforts. She hears over and over that it did not work out, so people do not want to pay the bill now. That is not how the real world works. She does not want to hear anyone else who was party to these mistakes that the City should write it off. Residents count on the City to get this bill paid. Council owes it to City staff who worked countless hours to get this corrected. She does not intend to let it go. Someone will pay \$22,500 to the City because what started out with good will intentions ended up with someone thinking they could make a fast buck and has now bailed.

Councilor Lancaster asked the breakdown between the administrative and actual demolition costs.

Swanson said Dan Obrist Excavation was \$9,800 for demolition. Disposal costs at the Metro Transfer Station were \$3,555. The abatement surveys for lead paint and asbestos were \$1,075 and \$55. Staff costs were \$5,228, and legal services were \$2,800. Roughly \$14,500 is for abatement and about \$8,000 in administrative costs.

Mayor Bernard suggested negotiations between the parties with a lien date set in about 30 to 60 days.

Councilor Stone commented on the situation. It seemed to her this is complex and complicated in terms of who is culpable. It looks like there are several parties who are. She does not want to see the City spending any more money on this in terms of further litigation. She has mixed feelings about putting a lien on the property of the railroad. According to the municipal code, to declare a nuisance, it must be declared on real property if she understands correctly.

Firestone said that is correct. Basically, a nuisance takes place on real property, and the lien, if any, is imposed on the property where the nuisance is located.

Councilor Stone said, therefore, that is why the suggestion has been to put the lien on the railroad. However, the real problem began with Mr. Peterson and subsequently transferred to Mr. Emmert. In hindsight, maybe the problem began with the North Clackamas School District in giving it to the wrong person as there were several people trying to get this house. Nonetheless, Stone feels that Mr. Peterson did not fulfill his responsibilities in getting the house moved and neither did Mr. Emmert. She thinks there have been a lot of mistakes made by all parties involved. Perhaps on the part of the City as well. She would like to see, rather than continuing down the road of litigation, some compromise between the parties involved. She would not be in favor of imposing a lien, even with a timeline, at this point. She thinks the people who are responsible need to step up to the plate and pay the bill.

Councilor Loomis asked Firestone his feeling on future litigation if they refuse to pay.

Firestone said it depends on how active they are and how active the City is. One possible, though not very likely scenario, is that the Council sets an amount that is established as a lien, and the lien sits there. The City does not try to collect on it, and the railroad does not fight it nor does it try to collect from others. This would be the least likely scenario, and there would be no litigation costs. More likely is that the lien is imposed. The railroad has indicated it is not going to pay but would try to get Peterson to pay. At that point, it would be Peterson's choice whether to pay or try to get Mr. Emmert to pay or take some kind of legal action. His guess would be that Mr. Peterson would go after Emmert International. If Emmert International is brought in, Firestone would anticipate counter claims against that City. In that scenario, the City would be involved in four party litigation. The City's litigation costs would almost certainly exceed the amount of the lien, and those costs would probably not be recoverable.

Councilor Loomis asked why the railroad was not involved in the contract.

Firestone said the railroad was not involved in the contract because essentially nobody thought about it at that time. No one was checking the contract between Mr. Peterson and Union Pacific. Going back to that point in time, the City Council had done its first nuisance declaration while Mr. Peterson owned the structure. Essentially, directed against Mr. Peterson, the idea was to get him to remove it or do whatever to abate the nuisance. The City made several efforts to preserve the structure. Emmert International was perceived as having the resources to find a location for the structure and to move it. Because of the City's interest in preserving the structure, the City did agree, essentially, to give more time because of the new party's involvement. Otherwise, if he recalled correctly, the first nuisance was going to run its course, and the City would have abated at that time. That is how the City got involved by trying to extend the time and not going after Mr. Peterson which was essentially a precondition to the agreement. Mr. Peterson's attorney insisted on that provision. Otherwise, it was the City's understanding there would be no agreement, and the City would have had to abate the nuisance at that time.

Councilor Loomis commented it is disappointing that the City was trying to do the right thing, and it ends up like this.

Swanson said about that time Mr. Peterson's specific plans in October were to seek a deconstruction permit and to take the house down. When the time did not appear to be enough, his second request was to seek demolition of the house. The City's role was to step in and attempt to forestall that and prevent either deconstruction or demolition of the house in October 2001. What happened in terms of the agreement at that time was within the frame of actually being presented with a threat of deconstruction or demolition. The agreement was to basically prevent that from happening at that time.

Mayor Bernard understands the City could go directly after Peterson for failure to abate.

Firestone said the City could not go after Peterson but could perhaps look at Emmert International.

Councilor Lancaster tended to agree with Stone in that there are four parties involved, and, taking a step back, all four parties have some responsibility. He asked Firestone if there were any possibility of a negotiated settlement with these parties without making a lien.

Firestone would not rate the possibility as very high. He can try, but he is not optimistic.

Councilor Lancaster asked if there would be any merit in delaying the lien to a short time certain to negotiate some type of settlement.

Councilor Barnes commented that was done the last time with 30 days given to negotiate to a solution.

Firestone understands the assessment amount would be determined. The lien would happen as a matter of course, when the last time the entire decision was postponed. There is a possibility, and he would be willing to make the effort to negotiate.

Mayor Bernard understands the motion could be amended to say the lien could be filed in 60 days should there be a failure to negotiate.

Swanson said, technically, it is the Council's responsibility to determine the amount.

Firestone said the code says "an assessment is caused as stated or determined by the Council shall be made by resolution and shall thereupon be entered in the docket of city liens." With the original resolution, a provision was included extending time because of a timing question relating to the notice. The Council sets the amount and becomes a lien. Section 2 of the proposed resolution says "shall be assessed as costs for the abatement and entered as a lien in the City's lien docket." The last part is unnecessary

because it would happen whether or not the resolution said that the code requires it. There is room for interpretation of the word "thereupon." It would be possible for the Council to provide guidance to staff as to what would be an appropriate time for the amount to be transferred from the determination to become a lien. What needs to be amended is the resolution, so the Council would have to determine those amendments. The motion on the table could be amended or withdrawn and a new motion made. The other option is that the resolution can take effect at some future time, and section 3 could probably be deleted.

Councilor Loomis asked if the resolution could be adopted and determine at a later date when the lien would be imposed.

Firestone said the City Council would have to decide now when the resolution would take effect. Resolution can take effect immediately or at whatever time the Council decides. The amount can be set and the effective date set in 60 days.

Councilor Loomis asked if this could be brought up at another time if the resolution is not adopted.

Firestone said it could as long as it is properly noticed. If a motion is defeated, the process would probably have to be started again. If the Council takes no action, it could be revisited in the future.

Mayor Bernard understands that would require his dropping his motion.

Councilor Loomis asked what the situation would be if Council decides it wants to drop the lien.

Firestone said if the amount is set and Council decides it does not wish to assess the lien prior to the effective date established in the resolution, there could be a motion at a meeting to reconsider and the resolution withdrawn. Another procedural option is a motion for a new resolution either amending or repealing the previous resolution.

Swanson summarized the comments. One simple way to do this is to take the draft resolution, delete Section 3 entirely, and make section 4 a new section 3 that would read, "this resolution shall take effect 60 days after its adoption." That sets the amount of the abatement so that if nothing else happens, 60 days from now that becomes a lien. This would go on a Council agenda prior to the expiration of those 60 days with an action to either amend or reconsider this particular resolution. If there has been action by the parties by then that would resolve this issue, then this resolution could simply be amended or repealed. If not, the total cost of the abatement could be set at \$0 or it could be rescinded or it could be left as is and the lien assessed. Basically, the option is there for the lien and to negotiate.

Mayor Bernard amended his previous motion by deleting Section 3 and replacing that with Section 4 and changing the effective date to 60 days after its adoption.

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

RESOLUTION NO. 39-2003:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING A LIEN IN THE AMOUNT OF CITY COSTS FOR ABATING THE NUISANCE ON CERTAIN REAL PROPERTY OWNED BY UNIOIN PACIFIC RAILROAD.

Council Position on the Formation of an Electric People's Utility District (PUD) in Yamhill County – Resolution

Mayor Bernard said he brings this resolution to Council for consideration. Essentially, it says PGE has been serving Oregon for 100 years and that condemnation of private business through the establishment of an entirely new government entity with independent taxing authority is a distraction that is not needed by the community. He expressed his opposition to bigger government and noted the City adopted a similar resolution several months ago opposing the City of Portland's forming a people's utility district (PUD). He is concerned about the cost of electricity to ratepayers.

It was moved by Mayor Bernard and seconded by Councilor Lancaster to adopt the resolution expressing opposition to formation of an electric people's utility district in Yamhill County.

Councilor Barnes is opposed to this City Council's telling Yamhill County residents what to do. Many residents of Milwaukie work in Portland and Multnomah County, so she felt input on the previous resolution was appropriate.

Councilor Loomis agreed that the opinion on Multnomah County had a direct effect on Milwaukie residents. He did not support the proposed resolution.

Councilor Lancaster added this resolution has no legal and binding effect on Yamhill County and is simply a statement of opinion. He would vote in favor of it because of the simple principle, with rare exception, government does not do it as well as private industry. The foundation is not there for a public entity to take over this enterprise.

Mayor Bernard stated his opposition to any government agency taking over a business that is not broken. PGE is 114-year old business that is not broken; however, Enron is. PGE pays Milwaukie franchise fees, but there are no guarantees that would continue. He asked how much the City receives annually from PGE in franchise fees.

Swanson said the City receives about \$300,000.

The motion to adopt the resolution opposing formation of an electric PUD in Yamhill passed with the following vote: Mayor Bernard, Councilor Lancaster, and Councilor Stone aye; Councilor Barnes and Councilor Loomis nay.

RESOLUTION 40-2003:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, IN OPPOSITION TO THE FORMATION OF AN ELECTRIC PEOPLE'S UTILITY DISTRICT IN YAMHILL COUNTY.

Design and Landmarks Commission Bylaws

Councilor Stone asked that this item be pulled from the Consent Agenda for discussion because she had several questions. Overall, she thinks the bylaws are good. On page 1, item #2 reads "a majority of the Commission may recommend to the City Council that a member be removed from the Commission by the City Council." She asked what would constitute a removal from this Commission, and would there necessarily have to be a reason or reasons.

Firestone reviewed the code and basically determined that member of boards and commissions serve at the pleasure of the Council. There are no guidelines for what would apply either for the commission or for the Council. The understanding is that the commission wants the ability to let the Council know if someone is not regularly attending the meetings. One reason the Council is given total discretion is that it would be impossible to identify all unacceptable circumstances under which a person might be removed. It is open and consequently the Commission has no provisions as to what the grounds might be because there is no guidance from the code. He cannot envision the Commission's using this power lightly. Basically, there are no standards in the code.

Councilor Stone's other question had to do with #4, "if a quorum is not attained fifteen minutes following the scheduled time of call to order, the meeting shall be cancelled." Does a quorum mean a certain number of people or a majority of the members present or of the membership.

Firestone said a quorum is the majority of the membership. He believes that is clarified in the code.

Councilor Stone said Article II sections 3 and 5 essentially say the same thing and suggested the sections be combined. Both say if the chairperson is absent, then the vice-chair takes over.

It was moved by Councilor Stone and seconded by Councilor Loomis to accept the bylaws for the Milwaukie Design and Landmarks Commission with the amendment to combine sections 3 and 5 in Article II. Motion passed unanimously.

Other

Mayor Bernard discussed a property developer who might be in the Milwaukie court system for cutting down a huge fir tree within the public right-of-way without a permit. He understands the most the City can charge is \$500. However, under state law, the City could charge three times that amount. He believed the Council should review these types of fees.

Firestone said, although the most likely resolution to this matter is through the municipal court, there is some possibility there may be a Council proceeding. To be cautious, he appreciated the comment that staff should consider the penalty provisions and pointed out there are various options for the City to pursue.

Mayor Bernard would like to see the penalties higher so this type of action is considered more than just the price of doing business. He would also like to revisit the code section on cutting trees in the public right-of-way.

Swanson corrected an earlier statement he made about the amount of the PGE franchise fees, which were actually \$728,000 last year. The \$300,000 is the amount Milwaukie pays PGE for street lighting.

Mayor Bernard announced the City Council would meet in executive session immediately following adjournment of the regular session to discuss pending or likely litigation pursuant to ORS 192.660.

ADJOURNMENT

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

Mayor Bernard adjourned the regular session at 7:45 p.m.

Pat DuVal

Pat DuVal, Recorder

AGENDA

MILWAUKIE CITY COUNCIL SEPTEMBER 16, 2003

MILWAUKIE CITY HALL
10722 SE Main Street

1916TH 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 September 2, 2003**
 - B. **Approval of Design and Landmarks Commission Bylaws**
- IV. **AUDIENCE PARTICIPATION** *(The Mayor will call for statements from citizens regarding issues relating to the City. It is the intention that this portion of the agenda shall be limited to items of City business which are properly the object of Council consideration. Persons wishing to speak shall be allowed to do so only after registering on the comment card provided. The Council may limit the time allowed for presentation.)*
- V. **PUBLIC HEARING** *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*
 - A. **Review Citizens Utility Advisory Board Work Plan (Paul Shirey)**
 - B. **Water Cost of Service Rate Adoption – Resolution (Paul Shirey/Jay Ostlund)**
- VI. **OTHER BUSINESS** *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*
 - A. **Natural Hazard Mitigation Plan – Resolution (Barb Kwapich/Cindy Kolomchuck/Kevin Donnegan)**
 - B. **Intergovernmental Agreement with Clackamas County for Enterprise Zone Services (Jeff King)**
 - C. **Consider Lien in Amount of City Costs for Abating the Nuisance on Certain Real Property Owned by Union Pacific Railroad (Gary Firestone)**

VI. OTHER BUSINESS, Continued

D. Council Position on the Formation of an Electric People's Utility District (PUD) in Yamhill County – Resolution (Mayor Bernard)

VII. INFORMATION

VIII. ADJOURNMENT

Public Information

- Executive Session: The Milwaukie City Council will go into Executive Session immediately following adjournment of the regular session. Council will consult with legal counsel regarding litigation pursuant to ORS 192.660(g).

All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making and final decision. Executive Sessions are closed to the public.

- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503.786.7555
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

Date: 9-16-07

I wish to address City Council on Agenda Item #

III C.

Name MIKE WALSH

Organization MUTCHISON HARMONOND WALSH

Address 21790 WILLAMETTE DR WEST LINN

Phone 503 656 1694

Speaking in support Speaking in opposition

Raising questions Providing information

Comments

Date: 9/18/03

I wish to address City Council on Agenda Item #

BIG TRUCKS - LITTLE STREETS

Name CHARL S JACOB

Organization _____

Address P.O. Box 22832

Phone 653-1192

Speaking in support _____ Speaking in opposition _____

Raising questions _____ Providing information _____

Comments

PETITION

Date: 9/16/03

I wish to address City Council on Agenda Item #

VI C

Name Jill Schneier

Organization Union Pacific Railroad

Address 732 NW 19th Ave, Portland

Phone 503 224-0055

Speaking in support _____ Speaking in opposition

Raising questions _____ Providing information _____

Comments



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: September 8, 2003
RE: FYI Memo for the Weeks of September 8, 2003 through September 19, 2003

September 15, 2003 WORK SESSION

- 1. New Fine Structure for Violations of State Traffic Code:** Our Municipal Traffic Code violation fine structure is based on the State Traffic Code, the one exception being that ours imposes a minimum fine of not less than fifty percent of the maximum fine. We adopted it on March 20, 2003. Our plan was to readopt the State Traffic Code each even numbered year after a Legislative Session to capture changes in State law. The Legislature recently increased the State fines; the Governor signed it on August 29, 2003; and it went into immediate effect on September 1, 2003. We still plan to readopt the State Traffic Code in 2004 when they republish the ORS as the 2003 Edition, but the question is whether you desire to adopt the new fine structure now to give it immediate effect.
- 2. Draft Mayor/Council Communication Agreements:** The draft I am suggesting incorporates two significant changes. The first is a "preface" of sorts that both outlines the reason for the agreements and the underlying rule—namely, respect. The second is the restructuring of the rules into categories. I did not sense from our discussion that there was any disagreement with the rules. This might simplify them and give them a framework. But the final, unwritten rule is that I have no pride of authorship (and, if I do I am not damn fool enough to admit it).
- 3. Potential Executive Session Dealing With North Main Issue:** Alice and I have been discussing a potential executive session this evening that will deal with a North Main Street Project issue. We will know better on the 15th whether we have enough information to bring the issue to Council.

September 16, 2003 COUNCIL MEETING

- 1. Approval of Design and Landmarks Commission Bylaws:** The Municipal Code requires Council approval of bylaws for appointed boards. On August 27, 2003, the Design and Landmarks Commission (formerly the Historic Resources Commission) approved revisions to its bylaws, which are being forwarded to Council for approval. Staff is recommending approval.
- 2. Review of the Citizens' Utility Advisory Board (CUAB) Work Plan:** The Municipal Code requires Council review and approval of an annual work plan to be submitted by the City's boards and commissions. This agenda item is the CUAB's proposed work plan for FY 2003-04.
- 3. Water Cost of Service Rate Adoption:** On April 4, 2003 the City engaged Donovan Enterprises (consultant) to conduct a Water Cost of Service Study to match rate revenue to the cost of future capital needs. Water rates have remained constant for eight years. During the study the consultant discovered that the City had not been funding the cost of capital depreciation. The CUAB requested scenarios that fund depreciation, and it recommended the option that gradually phases in depreciation over a seven year period.
- 4. Natural Hazard Mitigation Plan:** This agenda item adopts the Multi-Jurisdictional Clackamas County Natural Hazards Mitigation Plan, including the Milwaukie Addendum, thus ensuring state and federal disaster relief funding.
- 5. Intergovernmental Agreement with Clackamas County for Enterprise Zone Services:** The City has designated Enterprise Zones in the International Way, Johnson Creek, and North Milwaukie industrial areas. The zone designations expire in 2008. Administration of the enterprise zones has been handled by Clackamas County by contract. This continues that contractual arrangement.
- 6. Consider Lien in Amount of City Costs for Abating the Nuisance on Certain Real Property Owned by Union Pacific Railroad:** This is a continuation of the original consideration of the lien from the August 19, 2003 Council hearing. The parties were asked to discuss further the options available. As of the date of this writing, the only other option discussed was that of pursuing civil penalties individually against Emmert International pursuant to the City Municipal Code. My recommendation is that the City impose the lien, thus ensuring itself of at least a security interest in real property in the amount of the costs.
- 7. Council Position on the Formation of an Electric People's Utility District (PUD) in Yamhill County:** This action has been requested by PGE. It is the same action taken by the Council on the Multnomah County PUD issue.

OTHER ITEMS OF INTEREST

Reminder: The reception for Chief Bruegman is on September 9, 2003 from 4:00-6:00 at the Clackamas County Fire District Training Center, which is located at 15990 SE 130th Avenue, Clackamas.

MINUTES

MILWAUKIE CITY COUNCIL SEPTEMBER 2, 2003

CALL TO ORDER

The 1917th 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 Deborah Barnes	Councilor Joe Loomis
Councilor Larry Lancaster	Councilor Susan Stone

Staff present:

Mike Swanson, City Manager	Jeff King, Project Manager
Larry Kanzler, Police Chief	JoAnn Herrigel, Program Specialist
Alice Rouyer, Community Development/ Public Works Director	

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Mayor Bernard read a brief summary of the twelfth and thirteenth Milwaukie City Council meetings held in November 1903. Milwaukie Museum Curator Madalaine Bohl is preparing this series of historical notes in honor of the City's Centennial Year.

Mayor Bernard continued reading his thank you list of volunteers and supporters of Milwaukie Centennial Celebration:

- Centennial Committee members Ed Zumwalt, Kathy Rose, Wilda Parks, Kelly Howell, Jim Newman, Kathy Buss, Madalaine Bohl, and Gloria Totten;
- City staff JoAnn Herrigel, Grady Wheeler, Jason Wachs, Larry Kanzler, Kelly Somers, Mike Clark, Les Hall, Paul Shirey, Alice Rouyer, Steve Brackenbrough, and the Milwaukie summer work crews;
- Neighborhood District Association members, Riverfront Board members, North Clackamas Parks and Recreation District and Milwaukie Center staff, Clackamas Fire District #1 employees, and Milwaukie Rotary members including: Art Ball, David Aschenbrenner, Mike Stacey, Steve Loaiza, Thom Kaffun, Joan Young, Margaret Pritchard, Ron Renfrow, Gloria Hake, Mark Hake, Siri Bernard, Bill McDonald, Paul Bohl, and Jamie Karn.
- Sponsors: Providence Milwaukie, ODS, Willamette Manor, Bob's Red Mill, Clackamas Federal Credit Union, Bernard's Garage, and The Mill End Store; and

III. A. 2

- Vendors and Community Booths: High Rocks Pub, Jamba Juice, Papa Murphy's, Michelle Eads of Fat Tuesday's Catering, the Coast Guard Auxiliary, and Soapbox Enterprises

Proclamation Expressing Appreciation for Fire Chief Bruegman's Service

Mayor Bernard read a proclamation recognizing Randy Bruegman's service as Milwaukie's Fire Chief from 1996 to 2003. Bruegman will become Fresno, California's fire chief on September 15.

City Welcome Sign

Project Manager Jeff King outlined the Milwaukie Rotary Club's proposal to donate a "Welcome to Milwaukie" sign to be placed on City property at McLoughlin Boulevard and 17th Avenue.

David Campbell, Milwaukie Rotary Club Community Service Director, said in recognition of the City's Centennial and in keeping with its goals, the Rotary decided to take on the project of donating a welcome sign on McLoughlin Boulevard. A graphic artist at the Clackamas Education Service District volunteered to develop several concepts, and one was selected and reviewed by City representatives. Sharon Klein, a woodcarver, has agreed to do the work on the sign as a gift along with the Rotary Club.

Council commented on the artist's concept. **Mayor Bernard** suggested the Centennial logo might be more appropriate than the dogwood log.

Councilor Lancaster asked if it would be feasible to carve an elk standing in the trees on what he presumed was Elk Rock Island.

Councilor Barnes asked if these were the colors the woodcarver planned to use.

Campbell said these colors were close but not exact. The artist was trying to get a sense of the colors that would work on a redwood sign. The City logo colors, teal and white, would guide the color choices. He added the sign would not be done in relief.

Councilor Stone asked, in terms of the carving itself, would these be done with lasers or hand carved?

Campbell believes Klein hand carves.

Councilor Stone asked if some of Klein's signs are prominently displayed in the region so Council could look at them.

S. Bernard said Klein's work is mostly in her home.

Councilor Stone's concern is, in terms of this sign's being a gateway to our City, if it is big enough, since it will be located in a large space. She is also concerned about where it is placed. Right now it is totally vacant. Artwork has been placed there before, and the space does not present things nicely because there is no landscaping. Stone suggested landscaping around the sign with perennials, annuals or shrubbery to make it look less stark. This sign will be prominently displayed and be a gateway to the City. Since the City is trying to get business interested in locating here, she wants a sign that is noteworthy. This is a marketing tool for the City. The Design and Landmarks Commission (DLC) has done a lot of work this past year in getting design standards for the downtown area, and Stone suggested this review process go before the DLC as well as Council. There are certainly some experts on that team including architects and graphic designers. She would like to see that happen before any decisions are made and added this is a very generous gift.

Councilor Lancaster had two additional thoughts. The City is very busy working with Metro to establish a trail that is a walking trail, so he asked if the bicyclist was appropriate. His other thought was the font style, which is cursive and attractive, but might be difficult for drivers to read. The sign is something that should be easily read.

Campbell replied this is an artist's portrayal, and size will also influence readability. The size of the sign is still open to discussion.

Councilor Stone explained the typography used is usually the call of the graphic arts designer. She believed one would want something that is timeless and not really trendy. She knows that when the sign near Providence Milwaukie was being created, a group looked at other signs in the area. There are signs on either end of Multnomah Village that were actually done by the carver who did the 32nd Avenue sign. The sign in Portland is much larger and has cursive writing in gold leaf that looks very nice. It is big enough that it can really be seen. She reiterated she would like to see this go before the DLC before City Council makes a decision.

Mayor Bernard hears concerns about color, readability of the font, and something that makes Elk Rock Island identifiable. He asked Councilors their opinions of using the Centennial logo.

Councilor Stone asked if the Centennial logo would be used longer than this one year.

Swanson replied he did not see the Centennial logo as something permanent.

Mayor Bernard understands the decision at this meeting is whether or not the sign can be placed on this City property. The design can be sent to the DLC for consideration.

Councilor Stone wants the City Council to have final approval.

Campbell asked for an estimate of how long it might take the DLC to review the proposal so he can give a progress report to the Rotary.

CITY COUNCIL MEETING SEPTEMBER 2, 2003

DRAFT MINUTES

Page 3 of 9

III. A. 4

Rouyer said the DLC could consider it at its September meeting, so the proposal could be back to Council in October.

Councilor Loomis expressed his thanks to Campbell and the Rotary Club for its donation and time going into the project design.

Councilor Stone understands from the packet material that the sign is redwood. In terms of the riverfront, will there eventually be a sign there as well? She was thinking if there was, a lot of these ideas about Elk Rock Island and bike riding might also be incorporated in that.

Mayor Bernard said a park naming contest is underway, so at some time there will be a name and a sign developed. It would probably be located near the park entrance.

Herrigel added the sign donated by the Rotary would be movable, so, if there are two signs, they will not conflict.

Councilor Stone was thinking about the design elements of a second sign.

CONSENT AGENDA

It was moved by **Councilor Barnes** and seconded by **Councilor Lancaster** to approve the City Council minutes of August 19, 2003. Motion passed unanimously.

AUDIENCE PARTICIPATION

Randy Fischer, 2320 SE Wren, Milwaukie. He has been a resident in the Island Station area for six years and owns two properties there. He likes that area and has put a lot of money into developing his properties. Fischer provided his opinion on an item that was brought up at the previous Council meeting relating to the Heckmann property. As an investor, he is interested in that property, and it appears the City Council will have to yet make some decisions. He stated the City would have to consider either taking the second offer on the property since the first bidder is no longer in the running or putting it out for re-bid. He is not a regular reader of the *Daily Journal of Commerce*, so he did not know when the sale of this surplus property went out for bid. He knew it was going to happen; however, he did not know when and was too late to submit his offer. Fischer has been following the news, so he would enter a bid if the opportunity comes along. He hoped the City would not decide to go with the second bidder because it is rather low, and there are others interested in the property. The City will need to make the decision, he assumes, after the issue with Mr. Weidner is resolved, since properties are not attractive when there are lawsuits attached. He hoped the City would make a decision after the lawsuit is resolved or accept that bids will be placed contingent upon Milwaukie's taking full accountability of any outcomes of the pending lawsuit. He

thanked Swanson and DuVal for their responsiveness in providing information he requested.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

Local Share Program Change and Refund -- Resolutions

Program Administrator JoAnn Herrigel provided the staff report in which the City Council was requested to approve two resolutions relating to Metro's Local Share Program. The first was to add Homewood Park natural area, located in the Hector Campbell Neighborhood, to a list of projects to be completed using Milwaukie's local share funds. The second was to refund a balance of \$14,164.34 in local share funds to Metro for use on the Trolley Trail. This is a walking and biking trail from Harrison Street in Milwaukie to Gladstone. Herrigel noted David Aschenbrenner, Hector Campbell Neighborhood Chair, was present if Council had questions about Homewood Park.

The City was granted about \$349,000 by Metro under the 1995 Open Space Parks and Streams Bond Measure to acquire and enhance open space and natural areas in Milwaukie. All six projects that were funded are completed. Because of volunteer energy in Milwaukie, some of the projects were completed for less money than anticipated. Thus, there is about \$24,000 left of the original funds. Staff has discussed these remaining funds with the neighborhood leadership and Metro and has arrived at what Herrigel believes is a good compromise. Instead of returning the entire balance, Metro has agreed to fund the installation of a trail through the natural area located in the Hector Campbell Neighborhood's Homewood Park. That project is estimated to cost about \$10,000. Herrigel explained that the use of the Metro funds is restricted to open space and natural areas specifically, and, based on Metro's leniency in granting extensions, it is time to complete the City's projects. Homewood Park is the only project that has both a natural area and has gone through the necessary land use procedures. She has contacted the neighborhood leadership and discussed that fact that although there are many projects, Homewood Park is the only one eligible for funding.

The \$14,461 that staff is proposing to return to Metro would be used on the Trolley Trail. The first two sections of the trail project are in the City of Milwaukie. The City has not contributed any funds to that project, and the contribution would be very helpful.

Councilor Stone had a question about enhancing natural spaces such as the one on McLoughlin Boulevard where the sign will be located. Would that fit Metro's criteria, or does it also have to have some recreational use?

Herrigel said that would be a good use except for the fact there is no master plan completed. There would likely have to be an extensive public input process as well as

CITY COUNCIL MEETING SEPTEMBER 2, 2003

DRAFT MINUTES

Page 5 of 9

III. A. 6

completion of a community service overlay. Those processes would probably take a year, and she would like to spend the money within a year. Herrigel had considered that option, but it did not seem feasible within the timeline.

Councilor Lancaster asked if putting some flowers or bark dust at the base of the sign would take a year.

Herrigel said that project would be eminently doable without any funds from Metro.

Councilor Lancaster said these are the types of things that are wrong with government. A simple enhance would take a year's worth of process?

Swanson said it would take Metro a year, but Milwaukie can do it in a day.

Councilor Barnes wanted to confirm that Herrigel had discussed this with all the neighborhood leaders.

Herrigel said that was correct.

It was moved by **Mayor Bernard** and seconded by **Councilor Loomis** to adopt the resolution adding **Homewood Park** to **Milwaukie's** project list using local share funds. Motion passed unanimously.

RESOLUTION 35-2003:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING AMENDMENT OF THE METRO LOCAL SHARE INTERGOVERNMENTAL AGREEMENT TO ADD HOMEWOOD PARK NATURAL AREA TO THE LIST OF PROJECTS TO BE COMPLETED USING MILWAUKIE'S LOCAL SHARE FUNDS.

It was moved by **Mayor Bernard** and seconded by **Councilor Loomis** to adopt the resolution returning unused local share funds to Metro. Motion passed unanimously.

RESOLUTION 36-2003:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE RETURN OF \$14,164.34 OF MILWAUKIE'S LOCAL SHARE FUNDS TO METRO.

Intergovernmental Agreement for Crime Analysis Training

Police Chief Larry Kanzler presented the staff report in which the City Council was requested to adopt a resolution authorizing the Mayor to sign an intergovernmental agreement (IGA) between the City of Milwaukie, the Portland Police Bureau, and

CITY COUNCIL MEETING SEPTEMBER 2, 2003

DRAFT MINUTES

Page 6 of 9

Clackamas Community College for distance learning classes in crime analysis. Over the past couple of years the Police Department's strategic plan has unfolded with Council support in developing records management and enhanced crime analysis programs. This allows adoption of a community policing program in a complete and organized manner. Effectively training officers in crime analysis, however, has been a continuous problem. At this time, one Milwaukie police department employee does crime analysis in addition to her other job duties.

When Milwaukie adopted Portland's data records management system, a new door was unlocked to map crime analysis information. It is an instantaneous source of data, but officers at the street level have not been trained. During some dialogue, it was found that the Portland Police Department, too, has difficulty in keeping its officers trained. Portland developed a protocol for training in crime analysis so the average patrol officer can go through training as work time allows. Certification requires 120 hours of training. Milwaukie agreed to be the model agency for developing this distance-learning concept.

Councilor Barnes noted the operational agreement says Portland will pay for college classes for those taking classes through Portland Police. She asked if Milwaukie would also be agreeing to picking up the tab for 120 hours per person.

Kanzler said the rate would be much reduced because Milwaukie is taking part in the development process. There is a 45 – 50 hour component that makes the officer a competent user but not certified. There is a portion Milwaukie will pay on an ongoing basis. He believes the rate is \$10 per credit hour.

Councilor Barnes asked how many people have come forward in the department saying they wish to take this class?

Kanzler said no one has come forward because the class is not offered yet. Considering how the officers have embraced the mobile data terminals and Portland Police Data System, he anticipates a lot interest. In addition to the department's regular training funds, the Council adopted a \$10 police-training fee added to each citation.

It was moved by Councilor Lancaster and seconded by Councilor Stone to adopt the resolution authorizing the Mayor to sign an intergovernmental agreement between the City of Milwaukie, Portland Police Bureau, and Clackamas Community College for distance learning classes. Motion passed unanimously.

RESOLUTION 37-2003:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE MAYOR TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH THE PORTLAND POLICE BUREAU AND CLACKAMAS COMMUNITY COLLEGE TO DEVELOP AND PRESENT DISTANCE LEARNING CLASSES IN CRIME ANALYSIS.

III. A. 8

Other

Swanson attended a Lake Road Neighborhood Association meeting in March 2002, and residents requested the speed limit be lowered from 40 MPH to 30 MPH on the eastern portion of Lake Road within the City limits. The power over the speed limit in that area is vested in the Oregon Department of Transportation (ODOT), so the City made this request on behalf of the neighborhood. The engineering department provided the necessary background information for this petition. Last week Swanson received notice from ODOT that it was recommending adoption of this request which is very good news for the Lake Road Neighborhood residents. ODOT will issue a speed zone order, and Milwaukie can then post signs. Hopefully, the change will only take a matter of a few weeks.

Councilor Stone commended Swanson for getting this done. This matter had come before the Traffic Safety Board (TSB), which recommend this change. ODOT did not comply with the request, and Stone was curious as to what might have brought about this change.

Swanson did not know the answer but knows ODOT has been inundated.

Councilor Stone said this came the TSB a couple of different times, and there was actually an ODOT representative at one of the meetings. She is thrilled to see this finally happening as it is long overdue.

Swanson's second announcement was the new "Ask the City Manager" feature on the City website. He explained the ground rules for its use. In the future there may be a section dealing with frequently asked or seasonal questions such as, how many garage sales can I have? He encouraged people to visit the site and ask their questions because the City is really interested in responding. Swanson complimented IST Manager Esther Gartner's development of the City website which he finds a valuable research tool. Additionally, there is a lot of information posted on neighborhood association activities.

The group discussed the frequency and problems with ongoing garage sales. **Councilor Lancaster** noted that the City of Keizer designates two days each summer during which there is a citywide garage sale and suggested this might be a way to advertise and promote Milwaukie

Councilor Stone clarified her suggestion for using leftover funds from the Metro local share program. She did not envision Metro getting involved in planting a few flowers; she was thinking about using the \$14,000 to completely re-do that space. She hates to give the money back if there is a use for it.

Mayor Bernard made the following advisory board and commission appointments: Ray Bryan, Historic Milwaukie Neighborhood Association representative to the Public Safety

CITY COUNCIL MEETING SEPTEMBER 2, 2003

DRAFT MINUTES

Page 8 of 9

Advisory Committee; Richard McConnell to Cable Access Studio Ad Hoc Committee; and Pat Lent to the Ledding Library Board. Staff was directed to contact David Colpo to determine if he is interested in any other board or commission vacancies.

Mayor Bernard announced the City Council would hold a work session immediately following adjournment to discuss the Council Communication Agreement.

ADJOURNMENT

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

Mayor Bernard adjourned the regular session at 7:00 p.m.

Pat DuVal, Recorder



To: Mayor and City Council

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

From: John Gessner, Planning Director

Subject: Approval of Design and Landmarks Commission Bylaws

Date: September 16, 2003

Action Requested

Adopt the proposed bylaws for the Design and Landmarks Commission as shown in Attachment 1.

Background

The Milwaukie Municipal Code requires Council adoption of bylaws that govern the conduct of meetings and performance of commission duties¹. The City Council reconstituted the former Historic Resources Commission as the Design and Landmarks Commission. Under this action, the role of the Commission was expanded to make recommendations on design review and act as the decision-making body for development proposals in the Downtown Zones.

The former bylaws of the Historic Resources Commission have been revised and updated for the Design and Landmarks Commission. On August 27, 2003 the Commission passed a resolution recommending Council adoption of the proposed bylaws.

¹ Milwaukie Municipal Code 2.10.050

III. B. 2

City Council Staff Report – DLC Bylaws
September 9, 2003
Page 2 of 2

Concurrence

The City Attorney drafted the proposed bylaws, with review and acceptance by the Design & Landmarks Commission, Planning Director, and Community Development & Public Works Director.

Fiscal Impact

Adoption of the bylaws will not result in a fiscal impact.

Work Load Impacts

Adoption of the bylaws will not result in additional workloads.

Alternatives

The City Council has the following decision-making alternatives:

1. Adopt the bylaws as proposed.
2. Amend and adopt the bylaws.
3. Refer bylaws back to staff and/or the Design and Landmarks Commission for revisions as directed by the Council.
4. Take no action.

Attachment

Proposed Bylaws

ATTACHMENT

Milwaukie Design and Landmarks Commission (DLC)

BY-LAWS

Adopted by the Milwaukie City Council under Resolution _____

September 9, 2003

ARTICLE I: MEMBERS AND VOTING PROCEDURES

1. Membership of the Commission shall be as established by the Milwaukie Municipal Code and appointed by City Council.
2. A majority of the Commission may recommend to the City Council that a member be removed from the Commission by the City Council.
3. Members are expected to attend all meetings. Failure to attend one-half or more of regularly scheduled meetings in a six-month period shall be grounds for a recommendation for removal.
4. If a quorum is not attained fifteen minutes following the scheduled time of call to order, the meeting shall be cancelled.
5. All members who are present at Commission meetings, including the Chairperson and Vice-Chairperson, are allotted one vote each on all motions.
6. One member must make a motion and another member must second that motion in order for the Commission to vote. A motion is passed by majority of the Commission members present. Any member, including the Chairperson and Vice-Chairperson, may make and second motions.

ARTICLE II: CHAIRPERSON AND VICE-CHAIRPERSON DUTIES/MOTIONS

1. The Commission shall elect a Chairperson and a Vice-Chairperson. Elections shall be held yearly in January.
2. In the event that an officer cannot complete the specified term, an emergency election shall be held for the completion of the term.
3. In the event the Chairperson cannot attend a scheduled meeting, the Vice-Chairperson shall act as the presiding officer.

III. B. 4

4. The Chairperson shall preserve the order and decorum of the meeting; direct discussion and comment to relevant issues; establish and enforce time limits for discussion and comment as appropriate; prevent attacks on personalities; and encourage citizen input.
5. The Chairperson, or the Vice-Chairperson if the Chairperson is absent, shall preside over the meetings.

ARTICLE III: MEETINGS AND PUBLIC HEARINGS

1. Regular meetings shall be held at 6:30 p.m. on the fourth Wednesday of each month. The time and date of the meeting may be changed by a majority vote of Commission.
2. The public shall be notified of all Commission meetings by the City's general notification procedures.
3. The Planning Director or his/her designee shall be responsible for preparing the Minutes for each meeting and keeping records of the attendance.
4. The Planning Director or his/her designee shall be responsible for mailing the Agenda and all meeting materials to members and interested members of the public at least seven (7) days before the next scheduled meeting.
5. Special Meetings may be called at the request of the Chairperson or a majority of the Commission. The Planning Director shall set a special meeting on such request unless good cause exists for delaying until the next regularly scheduled meeting. Good cause may include such factors as staff availability, meeting room availability, and budgetary considerations.
6. Executive Sessions may be held consistent with City Council Meeting Provisions, Section 2.04.090 of the City of Milwaukie Code and applicable state law

ARTICLE IV: BY-LAWS/ CHANGES

1. By-laws may be amended, repealed or altered by a majority of the entire Commission, subject to approval by the City Council.



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: Paul Shirey, Engineering Director

Subject: Council review of Citizen Utility Advisory Board (CUAB)
Annual Work Program

Date: August 29, 2003 for September 16, 2003

Action Requested

Review annual work program and provide feedback to the CUAB.

Background

Each year appointed Boards are required to meet with the City Council to review the Board's work plan for the coming year. The Citizen Utility Advisory Board (CUAB) is scheduled to meet with the Council on September 16, 2003.

The following is a summary of the proposed work program items for FY 2003-04 for consideration and discussion. These items are not listed in order of importance or priority.

1. Transportation Utility Maintenance Fee	Explore options for establishing a fee, based on use of the roads. Revenues will be used to maintain the city's street system. Make recommendations to Council.
2. Street light fee or utility privilege tax	Consider creating a street light fee or a privilege tax to provide more state gas tax revenue for transportation capital projects.

V. A. 2

3. 2004-2009 CIP	Review and make recommendations to Council on the Capital Improvement Plan for next 5 years. Make recommendations to City Council
4. System Development Charge (SDC) study and revisions	(Carry over from 02-03). Complete work on 3-utility SDC update by April '04, allowing time for updates to storm and sewer Master Plans. Transportation SDC update by Dec. '03.
5. Stormwater Master Plan	(Carry over from 02-03). Review consultant recommendations; consider rate proposal and make recommendation to City Council
6. Annexation project	Boundaries not yet defined; includes unsewered areas east of Milwaukie; requires negotiation with current service providers and feasibility for extending new services.
7. Pavement Management system	Provide input on efforts to implement a pavement management system to better manage maintenance of street system.
8. Sanitary Sewer Master Plan	Review consultant recommendations for projects and priorities for sewer system improvements and replacements.
9. Oak Lodge Sewer rate adjustment	Equalize Milwaukie rates for customers served by Oak Lodge
10. Sanitary sewer service feasibility study	Explore feasibility of providing sanitary sewer service to areas in north Milwaukie, currently served by City of Portland.
11. Wastewater Consolidation Study	Report on findings by inter-jurisdictional committee regarding potential costs and feasibility of consolidating north Clackamas area treatment facilities at Tri-City wastewater plant.
12. Water System Vulnerability Report	Conduct assessment of vulnerability of water system to man-made and natural threats. Federally mandated requirement to complete study by 6/30/04.

13. Intergovernmental Agreement with Clackamas River Water (CRW)	Opportunity to renegotiate and update agreement with CRW for back-up water source via system inter-tie.
--	---

Concurrence

The CUAB reviewed this Work Plan at their regular meeting on May 7, 2003 and approved the final Plan at it meeting on September 3, 2003.

Fiscal Impact

All the items in this Work Plan are covered by the approved 2003-04 Budget.

Workload Impacts

All the items in this Work Plan are incorporated in the work plans for the Engineering Department.

Alternatives

1. Approve the Work Plan for the CUAB as presented.
2. Amend the Work Plan with comments back to the CUAB
3. Take no action.



To: Mayor and City Council

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

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

Subject: Water Cost of Service Rate Adoption

Date: September 2, 2003 for September 16, 2003 Meeting

Action Requested

Review the water rate study and adopt the increase for the next fiscal year.

Background

On April 3, 2003, the City of Milwaukie contracted with Donovan Enterprises to perform a Water Cost of Service Study. Water rates have remained unchanged for the past eight years. The purpose of the study was to match rate revenue to the cost of future capital needs (re: water line replacement, storage capacity and well-head costs) and projected operating expenses. The study was also designed to evaluate the cost of services provided by the City of Milwaukie Water Department

On May 7, 2003, the consultant team presented the Citizens Utility Advisory Board (CUAB) with the City's current revenue requirements and a review of the overall financial health, fiscal policies and operations of the Water Department. The consultants discovered that the water department had not been funding the cost of capital depreciation for some time, contrary to sound financial practices. Capital depreciation is funding a proportional replacement cost of long-lasting items over the useful life of that item. This allows the item to be replaced at the end of its useful life. The CUAB advised the consultant team to develop three rate scenarios to fund depreciation and return for the June 4, 2003 CUAB meeting to discuss the implications of each.

V. B. 2

On June 4, 2003, the consultant team shared the rate options with the CUAB. The CUAB recommended adopting the rate option that provides a regular, consistent, and affordable increase over a period of seven years. This gradual rate increase will phase-in depreciation funding with full funding by the end of the fiscal year 2009. The current five year capital improvement plan would also be fully funded under this scenario.

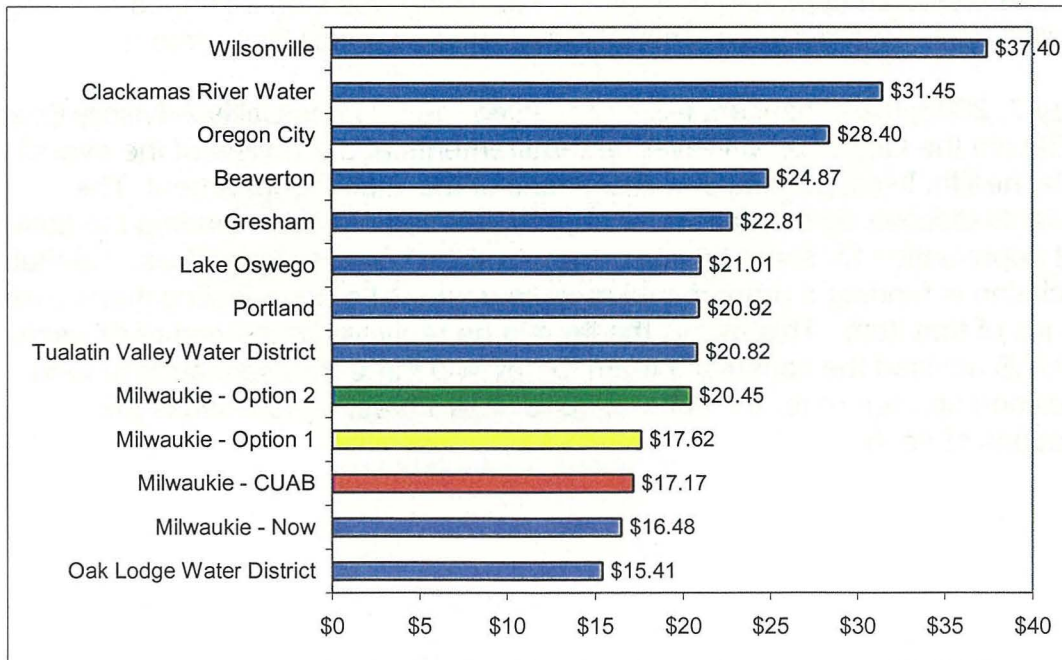
As presented at the July 14, 2003 Council Work Session, this option assumes that legal fees for the well contamination lawsuit are funded through the Water Capital Reserve Fund. This option allows for the gradual funding of depreciation, with full funding by 2009. Therefore, the rate increase will not be needed to support the lawsuit. In summary, this option is recommended for the following reasons:

- Allows for a series of approximately four percent increases
- Allows for a gradual funding of depreciation and eliminating the initial rate spike.
- Funds the current five-year Capital Improvement Plan.

The following graph from Donovan Enterprises Final Report demonstrates the different legal fee and depreciation funding options:

The following table was developed to demonstrate the impact that the recommended rate structure has on a residential customer who uses 10 CCF (Hundred Cubic Feet) a month. The result of the rate recommendation is an increase of \$0.69 per month. The following table compares Milwaukie's current rates and each of the three proposed options to other area jurisdictions' water rates. The second table is a spreadsheet showing the new proposed rate structure for the next fiscal year (Tables for fiscal years 2004-2010 are at the end of this document – Attachment 1):

**Milwaukie Residential Rates Relative to Neighboring Communities
(Assuming 10 CCF consumption per month)**



Description	Current Rates		Uniform Increase at 4.17%	
			Calculated Rates for FY04	
	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet
5/8" X 3/4" Meter or Smaller	5.95	1.35	6.20	1.41
1" Meter	8.29	1.35	8.64	1.41
1 1/2" Meter	13.38	1.35	13.94	1.41
2" Meter	20.78	1.35	21.65	1.41
3" Meter	51.22	1.35	53.35	1.41
4" Meter	72.78	1.35	75.81	1.41
6" Meter	129.90	1.35	135.31	1.41
Low Income Rate	-	1.35	-	1.41
2" Standby	8.85	1.35	9.22	1.41
4" Standby	31.88	1.35	33.21	1.41
6" Standby	46.41	1.35	48.34	1.41
8" Standby	63.02	1.35	65.65	1.41
10" Standby	79.61	1.35	82.93	1.41
12" Standby	96.21	1.35	100.22	1.41

Staff is recommending that Council adopt an increase of 4.17% for next fiscal year and a schedule of rate increases for the next seven years. If a settlement from the well contamination litigation results in a financial award to the City, it could be used to reimburse the reserve fund. This would also trigger the opportunity to evaluate our future rate strategy.

If this rate table is adopted, staff recommends an implementation date of January 1, 2004. This will reduce the impact on customers and allow staff to make the necessary updates.

Concurrence

The Engineering Department, Finance Department, Community Development, City Attorney's Office, and City Manager's Office support the CUAB recommendation for a gradual rate increase to fund capital depreciation.

Fiscal Impact

This change in the water rate structure will allow the water fund to remain in a healthy, stable condition. The amended rate will allow future maintenance, equipment replacement, and capital improvement to be fully funded.

Work Load Impacts

This project is included in the Engineering Department annual work program.

V. B. 4

Alternatives

1. Adopt the recommended rate structure.
2. Amend the proposed rate structure.
3. Keep the current rate structure

Attachment

1. Proposed Rate Increase for Fiscal Years 2004 to 2010
2. Resolution
3. Donovan Enterprises Final Report
4. Citizen Comment Letter

ATTACHMENT 1

V. B. 5

Description	Uniform Increase at 4.13%		Uniform Increase at 4.11%	
	Calculated Rates for FY05		Calculated Rates for FY06	
	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet
5/8" X 3/4" Meter or Smaller	6.45	1.46	6.72	1.52
1" Meter	8.99	1.46	9.36	1.52
1 1/2" Meter	14.51	1.46	15.11	1.52
2" Meter	22.54	1.46	23.47	1.52
3" Meter	55.56	1.46	57.84	1.52
4" Meter	78.95	1.46	82.19	1.52
6" Meter	140.91	1.46	146.70	1.52
Low Income Rate	-	1.46	-	1.52
2" Standby	9.60	1.46	9.99	1.52
4" Standby	34.58	1.46	36.00	1.52
6" Standby	50.34	1.46	52.41	1.52
8" Standby	68.36	1.46	71.17	1.52
10" Standby	86.35	1.46	89.90	1.52
12" Standby	104.36	1.46	108.65	1.52

Description	Uniform Increase at 4.27%		Uniform Increase at 4.14%	
	Calculated Rates for FY07		Calculated Rates for FY08	
	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet
5/8" X 3/4" Meter or Smaller	7.01	1.59	7.30	1.66
1" Meter	9.76	1.59	10.17	1.66
1 1/2" Meter	15.76	1.59	16.41	1.66
2" Meter	24.47	1.59	25.48	1.66
3" Meter	60.31	1.59	62.81	1.66
4" Meter	85.70	1.59	89.25	1.66
6" Meter	152.96	1.59	159.29	1.66
Low Income Rate	-	1.59	-	1.66
2" Standby	10.42	1.59	10.85	1.66
4" Standby	37.54	1.59	39.09	1.66
6" Standby	54.65	1.59	56.91	1.66
8" Standby	74.21	1.59	77.28	1.66
10" Standby	93.74	1.59	97.62	1.66
12" Standby	113.29	1.59	117.98	1.66

Description	Uniform Increase at 4.35%		Uniform Increase at 2.46%	
	Calculated Rates for FY09		Calculated Rates for FY10	
	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet
5/8" X 3/4" Meter or Smaller	7.61	1.73	7.80	1.77
1" Meter	10.61	1.73	10.87	1.77
1 1/2" Meter	17.12	1.73	17.54	1.77
2" Meter	26.59	1.73	27.24	1.77
3" Meter	65.54	1.73	67.15	1.77
4" Meter	93.13	1.73	95.42	1.77
6" Meter	166.22	1.73	170.31	1.77
Low Income Rate	-	1.73	-	1.77
2" Standby	11.32	1.73	11.60	1.77
4" Standby	40.79	1.73	41.80	1.77
6" Standby	59.39	1.73	60.85	1.77
8" Standby	80.64	1.73	82.63	1.77
10" Standby	101.87	1.73	104.38	1.77
12" Standby	123.11	1.73	126.14	1.77

ATTACHMENT 2

V. B. 6

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING NEW WATER RATES AS PROVIDED BY MILWAUKIE MUNICIPAL CODE CHAPTERS 13.04 AND 13.20; AMENDING RESOLUTION 17-1997.

WHEREAS, Milwaukie Municipal Code Chapters 13.04 and 13.20 authorize the City Council to establish water rates; and

WHEREAS, the City Council by Resolution No. 17-1997 established the current water rates; and

WHEREAS, the City is required to review water rates on an annual basis; and

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

WHEREAS, the Citizens Utility Advisory Board recommends that the Council approve the water rates as set forth in Exhibit A;

NOW, THEREFORE, BE IT RESOLVED by the City Council of that the City of Milwaukie that the water rates established by Resolution No. 17-1997 be amended as follows:

Section 1: The City Council adopts the water rates set forth in Exhibit A as the rates to be charged for service after the effective date of this resolution.

Section 2: Previously adopted water rates shall remain in effect until the new rates take effect.

Section 3: This resolution is effective January 1, 2004.

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

James Bernard, Mayor

V. B. 7

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

ATTEST:

By: _____
City Attorney

Pat DuVal, City Recorder

G:\muni\Milwaukie\water rates resolution (082703).doc

Exhibit A

Description	Current Rates		Uniform Increase at 4.17%	
			Calculated Rates for FY04	
	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet
5/8" X 3/4" Meter or Smaller	5.95	1.35	6.20	1.41
1" Meter	8.29	1.35	8.64	1.41
1 1/2" Meter	13.38	1.35	13.94	1.41
2" Meter	20.78	1.35	21.65	1.41
3" Meter	51.22	1.35	53.36	1.41
4" Meter	72.78	1.35	75.81	1.41
6" Meter	129.90	1.35	135.32	1.41
Low Income Rate	-	1.35	-	1.41
2" Standby	8.85	1.35	9.22	1.41
4" Standby	31.88	1.35	33.21	1.41
6" Standby	46.41	1.35	48.35	1.41
8" Standby	63.02	1.35	65.65	1.41
10" Standby	79.61	1.35	82.93	1.41
12" Standby	96.21	1.35	100.22	1.41

Description	Uniform Increase at 4.13%		Uniform Increase at 4.11%	
	Calculated Rates for FY05		Calculated Rates for FY06	
	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet
5/8" X 3/4" Meter or Smaller	6.45	1.46	6.72	1.52
1" Meter	8.99	1.46	9.36	1.52
1 1/2" Meter	14.51	1.46	15.11	1.52
2" Meter	22.54	1.46	23.47	1.52
3" Meter	55.56	1.46	57.84	1.52
4" Meter	78.95	1.46	82.19	1.52
6" Meter	140.91	1.46	146.70	1.52
Low Income Rate	-	1.46	-	1.52
2" Standby	9.60	1.46	9.99	1.52
4" Standby	34.58	1.46	36.00	1.52
6" Standby	50.34	1.46	52.41	1.52
8" Standby	68.36	1.46	71.17	1.52
10" Standby	86.35	1.46	89.90	1.52
12" Standby	104.36	1.46	108.65	1.52

Description	Uniform Increase at 4.27%		Uniform Increase at 4.14%	
	Calculated Rates for FY07		Calculated Rates for FY08	
	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet
5/8" X 3/4" Meter or Smaller	7.01	1.59	7.30	1.66
1" Meter	9.76	1.59	10.17	1.66
1 1/2" Meter	15.76	1.59	16.41	1.66
2" Meter	24.47	1.59	25.48	1.66
3" Meter	60.31	1.59	62.81	1.66
4" Meter	85.70	1.59	89.25	1.66
6" Meter	152.96	1.59	159.29	1.66
Low Income Rate	-	1.59	-	1.66

V. B. 9

2" Standby	10.42	1.59	10.85	1.66
4" Standby	37.54	1.59	39.09	1.66
6" Standby	54.65	1.59	56.91	1.66
8" Standby	74.21	1.59	77.28	1.66
10" Standby	93.74	1.59	97.62	1.66
12" Standby	113.29	1.59	117.98	1.66

Description	Uniform Increase at 4.35%		Uniform Increase at 2.46%	
	Calculated Rates for FY09		Calculated Rates for FY10	
	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet
5/8" X 3/4" Meter or Smaller	7.61	1.73	7.80	1.77
1" Meter	10.61	1.73	10.87	1.77
1 1/2" Meter	17.12	1.73	17.54	1.77
2" Meter	26.59	1.73	27.24	1.77
3" Meter	65.54	1.73	67.15	1.77
4" Meter	93.13	1.73	95.42	1.77
6" Meter	166.22	1.73	170.31	1.77
Low Income Rate	-	1.73	-	1.77
2" Standby	11.32	1.73	11.60	1.77
4" Standby	40.79	1.73	41.80	1.77
6" Standby	59.39	1.73	60.85	1.77
8" Standby	80.64	1.73	82.63	1.77
10" Standby	101.87	1.73	104.38	1.77
12" Standby	123.11	1.73	126.14	1.77



City of Milwaukie

Water Rate Study
June, 2003

Presented by



City of Milwaukie Water Rate Study



Table of Contents

	<u>Page</u>
Executive Summary	
Revenue Requirements and the Citizens Utility Advisory Board	2
Rates and Rate Structures	4
Impact of Rate Increase on Actual Customers.....	6
Milwaukie Rates Relative to Neighboring Communities	7
Development Services Fees and Charges	8
Summary of Consultants' Recommendations.....	10
 Analysis Section	
▪ <i>Detail of the CUAB Preferred Option</i>	
Water Operating Fund Revenue Requirements	12
Water Operating Fund Sources and Uses of Funds (Cash Flow)	13
Summary of the Five Year Water Capital Improvement Plan.....	14
Water System Rates and Charges	15
▪ <i>Alternative Options Reviewed by the CUAB</i>	
Option 1 – Fund Legal Fees From Rates and Start Phasing in Capital Replacement Funding From Rates in Fiscal 2005	16
Option 2 – Fund Legal Fees From Rates and Fully Fund Capital Replacement Funding in Fiscal 2004	17
▪ <i>APPENDIX A – Issue Papers</i>	
Issue Paper No. 1 – Recommended Fiscal Policies	20
Issue Paper No. 2 – Recommended Cost Recovery Method for Direct Services to Development	25

Executive Summary

Revenue Requirements and the Citizens Utility Advisory Board

This study addresses the levels and structure of rates needed to support the operations of the water utility in the City of Milwaukie. A five year planning period, 2005 through 2009, has been used in the analysis with rates based on cost of service principles. Fiscal 2004 data are based on the City's proposed budget for the period July 1, 2003 through June 30, 2004.

Based on the estimated results of the current fiscal year and the data discussed above, three optional analyses were developed and presented to the Citizens Utility Advisory Board (CUAB) at two meetings held in May and June of 2003. The fundamental differences between these three alternatives centered on the funding of legal fees associated with the City's pending ground water contamination litigation, and a strategy to begin funding infrastructure replacement from rates. A detailed discussion of the specifics of each of these cases is contained in the body of this report.

The guiding policy criteria that were used by the CUAB to evaluate the options were:

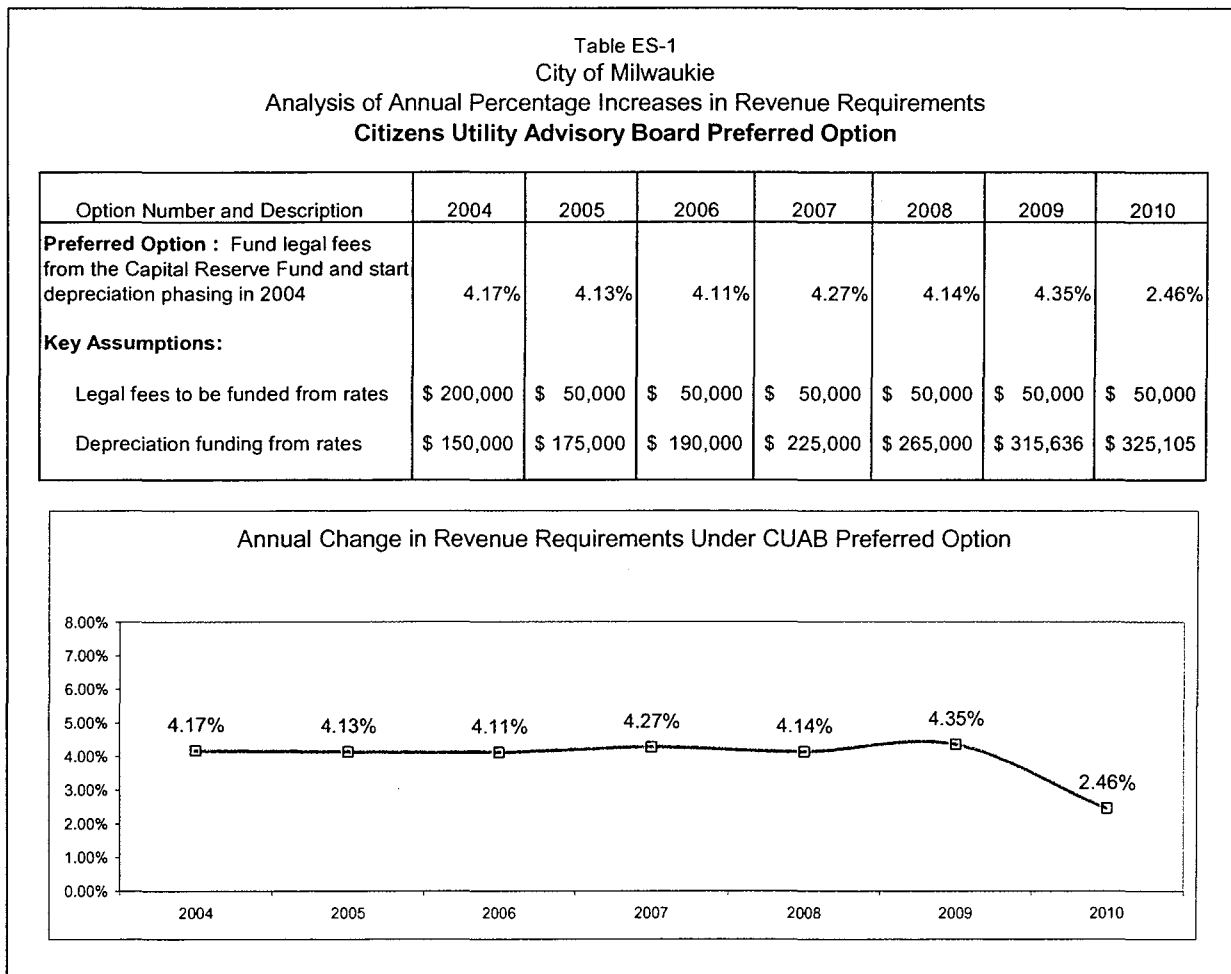
- ❖ Legal fees arising out of the pending groundwater contamination litigation are transient in nature and should be funded from the Water Capital Reserve Fund. It was felt by the Board that the rate spikes that would result from having rate payers fund this expense via current rates was unnecessary. There are sufficient resources in the Reserve Fund to meet the anticipated short term legal fee requirements. The Board realized that by using this money to pay for legal fees, it would be diverting resources that would have been used for system repair, replacement, and enhancement. The City Attorney anticipates bringing the litigation to a close by the end of fiscal 2004. Since fiscal 2002, the City has spent \$330,000 prosecuting this case. For the upcoming fiscal year, an additional \$200,000 has been budgeted. The forecast assumes an additional \$50,000 per year thereafter will be spent to fund anticipated appeals and challenges by the defendants. The Board also felt that any judgments or settlements that arise out of this litigation to the benefit of the City, would in effect be a return on the ratepayers' investment.
- ❖ To the greatest extent possible, any future rate increases should be structured to be smooth across the forecast horizon. The Board has historically supported small regular rate adjustments in lieu of one time spikes followed by years of no increases.
- ❖ After taking into account the preferred treatment of legal fees, and the Board's overriding preference of having small regular rate adjustments, the City should begin phasing in the funding of infrastructure replacement via rates. Currently, the City is not transferring cash from the Water Operating Fund to the Water Capital Reserve Fund for the replacement of infrastructure(i.e., pumps, pipes, wells, and reservoirs). There simply is not enough revenue being generated from current rates to meet this requirement after all of the utility's other fiscal needs have been met. According to the City's audited

financial statements, the water system incurred \$315,636 in depreciation expense in fiscal 2002. Depreciation expense is a surrogate for replacement requirements. This issue is of particular importance in Milwaukie because some parts of the water distribution system have been in service in excess of 50 years. Conversation with the City's operations staff indicate that this infrastructure needs replacement.

After considerable discussion, the Board unanimously agreed to recommend a water system funding option to the City Council that contains the following strategy:

- ❖ Fund legal fees from the Water Capital Reserve Fund. Although these fees will be budgeted in and paid from the Water Operating Fund, the resources will come from the capital reserve via transfer. As of April 30, 2003, there was \$1,770,462 in the water capital reserve fund.
- ❖ Start a five year phase-in program for the funding of infrastructure replacement from rates. The phasing should start in fiscal 2004. By 2009 the City will achieve full funding at a level of the \$315,636.

Based on these criteria, the following forecast of changes in revenue requirements ensued:



Rates and Rate Structure

The City has not adjusted water rates since 1995. In 1993, the City moved away from a fixed bi-monthly fee approach for residential water service in favor of the current system that consists of fixed (i.e., base charge) and variable (i.e., use charge) elements. The preponderance of the City's total customer base (88%) is residential. Almost all of these customers are served by 5/8"-3/4" meters. These customers pay the city a fixed bi-monthly base fee of \$5.95 in addition to a variable use fee of \$1.35 per one hundred cubic feet of water consumed (i.e., metered). In fiscal 2002 these residential customers consumed 63% of all water sold in the City. The balance of the water sales was made up by multifamily, commercial and industrial customers. These customers pay the same use fee of \$1.35 per one hundred cubic fee of water consumed (i.e., Ccf). However, the bi-monthly base charge for these customers varies depending on the size of the meter that is installed. These charges start out at a bi-monthly rate of \$8.29 for a one inch meter and go up to \$129.90 for a six inch meter.

The basic design of the City's rate structure for water is sound. The current rates afford customers the opportunity to avoid and control costs based on their metered potable water consumption patterns. This is sound policy and is effectively the standard in the utilities industry.

It is at this point in the rate study process that alternative rate structures are usually explored. The consultant team has reviewed the process that was used to develop the existing system and find no reason to make changes to that structure. The most compelling argument for staying with this system is contained in Table ES-2

Table ES-2 City of Milwaukie Analysis of Water Accounts Fiscal 1992 - 2002			
Account Description	Average Number of Accounts		10 Year Compounded Annual Change
	1992	2002	
5/8" X 3/4" Meter	5,655	5,865	0.36%
1" Meter	308	252	-1.99%
1 1/2" Meter	79	86	0.87%
2" Meter	140	150	0.69%
3" Meter	16	16	0.00%
4" Meter	8	7	-1.33%
6" Meter	1	1	0.00%
Clackamas Billing	1	1	0.00%
Low Income Rate	144	159	1.01%
2" Standby	9	8	-1.81%
4" Standby	26	30	1.44%
6" Standby	23	31	3.03%
8" Standby	31	28	-1.01%
10" Standby	10	10	0.00%
12" Standby	3	3	0.00%
Total Accounts	6,454	6,646	0.29%



Generally, the primary reason to change a rate structure is to rectify a looming rate inequity. These inequities are usually the result of changes in consumption patterns over time by unique classes of customers. For example, a growth in peaking demand by one class of customer (say a 4 inch industrial customer) would warrant a shifting of cost recovery to that class. In the case of Milwaukie, the demands that are placed on the system are effectively static and have been static for the last ten years. Milwaukie is now a community at buildout. As the data in Table ES-2 show, the total growth in the customer base has been averaging 0.29% per year since 1992. This is a very small change with respect to planning and accounting for system demand. This is particularly true in the case of the commercial and industrial customers. The relative change in the composition of those customers with meters in the 1 inch to 6 inch range is effectively zero.

In addition to analyzing trends in the number of accounts served by the City, the consultant team also reviewed very recent trends in water sales and peaking requirements to determine if there has been a shift demand, which may call for a review of how costs are recovered from customers. In both cases, the team found no unusual changes or shifts in the amount of water delivered to customers or the way that water was consumed by each class of metered customer.

Based on the analysis discussed above, it is recommended that the City implement a uniform water rate increase of 4.17% for fiscal 2004 and adjust rates in future years with the benefit of annual reviews of revenue requirements and customer demographics and demand. The existing and proposed schedule of water rates for fiscal 2004 are contained in Table ES-3.

Table ES-3 City of Milwaukie Current and Proposed Water Rates CUAB Preferred Option					
Uniform Rate Adjustment Percent		4.17%			
Billing System Code	Description	Current Rates		Proposed Rates	
		Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet
2	5/8" X 3/4" Meter or Smaller	5.95	1.35	6.20	1.41
3	1" Meter	8.29	1.35	8.64	1.41
4	1 1/2" Meter	13.38	1.35	13.94	1.41
5	2" Meter	20.78	1.35	21.65	1.41
6	3" Meter	51.22	1.35	53.35	1.41
7	4" Meter	72.78	1.35	75.81	1.41
8	6" Meter	129.90	1.35	135.31	1.41
20	Low Income Rate	-	1.35	-	1.41
502	2" Standby	8.85	1.35	9.22	1.41
504	4" Standby	31.88	1.35	33.21	1.41
506	6" Standby	46.41	1.35	48.34	1.41
508	8" Standby	63.02	1.35	65.65	1.41
510	10" Standby	79.61	1.35	82.93	1.41
512	12" Standby	96.21	1.35	100.22	1.41



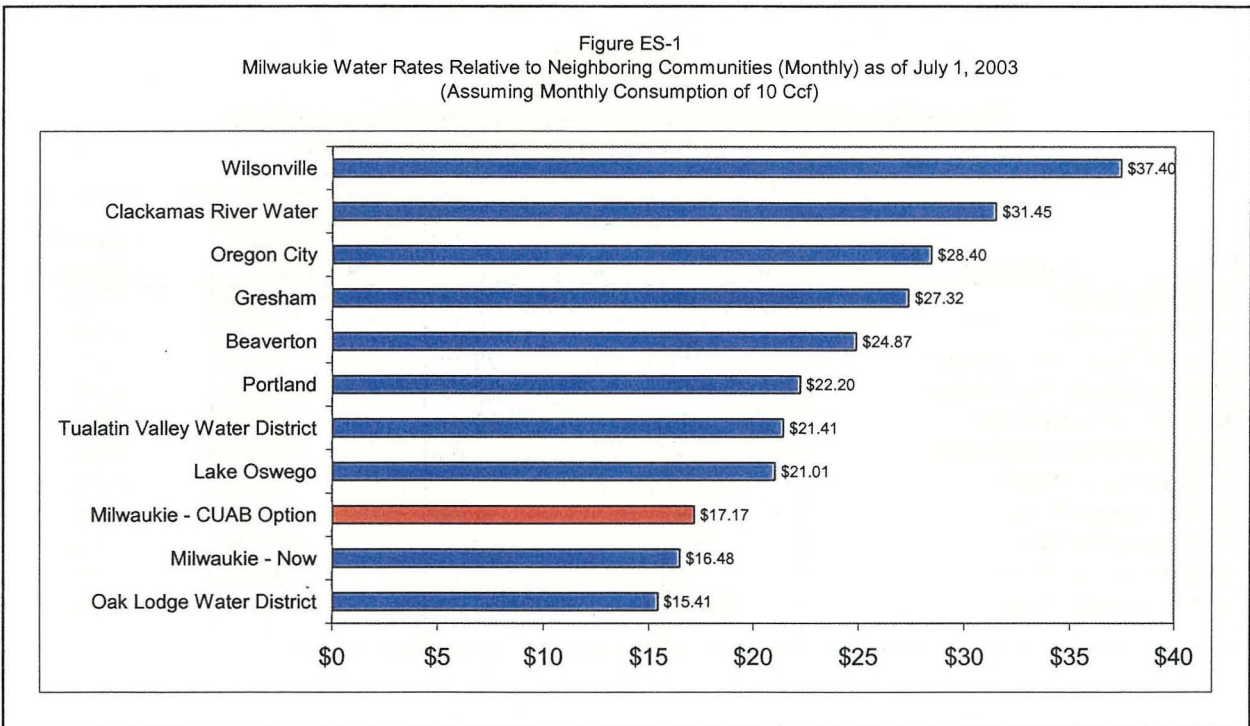
Impact of Rate Increase on Actual Customers

In order to judge the financial impact on customers as a result of the recommended general rate increase, a sample of actual customer accounts were analyzed. Based on the knowledge of the customer service staff, an attempt has been made to look at the bi-monthly bills of a cross section of the City's customers. Itemized in table ES-4 is a breakdown of the actual bi-monthly bills for selected customers for the period June-July, 2002. Also included, is a calculation of those customers' bills under the proposed increased rates.

Table ES-4 City of Milwaukie Comparison of Actual Water Bills to Water Bills Under Proposed Rates (Actual Consumption for August and September of 2002)				
Customer	Units (Ccf)	Bill Comparisons		Percent Change
		Actual 2002	Under Proposed New Rates	
1 Elderly Person	25	\$ 39.70	\$ 41.40	4.3%
1 Elderly Person	3	10.00	10.60	6.0%
Married Couple No Children	12	22.15	23.20	4.7%
Married Couple No Children	12	22.15	23.20	4.7%
Married with 2 Children	47	69.40	72.20	4.0%
Married w/more than 2 Kids	79	112.60	117.00	3.9%
1" Commercial Meter	53	79.84	83.25	4.3%
2" Commercial Meter	40	74.78	79.79	6.7%
2" Commercial Meter	380	533.78	555.79	4.1%
4" Commercial Meter	58	151.08	168.88	11.8%
4" Commercial Meter	6,878	\$ 9,358.08	\$ 9,716.88	3.8%

Milwaukie Rates Relative to Neighboring Communities

In addition to evaluating the impact on Milwaukie customers relative to what they are currently paying for domestic water service, a survey was performed to determine how the City's water rates compare to those charged in neighboring communities. In order to make an "apples-to-apples" comparison, a representative monthly bill was calculated for a single family residential customer that consumed 10 Ccf per month. This assumes these customers are served by 5/8"-3/4" meters. Figure ES-1 shows the resulting monthly bills for ten local communities.



Development Services Fees and Charges

The City routinely provides services and incurs costs for new water customers that are not covered by monthly rates. The most common service is new meter installation. For a one-time and set fee, the City will install a meter for a new customer. Typically, these installations are for new developments. However, there are instances where existing customers request to have a meter changed out to accommodate increased (or decreased) anticipated usage. The City also sells approved meters to customers who, in turn, install them at their own expense and subject to final inspection by the City. There are other miscellaneous development related services that the Water Department provides and bills to customer on a scheduled basis. All of these development related fees are itemized and contained in City Resolution # 23-2002 (adopted 9/17/02). The water fees and charges that are in place have not been adjusted since 1993. Over the last three fiscal years, the City has received an average of \$27,673 per year by providing these services. To put this figure in perspective, revenues recognized from water rates will amount to almost \$1,800,000 this fiscal year. Clearly, development related service fees are a small part of the Water Department's revenue base.

A suggestion has been made that the City consider moving away from charging for these direct services for development on a **pre-set or scheduled** basis. The alternative is to implement a job cost approach for cost recovery where direct labor, equipment and materials are billed to a specific developer based on the actual costs incurred. The primary advantage of the job cost approach is that the City will recover its exact costs in providing the direct service on a work order basis. Under a pre-set or fee schedule basis of cost recovery, the actual costs incurred do not necessarily match the fee schedule due to timing and the scope of each individual site specific job. While accuracy of billing is a recognized advantage in the job cost approach, it is also the case that the City does see disadvantages to moving away from its pre-set or scheduled fees. These are:

1. Increased Administration for the City. In order to send an accurate bill for services rendered, the City would have to implement a system able to track time, materials, and overhead by work order. The City currently does not have a system in place to accommodate this process. Discussions with public works staff indicate that this type of system could be developed, but it would take time and unbudgeted resources.
2. Adversity for Customers. Under the current process, developers and existing customers know - up front - how much they will be charged for the services they are requesting from the City. Under the suggested time and materials approach, the City could only give the prospective developer or customer an estimate of the costs. The final cost would not be known until the job in question was completed. This "certainty" factor is important, particularly in the case of developers, because this cost data is used to calculate the feasibility of prospective projects.

Recommendation: Milwaukie is at effective buildout. There is limited new development activity at this time. According to Public Works staff, there were only ten or twelve new service meter installations last year. If there was substantial development/redevelopment activity, it might be appropriate to commit the resources necessary to implement a job costing system. However, given the current level of development and the adequacy of development fee revenue to offset current

meter installation costs, no such change is warranted.

Therefore, it is recommended that the City continue its policy of setting a schedule of fees for development related services and periodically adjusting these fees based on available actual cost of service data. An analysis of recent cost data indicates that the schedule of fees that are currently in force are adequate to recover the City's costs. Therefore, no adjustments are recommended to the development support fee schedule at this time. The current fee schedule is as follows:

WATER FEES & CHARGES IN SUPPORT OF DEVELOPMENT AND CUSTOMER SERVICES

Service and Equipment:

Connect Service 5/8" or 3/4" Residential Service	\$2,460
Connect Service 1"	\$2,547
Connect Service 1 1/2"	\$2,923
Connect Service 2"	\$3,067

Equipment:

3/4" Meter	\$208
1" Meter	\$301
1 1/2" Meter	\$510
2" Meter	\$625
Hydrant Meter Deposit	\$579

Miscellaneous:

Delinquent Account – Past Due Notice*	\$5
Delinquent Account – Notice of Termination*	\$25
After Hours Restoration of Service*	\$80
(Monday-Friday 5:00 pm to 8:00 pm; Saturday & Sunday 8:00 am to 5:00 pm)	
Information Research	\$44/hr.
Reimbursement District Fee.....	To be determined by scope of project

* Accounts remaining delinquent more that three (3) months subject to 10% per year added to the outstanding balance to pay the City's interest and collection costs.



Summary of Consultant Recommendations

- The City should consider adopting a set of uniform financial policies for all of its utilities. **Appendix A** contains an issue paper that lays out recommended guidelines for the financial planning and management of the water system.
- The City should adopt the CUAB's preferred option for the ongoing funding of the water utility. This recommendation calls for a 4.17% increase in the systems revenue requirements for fiscal 2004. It is further recommended that this increase be uniformly implemented across all customers by size of water meter in service.
- The modeling that has been done to develop the water system's revenue requirements is predicated on a five year comprehensive financial plan. It is recommended that the City endeavor to implement this plan through annual reviews of the water systems financial performance. Periodic updates to the plan are expected and prudent as operating and strategic conditions change over time.
- Fees and charges related to water system development services are adequate at this time to recover anticipated costs incurred by the city in the support of development activities. As in the case of water rates, the City should review these fees and charges annually to insure that revenues from this source are sufficient to cover the costs incurred to provide development related services.

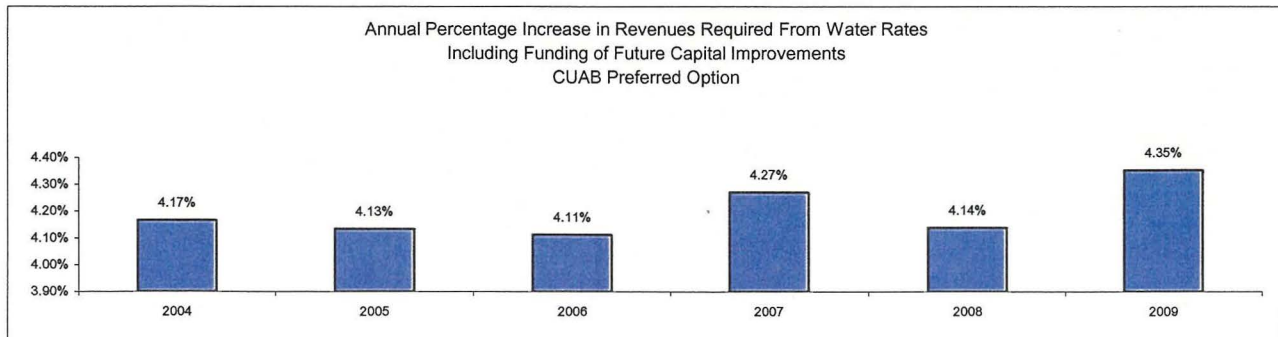


Analysis Section

Detail of the CUAB Preferred Option – Fund legal fees from the Capital reserve Fund and start the phase-in of capital replacement funding from rates in fiscal 2004

Water Operating Fund Revenue Requirements

City of Milwaukee PRELIMINARY Projection of Water Operating Fund Revenue Requirements CUAB Preferred Option							
Line Item Description	Estimated	Proposed	Forecast				
	2003	2004	2005	2006	2007	2008	2009
Projection of Cash Flow:							
Transfers IN	258,400	205,000	328,000	328,000	328,000	328,000	328,000
Gross Revenues:							
Miscellaneous Fees & Charges	28,691	20,000	20,000	20,000	20,000	20,000	20,000
Water User Fees	1,835,622	1,835,000	1,920,628	2,009,631	2,102,338	2,202,654	2,304,828
User Penalty Fees	74,835	60,000	60,000	60,000	60,000	60,000	60,000
Intergovernmental Charges	10,804	1,500	1,500	1,500	1,500	1,500	1,500
Interest Earned	4,740	15,751	15,839	13,118	13,094	12,983	14,176
Rental Revenue	25,225	29,000	29,000	29,000	29,000	29,000	29,000
Bad Debt Recovery	1,712	-	-	-	-	-	-
Other Revenues	73	1,000	1,000	1,000	1,000	1,000	1,000
Subtotal Gross Revenues	1,981,702	1,962,251	2,047,967	2,134,249	2,226,932	2,327,137	2,430,504
less: Operations & Maintenance Expense	(1,247,750)	(1,421,254)	(1,472,590)	(1,520,421)	(1,570,044)	(1,616,513)	(1,670,377)
less: Transfers OUT	(251,681)	(437,277)	(470,895)	(494,772)	(538,915)	(588,333)	(648,669)
less: Cash Financing of Capital Improvements	(76,411)	(200,000)	(200,000)	(200,000)	(200,000)	(60,301)	(77,746)
less: Existing Debt Service	(134,085)	(134,765)	(130,110)	(130,360)	(130,260)	(134,800)	(133,475)
less: New Debt Service	-	(45,374)	(52,995)	(67,013)	(71,961)	(71,961)	(71,961)
Net Cash	530,175	(71,418)	49,377	49,684	43,752	183,228	156,275
Net Deficiency/(Surplus)	(530,175)	71,418	(49,377)	(49,684)	(43,752)	(183,228)	(156,275)
Test of Coverage Requirement:							
Operating Expenses as Defined in Ordinance No. 8-1997	1,499,431	1,858,531	1,943,485	2,015,193	2,108,959	2,204,846	2,319,046
Debt Service on Series 1997 Water Refunding Bonds:							
Interest	44,085	39,765	35,110	30,360	25,260	19,800	13,475
Principal	90,000	95,000	95,000	100,000	105,000	115,000	120,000
Total Debt Service on Series 1997 Bonds	134,085	134,765	130,110	130,360	130,260	134,800	133,475
Debt Service on New Serial Revenue Bonds	-	45,374	52,995	67,013	71,961	71,961	71,961
Additional Coverage Required: 25%	33,521	45,035	45,776	49,343	50,555	51,690	51,359
Total Revenue Required with Coverage	1,667,037	2,083,704	2,172,366	2,261,909	2,361,736	2,463,298	2,575,842
Gross Revenues Allowable for Coverage Test:							
Gross Revenues Recognized From Fees and Charges	1,981,702	1,962,251	2,047,967	2,134,249	2,226,932	2,327,137	2,430,504
System Development Charges	45,990	45,000	45,000	45,000	45,000	45,000	45,000
Gross Revenues Allowable for Coverage Test	2,027,692	2,007,251	2,092,967	2,179,249	2,271,932	2,372,137	2,475,504
Coverage Recognized	3.94	0.83	0.82	0.83	0.81	0.81	0.76
Coverage Required	1.25	1.25	1.25	1.25	1.25	1.25	1.25
Net Deficiency/(Surplus)	(360,655)	76,453	79,400	82,659	89,804	91,161	100,338
Projection of Revenue Sufficiency:							
Maximum Deficiency	-	76,453	79,400	82,659	89,804	91,161	100,338
Percent Increase Required Over Current Rate Revenues	0.00%	4.17%	4.13%	4.11%	4.27%	4.14%	4.35%
Revenue Recovered From Existing Rates and Charges							
add: Revenue From Growth in the Customer Base		1,835,000	1,920,628	2,009,631	2,102,338	2,202,654	2,304,828
add: Revenues Recovered From Rate Increase		9,175	9,603	10,048	10,512	11,013	11,524
Total Revenues Recovered From Rates & Charges after Increase		1,920,628	2,009,631	2,102,338	2,202,654	2,304,828	2,416,690



Water Operating Fund Sources and Uses of Funds (Cash Flow)

City of Milwaukee Statement of Cash Flow and Changes in Fund Balance - Water Operating Fund CUAB Preferred Option							
Line Item Description	Estimated	Proposed	Forecast				
	2003	2004	2005	2006	2007	2008	2009
Sources of Funds							
Beginning Fund Balance	\$ 647,471	\$ 927,646	\$ 656,227	\$ 655,604	\$ 653,788	\$ 644,494	\$ 773,086
Revenues:							
Miscellaneous Fees & Charges	28,691	20,000	20,000	20,000	20,000	20,000	20,000
Water User Fees	1,835,622	1,835,000	1,920,628	2,009,631	2,102,338	2,202,654	2,304,828
User Penalty Fees	74,835	60,000	60,000	60,000	60,000	60,000	60,000
Intergovernmental Charges	10,804	1,500	1,500	1,500	1,500	1,500	1,500
Interest Eamed	4,740	15,751	15,839	13,118	13,094	12,983	14,176
Rental Revenue	25,225	29,000	29,000	29,000	29,000	29,000	29,000
Bad Debt Recovery	1,712	-	-	-	-	-	-
Other Revenues	73	1,000	1,000	1,000	1,000	1,000	1,000
Total Revenues	1,981,702	1,962,251	2,047,967	2,134,249	2,226,932	2,327,137	2,430,504
Transfers IN:							
Fund 515 - System Development Charges	8,400	5,000	78,000	78,000	78,000	78,000	78,000
Fund 520 - Capital Reserve Fund	250,000	200,000	250,000	250,000	250,000	250,000	250,000
	258,400	205,000	328,000	328,000	328,000	328,000	328,000
Total Sources of Funds	2,887,573	3,094,897	3,032,194	3,117,853	3,208,720	3,299,631	3,531,590
Uses of Funds							
Personal Services	378,052	430,650	443,570	456,877	470,583	484,700	499,241
Materials and Services (including Existing Debt Service)	1,003,783	1,125,369	1,159,130	1,193,904	1,229,721	1,266,613	1,304,611
Well Field Litigation Legal Fees	250,000	200,000	50,000	51,500	53,045	54,636	56,275
Capital Outlays:							
Minor Capital	-	-	-	-	-	-	-
Water Capital Projects	76,411	200,000	200,000	200,000	200,000	60,301	77,746
Total Capital Outlays	76,411	200,000	200,000	200,000	200,000	60,301	77,746
New Debt Service for Future Capital Projects	-	45,374	52,995	67,013	71,961	71,961	71,961
Contingencies and Reserves:							
Operating Fund Contingency	-	-	-	-	-	-	-
Transfer to Fund 650 - Engineering	158,018	165,984	170,964	176,092	181,375	186,816	192,421
Transfer to Fund 520 - Capital Reserve	-	150,000	175,000	190,000	225,000	265,000	315,636
Transfer to Fund 540 - Sewer Vactor Pmt.	13,378	13,378	13,779	14,193	14,619	15,057	15,509
Transfer to Fund 600 - Comm. Dev. Admin.	80,285	107,915	111,152	114,487	117,922	121,459	125,103
Total Contingencies and Reserves	251,681	437,277	470,895	494,772	538,915	588,333	648,669
Total Uses of Funds	1,959,927	2,438,670	2,376,590	2,464,065	2,564,226	2,526,545	2,658,504
Ending Fund Balance	\$ 927,646	\$ 656,227	\$ 655,604	\$ 653,788	\$ 644,494	\$ 773,086	\$ 873,086



Summary of Five Year Water Capital Improvement Plan

City of Milwaukee Summary of Water CIP Funding Strategies CUAB Preferred Option						
Assumptions: Fund Earnings % 2.00% Issuance Cost: Short-Term 2.50% Long-Term: Revenue Bonds 2.50% G.O. Bonds 2.50%		Interim Financing: BANs Used? (1=Y,0=N) 0 BAN Interest Rate: 4.80% Long-Term Financing: Revenue Bonds: Life of Debt (Years) 20 Interest Rate 5.15% Coverage Factor Required 1.10 Fund Reserve from Proceeds? (1 General Obligation Bonds: Life of Debt (Years) 20 Interest Rate 4.85% Fund Reserve from Proceeds? (1				
Fiscal Year	2004	2005	2006	2007	2008	2009
Type of Long Term Debt Issued (1=Y,0=N):						
Revenue Bonds	1	1	1	1	1	1
General Obligation Bonds	0	0	0	0	0	0
Capital Improvements Financing						
	2004	2005	2006	2007	2008	2009
Capital Costs to be Funded	\$704,000	\$611,820	\$682,159	\$582,423	\$388,301	\$405,746
less: Grant Funding	-	-	-	-	-	-
less: Contributions Fund 515 Water SDCs	5,000	78,000	78,000	78,000	78,000	78,000
less: Contributions From Utility Rates	200,000	200,000	200,000	200,000	60,301	77,746
less: Contributions Fund 520 Water Reserve	-	250,000	250,000	250,000	250,000	250,000
Amount to be Financed	\$499,000	\$83,820	\$154,159	\$54,423	\$0	\$0
Interim Borrowing:						
BANs Issued:	\$0	\$0	\$0	\$0	\$0	\$0
less: Borrowing Cost	0	0	0	0	0	0
less: Interest Payments	0	0	0	0	0	0
plus: Interest Earnings	0	0	0	0	0	0
Net Available from BANS	\$0	\$0	\$0	\$0	\$0	\$0
Long-term Borrowing:						
Revenue Bonds:						
Amount Borrowed	\$558,332	\$93,786	\$172,488	\$60,895	\$0	\$0
less: Financing Cost	13,958	2,345	4,312	1,522	0	0
less: Reserve Funding	45,374	7,622	14,017	4,949	0	0
less: Refunding of BANs	0	0	0	0	0	0
Net Funds from Revenue Bonds	\$499,000	\$83,820	\$154,159	\$54,423	\$0	\$0
General Obligation Bonds:						
Amount Borrowed	\$0	\$0	\$0	\$0	\$0	\$0
less: Financing Cost	0	0	0	0	0	0
less: Reserve Funding	0	0	0	0	0	0
less: Refunding of BANs	0	0	0	0	0	0
Net Funds from G.O. Bonds	\$0	\$0	\$0	\$0	\$0	\$0
New Annual Debt Service:						
Debt Service	\$45,374	\$52,995	\$67,013	\$71,961	\$71,961	\$71,961
Coverage	\$4,537	\$5,300	\$6,701	\$7,196	\$7,196	\$7,196
Reserve Funding	\$0	\$0	\$0	\$0	\$0	\$0



Water System Rates and Charges

City of Milwaukie Current and Proposed Water Rates CUAB Preferred Option					
Uniform Rate Adjustment Percent		4.17%			
Billing System Code	Description	Current Rates		Proposed Rates	
		Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet	Bimonthly Base Rate	Use Charge \$ per 100 Cubic Feet
2	5/8" X 3/4" Meter or Smaller	5.95	1.35	6.20	1.41
3	1" Meter	8.29	1.35	8.64	1.41
4	1 1/2" Meter	13.38	1.35	13.94	1.41
5	2" Meter	20.78	1.35	21.65	1.41
6	3" Meter	51.22	1.35	53.35	1.41
7	4" Meter	72.78	1.35	75.81	1.41
8	6" Meter	129.90	1.35	135.31	1.41
20	Low Income Rate	-	1.35	-	1.41
502	2" Standby	8.85	1.35	9.22	1.41
504	4" Standby	31.88	1.35	33.21	1.41
506	6" Standby	46.41	1.35	48.34	1.41
508	8" Standby	63.02	1.35	65.65	1.41
510	10" Standby	79.61	1.35	82.93	1.41
512	12" Standby	96.21	1.35	100.22	1.41

Billing System Code	Description	Number of Accounts	Consumption Ccf	Estimated Revenue Recovery with Increase		
				Base Charge	Use Charge	Total
0	No Meter	16.83	37,607	-	53,025.87	53,025.87
1	5/8" Meter	16.00	9,205	595.00	12,979.05	13,574.05
2	5/8" X 3/4" Meter	5,864.50	667,344	218,085.49	940,955.04	1,159,040.53
3	1" Meter	252.00	61,989	13,056.71	87,404.49	100,461.20
4	1 1/2" Meter	86.17	67,140	7,205.67	94,667.40	101,873.07
5	2" Meter	150.00	193,082	19,481.20	272,245.62	291,726.82
6	3" Meter	16.00	40,425	5,121.99	56,999.25	62,121.24
7	4" Meter	7.00	49,852	3,184.12	70,291.32	73,475.44
8	6" Meter	1.00	664	811.87	936.24	1,748.11
10	Clackamas Billing	1.00	1,775	-	2,502.75	2,502.75
20	Low Income Rate	159.17	11,795	-	16,630.95	16,630.95
502	2" Standby	7.50	-	414.84	-	414.84
504	4" Standby	30.00	-	5,977.48	-	5,977.48
506	6" Standby	31.00	-	8,991.91	-	8,991.91
508	8" Standby	28.00	-	11,028.47	-	11,028.47
510	10" Standby	10.00	-	4,975.61	-	4,975.61
512	12" Standby	3.00	-	1,803.93	-	1,803.93
		6,679.17	1,140,878	300,734.29	1,608,637.98	1,909,372.27

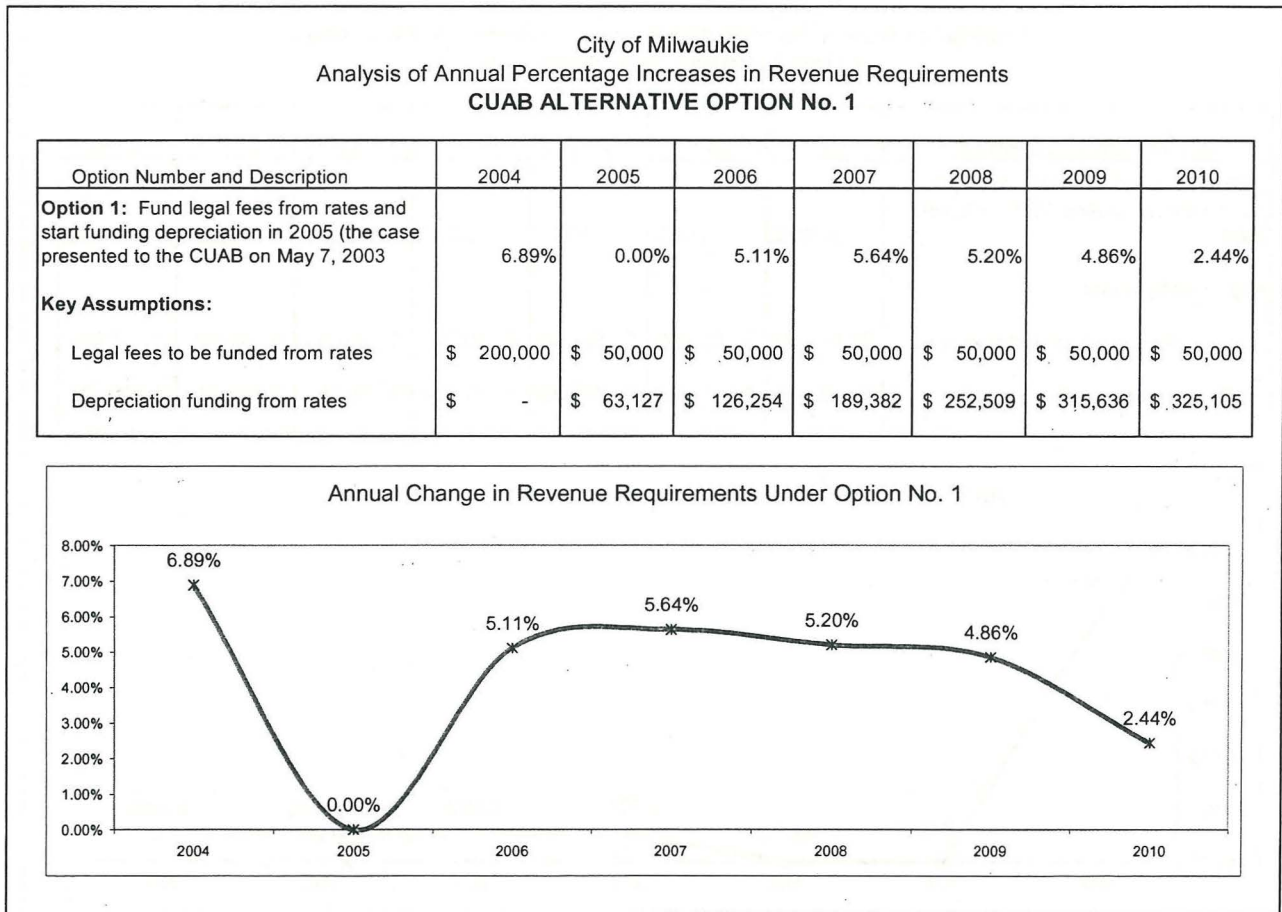
Reconciliation of Revenue Requirements to Recovery of Revenues From Unit Rates	
Revenue requirements for fiscal 2004 per financial model	\$ 1,920,628
Estimated revenue recovered from rates after uniform rate increase using fiscal 2002 customer statistics	1,909,372
add: miscellaneous rate revenues collected from unmetered water customers	6,260
Reconciled revenue recovered from rates after uniform rate increase	\$ 1,915,632
Percent of estimated recovered revenue from rates after uniform rate increase to forecasted revenue requirements from the financial model	99.74%



Alternative Options Reviewed by the CUAB

Option 1 – Fund legal fees from rates and start the phase-in of capital replacement funding from rates in fiscal 2005

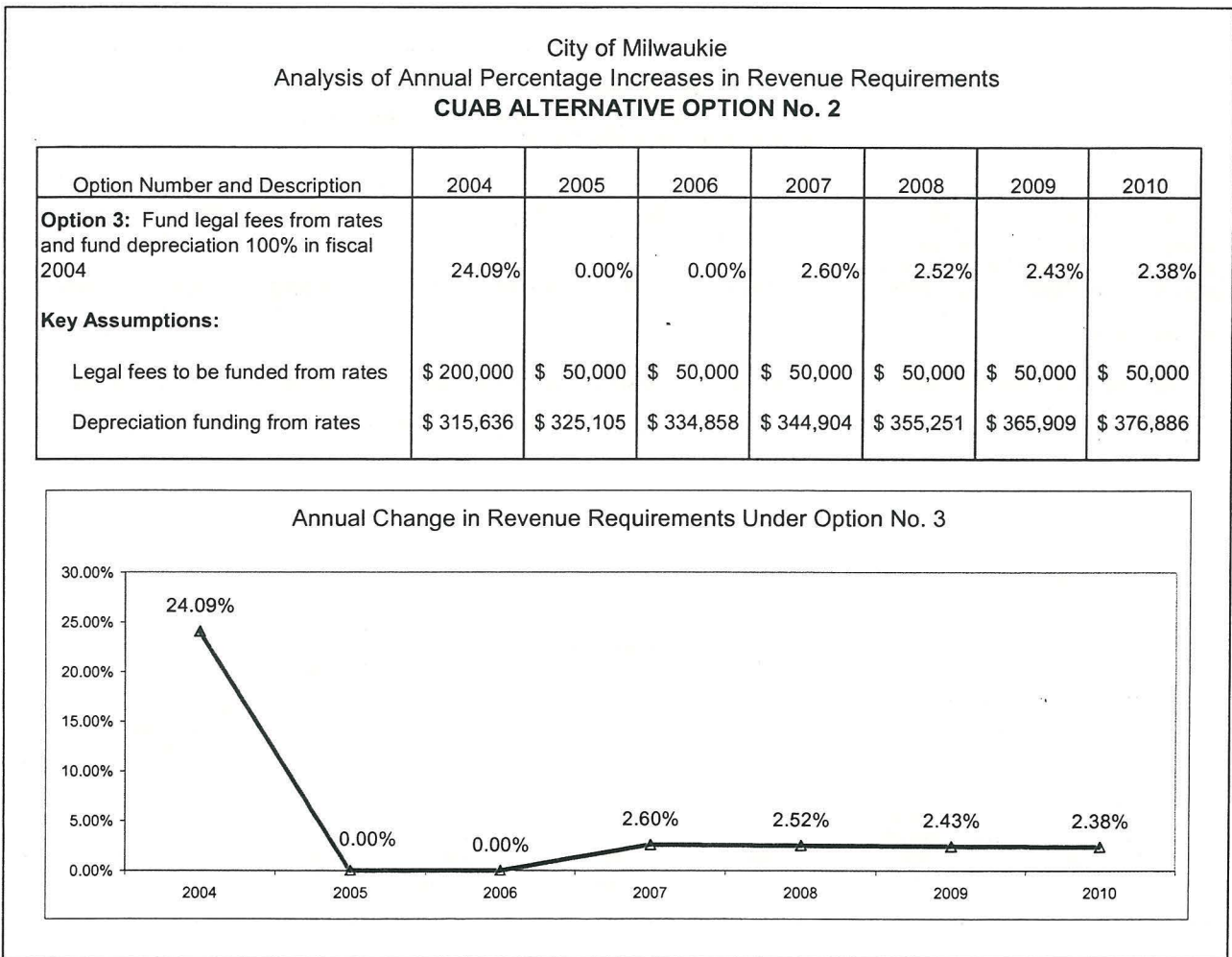
Under this option, all of the planning and financial modeling assumptions that were used in the CUAB preferred option were held constant with the exception of how legal fees were paid and how capital replacement funding was treated. The following table lays out the numerical treatment of these two issues, and the resulting impact on the future change in revenue requirements.



The CUAB members rejected this option for further consideration because they did not think that the rate spike that resulted in fiscal 2004 could be averted by funding anticipated legal fees from the Capital Reserve Fund balance rather than from current rate payers.

Option 2 – Fund legal fees from rates and fully fund capital replacement funding from rates in fiscal 2004

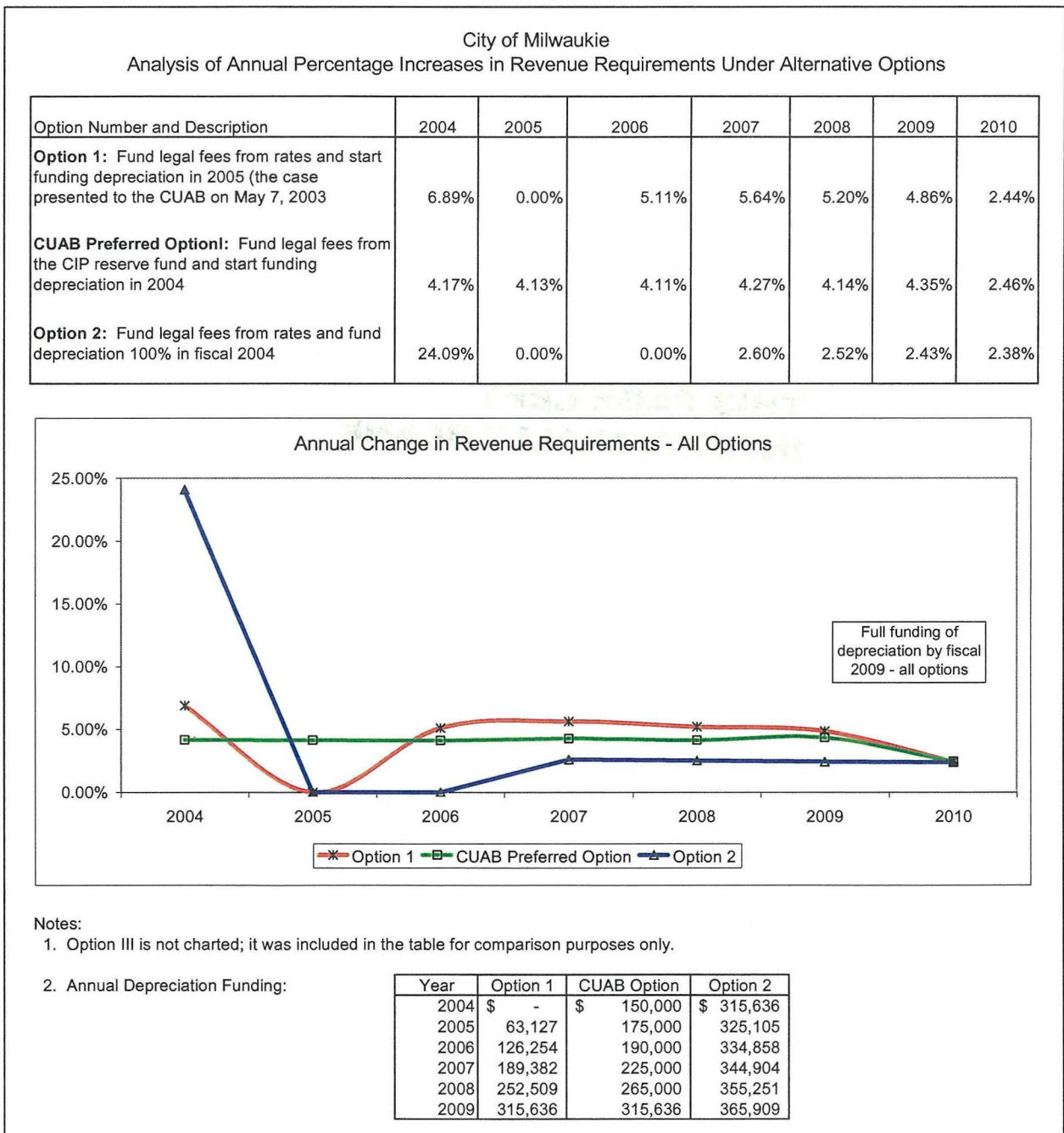
As in the case of Option 1, this option contains all of the underlying planning and financial modeling assumptions contained in the CUAB preferred approach. This option assumes that rate payers would have to immediately shoulder the burden of anticipated legal fees in addition to fund the \$316,636 in depreciation expense (i.e., the estimate of current capital replacement costs). The following table lays out the numerical treatment of these two issues, and the resulting impact on the future change in revenue requirements.



The CUAB rejected this option because of its severe impact on rates in 2004. It was felt by the CUAB members that this severe spike could be mitigated by funding legal fees from the Capital Reserve Fund and by phasing in depreciation funding over five years.

The following graphic lays out the three options on a single chart. As the data shows, the CUAB preferred option results in:

- ❖ The elimination of rate spikes in fiscal 2004
- ❖ Depreciation phasing starts immediately in 2004, and is fully funded by fiscal 2009
- ❖ This option meets the direction of the CUAB to have regular and affordable rate adjustments.





APPENDIX A

Issue Papers Presented to the CUAB

ISSUE PAPER No. 1

TOPIC: Recommended Fiscal Policies for Management of the Water Fund
FOR: City of Milwaukie Water and Sewer Rate Study

BACKGROUND

Our initial modeling of the City's revenue requirements and the corresponding review of its overall financial position confirms that sound policies exist for the City's fiscal operations. The purpose of this issue paper is to document these policies and outline key additional financial directions that may guide the financial management of the water fund as well as the rate modeling process. For each key policy issue identified, we have listed options/alternatives that we can discuss for possible consideration by the City. We propose to focus discussion on the important fiscal policy issues that the City may wish to incorporate into its future operations and which will impact the modeling.

DISCUSSION OF OPTIONS AND RECOMMENDATIONS

A. Accounting Conventions/Methods The essence of the City's rate structure for water service is founded in the cost accounting system used by Milwaukie. Some municipalities, counties and cities invest substantial amounts of time and money in their "business information systems". The overriding policy guiding any information collection and archiving system should be that the cost of acquiring data not exceed the value of that data to the user. In the case of the City's water funds (Operating, SDC, and CIP reserve), the discussion should be focused on the following three key cost accounting issues:

1. Segregation of costs by type of service delivered to customers;
2. Capital fund restriction – that is, segregating and restricting balances available for funding capital construction; and
3. Methods for allocating common overhead to water, sanitary sewer and stormwater services.

Based on our preliminary analysis of the City's current cost accounting practices, it is evident that these actions are being applied

B. Reserve Policies These policies are established to ensure the financial strength and integrity of the utility enterprises. Reserve policies are generally broken down into four key subcategories which are:

1. **Operating (Working Capital) Reserves** – The user charges must be sufficient to provide cash for the expenses of operating and maintaining the City's services. To ensure the fiscal and physical

integrity of the City, cash needs will be defined to include sufficient reserves to accommodate routine fluctuations in revenues and expenses. The typical method for expressing the appropriate level of working capital reserves is in days of operating expenses. We suggest that the City consider the following target for working capital reserves:

- Water: 75 days of water system operating expenses

The rationale for the higher reserve against water expenses is the greater volatility of water revenues as compared to sewer revenues. Perhaps offsetting this is the fact that higher revenue periods occur at the start of the fiscal year, meaning that the beginning balance is normally augmented before declining revenues cause a seasonal decline in fund balances. Nonetheless, the greater exposure to revenue risk merits a somewhat higher balance, as suggested above.

2. **Equipment Reserves** – It is prudent to establish and maintain a contingency reserve to meet unexpected emergency outlays. The City currently maintains permanent water and sewer reserve funds. This reserve should represent a reasonable percentage of the original cost of total fixed assets, but should be no less than the cost to replace or repair a critical element of system equipment. We suggest that an appropriate contingency reserve level would be:

- Water: 1% of water system fixed assets (expressed as book value; i.e., original cost less accumulated depreciation)

Whenever contingency reserves fall below target levels, or when target levels are increased, the reserve level should be established and maintained in no more than three budget cycles. If a replacement reserve is also maintained, the replacement reserve may serve as a source of contingency funds. In such case, the above requirements are reduced to the extent of existing replacement reserves, or simply viewed as a minimum balance for replacement reserves.

3. **Replacement Reserves** – It is prudent to protect the City's investment in long-term fixed assets. A recognized method to achieve this end would be to establish a replacement reserve and funding strategy. The reserve would enable the City to support future replacement needs without extraordinary rate increases, while recognizing the potential burden on existing customers of funding both current improvements and future replacement needs. A common formula for

arriving at an appropriate replacement reserve level for the utility enterprise is as follows:

For water plant-in-service, the annual depreciation expense less scheduled principal repayments and budgeted capital improvements to be paid from rates. Often times, an absolute dollar minimum is also prescribed to be certain that a positive contribution is made for replacement of assets. It should also be highlighted that Oregon State Budget Law inhibits the ability of governmental jurisdictions to fully fund depreciation. This is due to the fact that budget law requires that monies collected under a general depreciation or replacement reserve account be expended within 10 years (while the life of many facilities is 20 to 30 years); depreciation or reserves set aside for specific facility replacement can be held for a maximum of 12 years.

4. **Bond Reserves** – The City has made use of revenue bond debt to fund improvements to the water and sewer systems. A typical covenant in the bond ordinance or loan agreement is the funding of reserves to assure repayment of interest and principal to the lender/investor. We suggest that the City consider adopting a formal policy of fully funding any such reserves with cash or reserve equivalents. Reserve equivalents in this case would be insurance policies issued by private sector municipal bond insurance companies.

C. Capital Financing Policies In order to provide reliable water service, assets must be improved and replaced on a regular basis. Without a set of deliberate capital financing policies in place, the City may not have the financing to implement this orderly improvement and replacement program. We suggest that the City consider the following policies concerning capital financing:

1. **Capital Planning** – Due to the impact of capital costs on rates and charges, and due to the variation in funding levels needed over time, we suggest that the City establish and maintain a capital projects schedule of at least five years in duration. This schedule should include project descriptions, scheduled year of construction, and total estimated costs. Each project should be identified as an improvement project or a replacement project (including repair and rehabilitation). If projects provide both improvement and replacement benefits, then the schedule should include an appropriate allocation of project costs to those two categories and then use the criteria below for the allocated portions.
2. **Improvement Projects** – Improvements to the system should be scheduled and budgeted with consideration of the rate impacts which may result. SDC improvement fees should be dedicated to funding

projects in this category, and SDC reimbursement fees considered as a supplemental source of funding. Beyond these resources, the cost of improvements would fall to utility ratepayers. In general, it should be the City's intent to make such improvements while minimizing or eliminating the need for debt. However, when annual capital outlays meet a threshold level (i.e., a specific dollar threshold for a three year period or longer), the City should evaluate alternatives including phasing, deferral, and debt financing as methods to mitigate rate impacts.

3. **Replacement, Repair, and Rehabilitation Projects** – To the extent that funds are available, replacement projects should be funded first from the replacement reserve, then through any uncommitted SDC reimbursement fees, then through unencumbered surplus fund balances, and then through rates. If the rate-funding of replacement projects results in a total rate-funded capital program exceeding a specific threshold per year, the City should evaluate alternatives including phasing, deferral, and debt financing as methods to mitigate rate impacts.

D. Rate Policies Rate and charge revenues are the lifeblood of the water fund. Without thoughtful policies guiding the construction of rates and charges, the City's financial position can rapidly deteriorate. We suggest that the City document the following policies relating to the construction of rates and charges:

1. **System Development Charges** – The City should maintain SDC's which recover eligible costs from new customers in accordance with the statutory requirements of ORS 223.297 – 223.314. Additional policy considerations would include whether such charges should emphasize equity among generational classes of customers, economic development incentives or disincentives, or maximizing equitable cost recovery from new growth. Any such policies must continue to comply with aforementioned sections of ORS 223. It is further recommended that the city account for and track the receipt of reimbursement and improvement fees separately. ORS 223.307 specifically states that "...improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of debt for such improvements...". Conversely, reimbursement fees are not held to this specific standard, and therefore can be expended "... on capital improvements associated with the systems for which the fees are assessed including expenditures relating to repayment of indebtedness...". This distinction will give the City additional flexibility and resources to fund water and sewer system capital improvements from reimbursement fee proceeds that may not expand capacity but are nonetheless critical to the delivery of services to customers.

2. **Rate Equity** – The City should establish rates and charges which equitably recover the cost of service from its customers. Changes in rate structure should be accompanied by a cost of service analysis justifying the equity of such changes.
3. **Conservation** – The City wishes to promote efficient and conservative use of water. Therefore, water and sewer rates should, to the extent practical, promote water conservation through an emphasis on volume-based charges and allocation of the cost to appropriate variable components of the consumption based rate structure.
4. **Low Income Rates** – The City currently has in place a program that reduces water bills for qualifying low income customers. Under this program a qualifying customer is forgiven the fixed component of the rate structure (i.e., the bimonthly charge of \$5.95). Under the current program, the general fund reimburses the water operating fund for this loss of revenue. The Council has indicated its desire to continue the low income subsidy program for the fiscal year beginning July 1, 2003.

City of Milwaukie – Water Rate Study

ISSUE PAPER No. 2

Issue Title: RECOMMENDED COST RECOVERY METHOD FOR DIRECT SERVICES TO DEVELOPMENT

Background Discussion: The City routinely provides services and incurs costs for new water customers that are not covered by monthly rates. The most common service is new meter installation. For a one-time and set fee, the City will install a meter for a new customer. Typically, these installations are for new developments. However, there are instances where existing customers request to have a meter changed out to accommodate increased (or decreased) anticipated usage. The City also sells approved meters to customers who, in turn, install them at their own expense and subject to final inspection by the City. There are other miscellaneous development related services that the Water Department provides and bills to customer on a scheduled basis. All of these development related fees are itemized and contained in City Resolution # 23-2002 (adopted 9/17/02). The water fees and charges that are in place have not been adjusted since 1993. Over the last three fiscal years, the City has received an average of \$27,673 per year by providing these services. To put this figure in perspective, revenues recognized from water rates will amount to almost \$1,800,000 this fiscal year. Clearly, development related service fees are a small part of the Water Department’s revenue base.

A suggestion has been made that the City consider moving away from charging for these direct services for development on a **pre-set or scheduled** basis. The alternative is to implement a job cost approach for cost recovery where direct labor, equipment and materials are billed to a specific developer based on the actual costs incurred.

Evaluation: . The primary advantage of the job cost approach is that the City will recover its exact costs in providing the direct service on a work order basis. Under a pre-set or fee schedule basis of cost recovery, the actual costs incurred do not necessarily match the fee schedule due to timing and the scope of each individual site specific job. While accuracy of billing is a recognized advantage in the job cost approach, it is also the case that the City does see disadvantages to moving away from its pre-set or scheduled fees. These are:

3. Increased Administration for the City. In order to send an accurate bill for services rendered, the City would have to implement a system able to track time, materials, and overhead by work order. The City currently does not have a system in place to accommodate this process. Discussions with public works staff indicate that this type of system could be developed, but it would take time and unbudgeted resources.
4. Adversity for Customers. Under the current process, developers and existing customers know - up front - how much they will be charged for the services they are requesting from the City. Under the suggested time and materials approach, the City could only give the prospective developer or customer an estimate of the costs. The final cost would not be know until the job in question was completed. This “certainty” factor is important,



particularly in the case of developers, because this cost data is used to calculate the feasibility of prospective projects.

Recommendation: Milwaukie is at effective buildout. There is limited new development activity at this time. According to Public Works staff, there were only ten or twelve new service meter installations last year. If there was substantial development/redevelopment activity, it might be appropriate to commit the resources necessary to implement a job costing system. However, given the current level of development and the adequacy of development fee revenue to offset current meter installation costs, no such change is warranted.

Therefore, it is recommended that the City continue its policy of setting a schedule of fees for development related services and periodically adjusting these fees based on available actual cost of service data. An analysis of recent cost data indicates that the schedule of fees that are currently in force are adequate to recover the City's costs. Therefore, no adjustments are recommended to the development support fee schedule at this time. The current fee schedule is as follows:

WATER FEES & CHARGES IN SUPPORT OF DEVELOPMENT AND CUSTOMER SERVICES

Service and Equipment:

Connect Service 5/8" or 3/4" Residential Service	\$2,460
Connect Service 1"	\$2,547
Connect Service 1 1/2"	\$2,923
Connect Service 2"	\$3,067

Equipment:

3/4" Meter	\$208
1" Meter	\$301
1 1/2" Meter	\$510
2" Meter	\$625
Hydrant Meter Deposit	\$579

Miscellaneous:

Delinquent Account – Past Due Notice*	\$5
Delinquent Account – Notice of Termination*	\$25
After Hours Restoration of Service*	\$80
(Monday-Friday 5:00 pm to 8:00 pm; Saturday & Sunday 8:00 am to 5:00 pm)	
Information Research	\$44/hr.
Reimbursement District Fee.....	To be determined by scope of project

* Accounts remaining delinquent more than three (3) months subject to 10% per year added to the outstanding balance to pay the City's interest and collection costs.



ATTACHMENT 4

V. B. 37

8/27/03

TO: MILWAUKIE CITY COUNCIL
SUBJECT: PROPOSED WATER RATES INCREASE

I am sorry I cannot attend the hearing on the water rates increase proposal. I want to voice my opinion on the subject matter.

While I understand the water rates have not been raised for almost 10 years and I have no problem with raising them to an appropriate livable rate, however, I do object to raising the water rates without adjusting the sewer rates by lowering them.

During these hard economic times it is not justifiable to me to make the citizens payoff the sewer plant bill. We are paying over and above what the sewer actually costs and the City should not be making a profit. The rate structure should be revenue neutral and it is not. I am not sure why money is spent on consultants if their recommendations are not taken into consideration. The money spent on consultants could certainly be used to lower the sewer plant debt. One thing council may or may not be aware of is the fact that a part time finance position was built into the sewer rate structure. After the structure was adopted it was determined by city management the city did not actually need a permanent part-time finance person, and it was changed to a temporary position, which lasted approximately four months. However, it is still built into the sewer rate structure and the 3rd phase has been implemented. Therefore, if the approved position is not going to be filled at any time, when will the sewer rates be reduced to eliminate the citizens from having to pay for something which does not exist and is not scheduled to exist?

I don't think Council realizes the amount of citizens in Milwaukie that struggle to maintain their basic services. There are more and more people applying for low income rates then ever before and the amount of people complaining about the sewer rates is ever increasing.

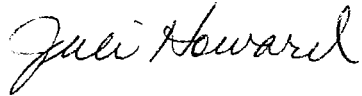
I have no problem with the structure that makes me pay for what I use because that is how it should be. I do, however, have an issue with paying over and above what I should be charged.

I would urge you to think long and hard before you raise the water rates and in doing so look at the sewer rates as well. If the water rates need to be increased I would hope the sewer rates could be reduced to off set the increase.

V. B. 38

Thank you for your time.

Respectfully,

A handwritten signature in cursive script that reads "Juli Howard".

Juli Howard
9705 SE 37th Ave.
Milwaukie, OR 97222



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: Barb Kwapich, Natural Hazard Mitigation Committee Chair

Subject: Adopt by resolution the Multi-Jurisdictional Clackamas County Natural Hazards Mitigation Plan including the Milwaukie Addendum

Date: September 16, 2003

Action Requested

Adopt by resolution the Multi-Jurisdictional Clackamas County Natural Hazards Mitigation Plan including the Milwaukie Addendum, as required by Title 44 Code of Federal Regulation part 201, as authorized by the Disaster Mitigation Act of 2000. Adoption will ensure eligibility for state and federal disaster relief funding.

Background

In 1988 the Stafford Act was passed. It provides public assistance to communities following disasters. The Disaster Mitigation Act of 2000 amends the Stafford Act to increase local mitigation planning effort, establish Pre-Disaster grant program for planning and projects, and streamline administration of disaster relief. The Disaster Mitigation Act of 2000 requires that local governments develop a Natural Hazard Mitigation Plan for their jurisdiction to be eligible for Federal Emergency Management (FEMA) mitigation project grants.

Clackamas County recently adopted the first mitigation plan to meet FEMA criteria in the nation. As a result, the county received a grant from FEMA to assist local jurisdictions in developing their addendums to the Clackamas County Natural Hazards Mitigation Plan. City staff, along with representatives from North Clackamas School District and Clackamas County Fire District 1, has been

working through the planning process with the Clackamas County Emergency Management representative since November.

The basic elements involved in the hazard mitigation plan are: planning process; hazard assessment; mitigation strategies; plan maintenance and adoption by local elected officials. The completed plan provides a hazard assessment to identify community issues regarding natural hazards and outlines potential mitigation activities.

Concurrence

Members of Planning, Engineering, Building, Sewer/Storm, GIS, Neighborhood Services, Risk Management, Clackamas County Fire District 1, North Clackamas School District and Clackamas County Emergency Management worked together to develop this addendum.

Fiscal Impact

Adoption of this plan will allow Milwaukie to be eligible for Pre-Disaster Mitigation Grant funds and Hazard Mitigation Grant funds. These grants will fund mitigation projects at 75%, with the remaining 25% to be provided in match from the City. This match can be soft or in-kind, and sources will be determined upon grant application.

Work Load Impacts

The Hazard Mitigation Advisory Committee will continue to meet for plan implementation and evaluation. The HMAC will share the tasks associated with grant applications and grant management as opportunities arise.

Alternatives

Do not adopt the Multi-Jurisdictional Clackamas County Natural Hazards Mitigation Plan including the Milwaukie addendum, and lose eligibility for state and federal mitigation grants.

Attachments

1. Resolution
2. Addendum to multi-jurisdictional Clackamas County Natural Hazards Mitigation Plan

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON ADOPTING THE MULTI-JURISDICTIONAL CLACKAMAS COUNTY NATURAL HAZARDS MITIGATION PLAN INCLUDING THE MILWAUKIE ADDENDUM, AS REQUIRED BY TITLE 44 CODE OF FEDERAL REGULATIONS PART 201 AS AUTHORIZED BY THE DISASTER MITAGATION ACT OF 2000, IN ORDER TO REMAIN ELIGIBLE FOR STATE AND FEDERAL DISASTER RELIEF FUNDING.

WHEREAS, the City of Milwaukie recognizes the threat that natural hazards pose to people and property; and

WHEREAS, undertaking hazard mitigation actions before disasters occur will reduce the potential for harm to people and property and save taxpayer dollars; and

WHEREAS, an adopted all hazards mitigation plan is required as a condition of future grant funding for mitigation projects;

WHEREAS, the City of Milwaukie participated jointly in the planning process with the other local units of government within the County to prepare a Natural Hazards Mitigation Plan;

- **NOW, THEREFORE, BE IT RESOLVED** that that the City of Milwaukie Council, hereby adopts the Multi-jurisdictional Clackamas County Natural Hazards Mitigation Plan including Attachment A, the City of Milwaukie Addendum as an official plan; and
- **BE IT FURTHER RESOLVED** that this Addendum will be submitted on behalf of the City of Milwaukie to Federal Emergency Management Agency officials for final review and approval.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

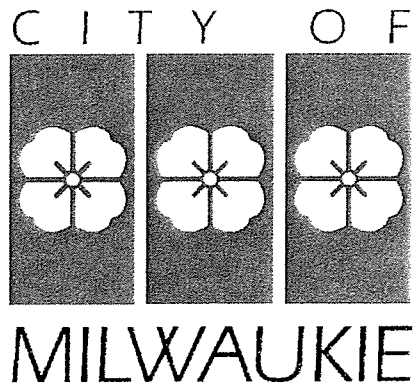
James Bernard, Mayor

ATTEST:

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

Pat DuVal, City Recorder

City Attorney



CITY OF MILWAUKIE
Natural Hazards Mitigation Plan Addendum

Prepared for
City of Milwaukie
10722 SE Main Street
Milwaukie, OR 97222

In cooperation with

Clackamas County Emergency Management
2200 Kaen Road
Oregon City, OR 97045

City of Milwaukie Natural Hazards Mitigation Plan Addendum

VI. A. 5

Table of Contents

SECTION 1: PLANNING PROCESS	1
WHO PARTICIPATED IN DEVELOPING THE PLAN?.....	1
WHAT IS THE PLAN MISSION?.....	2
WHAT ARE THE PLAN GOALS?.....	2
HOW WILL THE PLAN BE IMPLEMENTED, MONITORED, AND EVALUATED?.....	2
WHAT ARE THE MITIGATION STRATEGIES IDENTIFIED BY THE CITY OF MILWAUKIE?.....	5
SECTION 2: COMMUNITY PROFILE	6
GEOGRAPHY AND THE ENVIRONMENT.....	6
TRANSPORTATION.....	6
POPULATION AND DEMOGRAPHICS.....	6
LAND AND DEVELOPMENT.....	6
EMPLOYMENT AND INDUSTRY.....	8
SECTION 3: HAZARD ASSESSMENT	10
WHAT IS A HAZARD ASSESSMENT?.....	10
FEDERAL REQUIREMENTS FOR HAZARD ASSESSMENT.....	11
SECTION 4: NATURAL HAZARDS	15
FLOODING.....	15
LANDSLIDE.....	19
WILDFIRE.....	22
SEVERE STORMS: WIND AND WINTER.....	24
EARTHQUAKE.....	26
VOLCANIC ERUPTION.....	29
MULTI-HAZARD.....	30
SECTION 5: MITIGATION PLANNING PRIORITY SYSTEM	34
ACTION ITEM PRIORITIZATION METHODOLOGY.....	34
SECTION 6: RESOURCE DIRECTORY	37

Planning Process

The City of Milwaukie Natural Hazards Mitigation Plan includes resources and information to assist city residents, public and private sector organizations, and others interested in participating in planning for natural hazards. The mitigation plan provides a list of activities that may assist City of Milwaukie in reducing risk and preventing loss from future natural hazard events. Milwaukie has developed this Plan as an addendum to the Multi-Jurisdictional Clackamas County Natural Hazards Mitigation Plan in an effort to take a more regional approach to planning for natural hazard scenarios.

Who Participated in Developing the Plan?

The City of Milwaukie Natural Hazards Mitigation Plan is the result of a collaborative effort between City of Milwaukie public agencies, non-profit organizations, the private sector, and regional and state organizations. The Milwaukie Hazard Mitigation Advisory Committee (HMAC) guided the process of developing the plan. The HMAC was comprised of representatives from:

- Dave Church, North Clackamas School District
- Kevin Donegan, Clackamas County Fire District #1
- Craig Holman, City GIS Coordinator
- Cindy Kolomechuk, Clackamas County Office of Emergency Management
- Barb Kwapich, City Risk Manager
- Tom Larson, City Building Official
- Lindsey Nesbitt, City Community Development Department
- Jack Perry, City Sewer Department
- Paul Roeger, City Engineering Department
- Jason Wachs, City Neighborhood Services Department

Planning Process

The Milwaukie HMAC had a regular meeting schedule to complete the planning process, and the residents of the City of Milwaukie had an opportunity to participate in the county-wide public workshops designed to gain citizen input. The planning process is described in Appendix B of the Clackamas County Natural Hazards Mitigation Plan.

Special Service Districts

The following Special Service Districts are located in Milwaukie have been given the opportunity to participate in plan development and implementation.

VI. A. 7

- Clackamas Community College
- Clackamas Education Service District
- North Clackamas School District
- City of Milwaukie
- Clackamas County
- North Clackamas Parks and Recreation District
- Port of Portland
- Milwaukie Road District #4
- Metro Service District 2
- Clackamas County Vector Control
- Tri-met
- Oak Lodge Water District #4
- Clackamas County Sewer District #1

Multi-Jurisdictional Planning Effort

City of Milwaukie is dedicated to taking a regional approach to planning for natural hazards since hazards do abide by jurisdictional boundaries. The City of Milwaukie has representation on the Clackamas County Hazard Mitigation Advisory Committee through the Clackamas Local Emergency Managers (CLEM) to ensure that the City's interests are represented in the larger scale planning effort. The City will partner with the county in implementation of appropriate action items, and will work with other jurisdictions to reduce losses from future natural hazards.

What is the Plan Mission?

City of Milwaukie concurs with the mission statement developed during the Clackamas County planning process.

What are the Plan Goals?

City of Milwaukie concurs with the goals developed during the Clackamas County planning process.

How Will the Plan be Implemented, Monitored, and Evaluated?

The plan maintenance process includes a schedule for implementing, monitoring, evaluating, and reviewing this plan addendum. It is essential to have this process to ensure plan sustainability.

Plan Adoption

The City of Milwaukie City Council will be responsible for adopting the Multi-Jurisdictional Clackamas County Natural Hazards Mitigation Plan including the City of Milwaukie Addendum. This governing body has the authority to promote sound public policy regarding natural hazards.

Coordinating Body

The Milwaukie Hazard Mitigation Advisory Committee (HMAC) will be responsible for coordinating implementation of plan action items and undertaking the formal review process. In order to develop momentum for plan implementation, the HMAC will convene monthly for the first three months of

plan implementation, and will establish an appropriate timeframe for the meeting schedule as plan implementation begins. The HMAc will meet no less than quarterly to identify funding for the implementation of mitigation strategies, evaluate the effectiveness of the plan, and develop new mitigation strategies to reduce losses from natural hazards.

Due to the nature of this project-based committee, technical advisory committees as well as other ad hoc committees may be established to implement appropriate mitigation projects and tasks, and will be held as needed. The attendees of these technical advisory committees will report on their actions to the HMAc at the regularly scheduled meetings.

The City Manager will assign representatives from appropriate city agencies, including, but not limited to, the current Hazard Mitigation Advisory Committee members. In order to make this committee as broad and useful as possible, the HMAc will engage other relevant organizations and agencies in hazard mitigation. The recommendations for adding to the Hazard Mitigation Advisory Committee include:

- A representative from the Neighborhood Associations
- A representative from the Police Department
- A representative from the business community or from the Chamber of Commerce

Convener

The Milwaukie City Council will adopt the Milwaukie Natural Hazard Mitigation Plan, and the Hazard Mitigation Advisory Committee will take responsibility for plan implementation. The Planning Director for Milwaukie will serve as a *convener* to facilitate the Hazard Mitigation Advisory Committee meetings, and will assign tasks such as updating and presenting the Plan to the members of the committee. Plan implementation and evaluation will be a shared responsibility among all of the Natural Hazard Advisory Committee Members.

Implementation through Existing Programs

City of Milwaukie addresses statewide planning goals and legislative requirements through its Comprehensive Land Use Plan, Capital Improvement Plans, and Building Codes. The Natural Hazard Mitigation Plan provides a series of recommendations that are closely related to the goals and objectives of these existing planning programs. City of Milwaukie will have the opportunity to implement recommended mitigation action items through existing programs and procedures.

Economic Analysis of Mitigation Projects

The Federal Emergency Management Agency's approaches to identify the costs and benefits associated with natural hazard mitigation strategies, measures, or projects fall into two general categories: benefit/cost analysis and cost-effectiveness analysis. Conducting benefit/cost analysis for a mitigation activity can assist communities in determining whether a project is worth undertaking now, in order to avoid disaster-related damages and costs later. Cost-effectiveness analysis evaluates how best to spend a given amount of money to achieve a specific goal. Determining the economic feasibility of mitigating natural hazards

can provide decision-makers with an understanding of the potential benefits and costs of an activity, as well as a basis upon which to compare alternative projects.

Given federal funding, the Emergency Management Committee will use a FEMA-approved benefit/cost analysis approach to analyze and prioritize mitigation action items. For other projects and funding sources, the Emergency Management Committee may use other approaches to understand the costs and benefits of each action item and develop a prioritized list. For more information regarding economic analysis of mitigation action items, please see Appendix C of the Clackamas County Natural Hazards Mitigation Plan.

Formal Review Process

The City of Milwaukie Addendum to the Clackamas County Natural Hazards Mitigation Plan will be evaluated on an annual basis to determine the effectiveness of programs, and to reflect changes in land development or programs that may affect mitigation priorities. The convener will be responsible for contacting the Hazard Mitigation Advisory Committee members and organizing the annual meeting. Committee members will be responsible for monitoring and evaluating the progress of the mitigation strategies in the Plan.

The committee will review the goals and action items to determine their relevance to changing situations in the county, as well as changes in state or federal policy, and to ensure they are addressing current and expected conditions. The committee will also review the hazard assessment portion of the Plan to determine if this information should be updated or modified, given any new available data. The coordinating organizations responsible for the various action items will report on the status of their projects, the success of various implementation processes, difficulties encountered, success of coordination efforts, and which strategies should be revised.

The convener will assign the duty of updating the plan to one or more of the committee members. The designated committee members will have ninety days to make appropriate changes to the Plan before submitting it to the Hazard Mitigation Advisory Committee members, and presenting it to the City Council. The HMAC will also notify all holders of the plan when changes have been made. Every five years, the convener or designee will submit the updated plan to the State Hazard Mitigation Officer and the Federal Emergency Management Agency for review and approval.

Continued Public Involvement

The City of Milwaukie is dedicated to involving the public directly in review and updates of the Hazard Mitigation Plan. The public will have the opportunity to provide feedback about the Plan through a variety of forums. Copies of the Plan (on compact disk) will be catalogued and kept at all of the appropriate agencies in the city. In addition, a copy of the plan and any proposed changes will be posted on the city website. This site will also contain an email address and phone number to which people can direct their comments and concerns.

A public meeting will also be held after each annual evaluation or when deemed necessary by the Hazard Mitigation Advisory Committee. The meetings will provide the public a forum for which they can express its concerns, opinions, or ideas about the Plan. The HMAC will be responsible for using city resources to publicize the annual public meetings and maintain public involvement through the

public access channel, webpage, and newspapers. HMAC can provide updates to all Neighborhood Association (NDA) leaders annually or when deemed necessary and each NDA will distribute accordingly.

What are the Mitigation Strategies Identified by the City of Milwaukie?

The *action items* are a listing of activities in which county agencies and citizens can be engaged to reduce risk. Each action item includes an estimate of the timeline for implementation. *Short-term action items (ST)* are activities that county agencies may implement with existing resources and authorities within one to two years. *Long-term action items (LT)* may require new or additional resources or authorities, and may take between one and five years to implement. The action items are organized within the following matrix, which lists all of the multi-hazard and hazard-specific action items included in the mitigation plan.

Natural Hazard	Action Item	Coordinating Organization	Timeline	Ideas for implementation	Plan Goals Addressed				
					Protect Life and Property	Public Awareness	Emergency Services	Natural Systems	Partnerships and Implementation
Short-Term Multi-Hazard #1	Improve and attain resources and equipment essential for responding to and recovering from disasters.	Public Works	1-2 Years	30	✓		✓	✓	✓
Short-Term Multi-Hazard #2	Ensure that there are adequate shelter facilities in hazard-free zones to serve Milwaukie residents.	Hazard Mitigation Advisory Committee	Ongoing	30	✓	✓	✓		✓
Short-Term Multi-Hazard #3	Improve the hazard assessment in the Milwaukie Natural Hazards mitigation Plan.	City Geographic Information Systems	Ongoing	30	✓	✓	✓	✓	✓
Short-Term Multi-Hazard #4	Improve network of communications during a disaster.	Hazard Mitigation Advisory Committee	Ongoing	31	✓	✓	✓		✓
Short-Term Multi-Hazard #5	Develop, enhance, and implement education programs designed to reduce the losses from natural hazards.	Hazard Mitigation Advisory Committee	Ongoing	31	✓	✓	✓	✓	✓
Short-Term Multi-Hazard #6	Promote CERT program activity in the area and recruit new members for training.	Clackamas Fire District One	Ongoing	32	✓	✓	✓		✓
Short-Term Multi-Hazard #7	Develop and enhance strategies for debris management for all hazards.	Public Works	Ongoing	32	✓		✓	✓	✓
Short-Term Multi-Hazard #8	Integrate the goals and action items from the Milwaukie Natural Hazard Mitigation Plan into existing regulatory documents and programs, where appropriate.	Hazard Mitigation Advisory Committee	Ongoing	32	✓	✓	✓	✓	✓
Long-Term Multi-Hazard #1	Improve vegetation management throughout the city.	Hazard Mitigation Advisory Committee	Ongoing	33	✓	✓	✓	✓	✓

City of Milwaukie Mitigation Strategies

Natural Hazard	Action Item	Coordinating Organization	Timeline	Ideas for Implementation	Plan Goals Addressed				
					Protect Life and Property	Public Awareness	Emergency Services	Natural Systems	Partnerships and Implementation
Long-Term Flood #1	Update Storm Water Management Plan, and identify appropriate mitigation strategies.	Public Works	3-5 years	18	✓		✓	✓	✓
Long-Term Flood #2	Evaluate alternatives for reducing the flooding hazard for properties along Kellogg Creek, Johnson Creek, the Mount Scott Creek area, and the Willamette River.	Public Works	3-5 years	18	✓	✓	✓	✓	✓
Long-Term Landslide#1	Reduce the vulnerability of property owners in landslide-prone areas.	Department of Community Development	Ongoing	20	✓	✓		✓	✓
Short-Term Wildfire #1	Inventory and map alternative firefighting water sources and encourage the development of additional sources.	Clackamas Fire District One	1-2 Years	24	✓		✓	✓	✓
Long-Term Severe Storm #1	Bury power lines subject to frequent failures to reduce power outages from the windstorm and severe winter storm hazard where possible.	Public Works	3-5 years	23	✓		✓		✓
Long-Term Earthquake #1	Conduct seismic evaluations on identified critical/essential facilities & infrastructure for implementing appropriate structural and non-structural mitigation strategies.	Public Works	5 Years	28	✓		✓		✓

Section 2: Community Profile

Geography and the Environment

Milwaukie has an area of 4.8 square miles and is located along the Willamette River in northwestern Clackamas County in Northwestern Oregon (Map 1). Milwaukie is an incorporated city on the southern border of Portland, Oregon's largest city. It is within the Willamette River basin and has two major creeks flowing through it, Johnson Creek in the northern part of the City and Kellogg Creek in the southern part. Other tributaries include Mount Scott Creek in the southeastern part of the City, Minthorn Creek in the eastern industrial area, which flows into Mount Scott Creek; and Spring Creek in the western part of the City, which flows into Johnson Creek.

Elevations in the City range from 205 feet near 59th Avenue and Monroe Street to a low of 4 feet on the shores of the Willamette River. Milwaukie could be characterized by flat or gently hilly topography.

Transportation

Milwaukie has two state highways, 99E or McLoughlin Blvd., running north to south in the western part of the City, and Highway 224, running west to east through the central part of the City. Milwaukie is also bisected by the Union Pacific Railroad main line, which travels northwest to southeast carrying both passengers and freight.

Population and Demographics

City of Milwaukie has a population of 20,490 per the 2000 Census. A break down of City demographics is provided in Table 2-1.

Table 2-1. Community Age Groups

Year	1970	1980	1990	2000
Under 5 years	1389	1263	1237	1306
5-19 years	4809	3840	3439	3874
20-44 years	5307	7104	7701	7548
45-64 years	3519	3548	3515	4946
65+ years	1275	2140	2800	2816
Median Age	28	30	35	37.7

Source: US Census, 0 or N/A indicates data is not available. Median value is the middle value, not an average.

Land and Development

Although Milwaukie's history dates back to 1840, until the 1940's it was a small town of less than 2,000 people just south of Portland. Map 1 shows the City's location in the region. With the war years came the development of the Milwaukie Industrial Park, and Milwaukie rapidly became a city with local jobs and an industrial tax base. During the 1950's, suburban growth spread to Milwaukie and to the south and east of the City boundaries. New suburbanites and large annexations added to the City's growth into the 1960's. Although the City itself was growing

VI. A. 14

rapidly, new residential development extended past Milwaukie, and was encouraged by the growth of sewer, water, and fire service districts.

Developing or fully developed residential areas now border the City. A basic map of the City is included in the addendum as Map #1. Although new development is occurring in newer, still vacant portions of the City, many of the older parts of Milwaukie are completely developed.

As new development has occurred further from the Portland core area, Milwaukie has become a close, older suburb. This type of growth pattern is associated with many complex development situations. For example, single-family building lots are becoming more scarce and expensive, while the existing housing stock grows older. The remaining truck farms and agricultural lands are being converted to housing and industry. In addition, citizens are concerned about the lack of parks and open space as the remaining vacant land disappears. Existing industrial parks are approaching full development, and limited land is available for future industrial growth. Traffic congestion on old streets and highways is increasing, and new freeways are opening up lands for residential and commercial development. In summary, Milwaukie is an older city with older building stock and infrastructure, but continues to have high demands for continued development.

The future character of Milwaukie is largely dependent on how land within the community is used, the relationships among the different land uses, and the intensity of development allowed within individual areas. Nearly 90 percent of the City's land area is already developed. The future of the remaining 10 percent is one of the most difficult questions facing the citizens and officials of Milwaukie. Should these presently vacant lands be used for industry to strengthen the City's tax base? Should more housing be encouraged? What about the City's lack of open space, or the need for neighborhood parks? All of these issues are addressed in the Land Use Chapter, which contains the following elements:

- Residential Land Use and Housing Element
- Economic Base and Industrial/Commercial Land Use Element
- Recreational Needs Element
- Willamette Greenway Element
- Neighborhood Element

A developed city like Milwaukie also faces questions about how existing residential neighborhoods, commercial areas, and industrial parks will be maintained and enhanced to support the desirable characteristics they already possess. Issues focusing on maintaining neighborhood character, supporting the strong industrial areas, and managing the City's riverfront are addressed in this division. The foremost challenge in arriving at conservation and development policies for Milwaukie is to recognize and support the strong desirable characteristics of the community, while allowing flexibility to accommodate changes in housing demand, consumer habits, and the recreational needs of existing and future residents.

Housing in Milwaukie provides shelter for a population which has income, education, age distribution and employment characteristics similar to Portland metropolitan area averages. Currently, the City's housing stock is composed of 66 percent single family and 33 percent multifamily. During the 1980's, however, 56 percent of the City's newly constructed housing units were multi-family.

Within the metropolitan area 36 percent of new housing starts are multi-family, while in Clackamas County only 28 percent are new multi-family housing starts. Milwaukie has clearly assumed a major role in providing opportunities for constructing a variety of housing types in north Clackamas County.

Milwaukie was comprised of 7,900 households in 1990, which increased to 8,561 in 2000. This represents an 8.4% increase in total households over the past ten years. Ownership information for 1990 and 2000 is contained in the following chart. Owner occupied households have increased 9.6% more than renter occupied households over the years 1990 to 2000.

Only 34.3 vacant gross buildable acres of residential lands outside the Town Center are available in Milwaukie for future housing or related recreation development. Much of these lands are small single parcels, substandard lots or large developed lots capable of partitioning to provide additional buildable area. Larger parcels are typically found in the Waverly area, along S.E. Lake Road and Kellogg Lake and Creek. The majority of these vacant lands are expected to be fully developed by the year 2017 if current housing construction rates continue. As residential land use and ownership patterns are well established, alternatives for housing become more limited. The City has considered the needs of existing and future residents for suitable affordable housing, and the desires of existing citizens to maintain the neighborhood character with which they are familiar. Striving to achieve a balance between meeting future needs and conserving existing character has been the aim of residential planning in Milwaukie.

Employment and Industry

Milwaukie is a major industrial center in the Portland metropolitan area, containing one of the largest concentrations of warehousing and distribution industries in the region. The Milwaukie Industrial Park, Omark Industrial Park, and the Johnson Creek industrial area comprise over 300 acres of industrial land within the City. These areas, however, are nearing capacity, and very little land within the City is currently available for new industrial development. For this reason, redevelopment and business retention are as important to the City as attracting new businesses to maintain employment and industrial tax base. The undeveloped industrially zoned area to the west of the Omark Industrial Park contains about 55 acres, but is hampered by poor soil conditions which pose problems for industrial development and contains some wetland areas.

Less than 20% of Milwaukie residents in the labor force are employed in Clackamas County. Milwaukie is part of a much larger metropolitan labor market. Local jobs are important, however, for energy cost savings by reducing commuting and stimulation of the local economy by employees in the area. Industry is very important to the City, not only in providing local jobs, but also in paying a large portion of local property taxes relative to the services required. The high level of local industrial activity is one of the reasons the City has such a low tax rate. Tax Income from industrial lands is almost three times greater than City costs for providing police, fire, sewer and water services, which offsets costs for service of residential uses. In 1987, over 125 residents also conducted businesses from their homes. Home occupations provide local employment opportunities but must be subject to neighborhood quality standards. The City's three largest employers are shown in Table 2-2.

VI. A. 16




Milwaukie's commercial lands are also largely built up. As of 1987, there are 25 acres of vacant or re-developable commercial lands. Twenty-one acres were re-designated from industrial to commercial in 1986 and designated as a community shopping center. This should provide the potential for increased local comparison-shopping. New commercial development along McLoughlin, 82nd Avenue and the Clackamas Town Center area has lured many people away from downtown Milwaukie for purchasing comparison goods such as clothes, furniture and appliances. This is true for most small community commercial centers since comparison-shopping has increasingly occurred at large shopping centers. Downtown Milwaukie, however, has continued to attract commercial investment in the form of commercial service uses including banks, insurance and professional offices.

Table 2-2. Three Largest Employers as of March 2003

Employer	Product/Service	Number of Employees
Precision Castparts	Titanium & Steel Castings	500
Blount Inc/Oregon Cutting Systems Div.	Chain Saw Blades	500
North Clackamas School District	Education	500

City of Milwaukie, Oregon Map #1

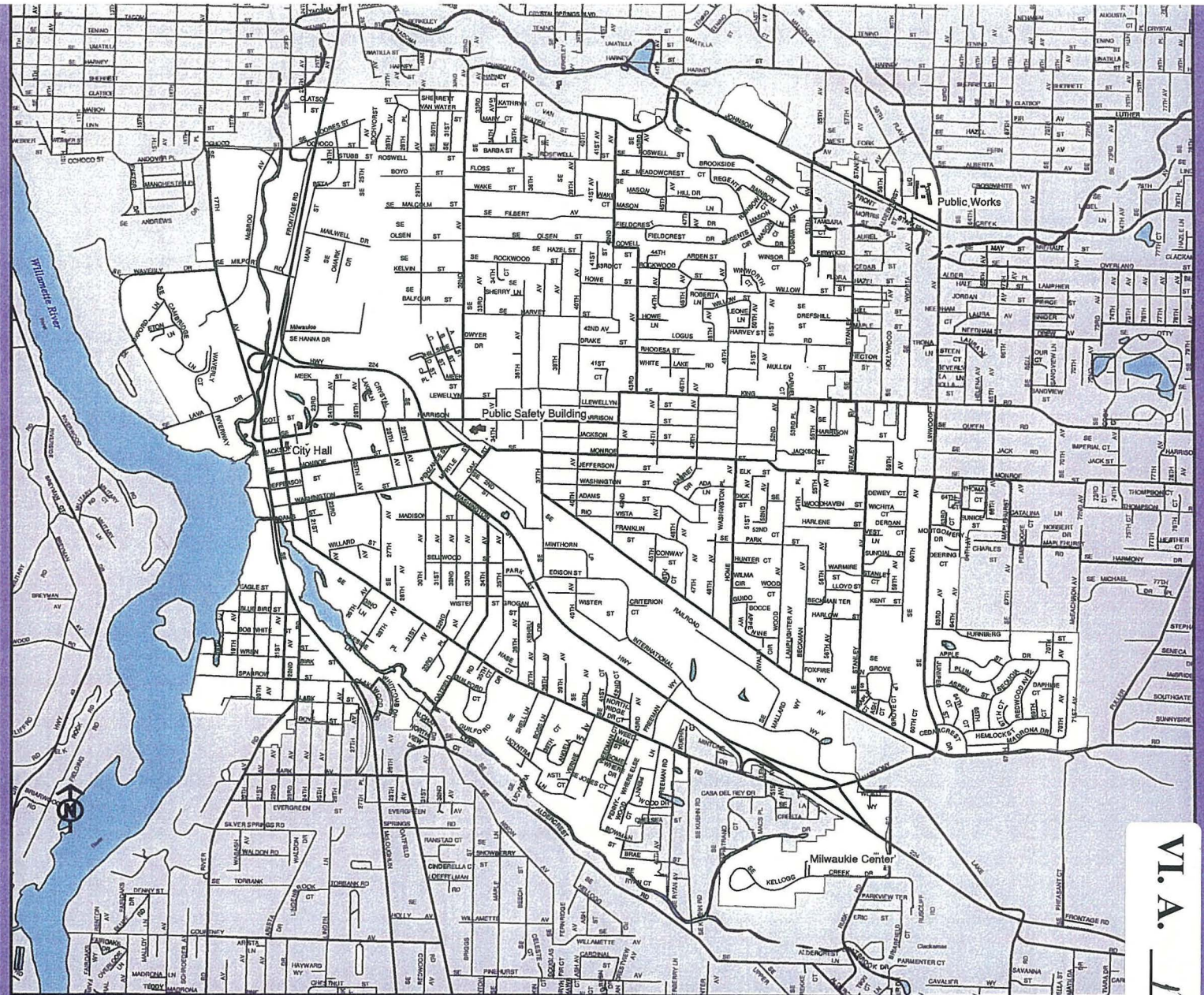
Legend

-  Milwaukie City Limits
-  Waterways
-  City-Owned Buildings

The information on this map was derived from digital databases on Milwaukie's GIS. Care was exercised in the creation of this Map. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors will be appreciated.

Craig Holman, GIS Coordinator
3200 SE Harrison Street
Milwaukie, OR 97222
503.786.7498 (holman@cimilwaukie.or.us)

0 650 1,300 2,600 3,900 5,200 Feet



Section 3: Hazard Assessment

Definition of a Hazard Assessment

Conducting a hazard assessment can provide information on the location of hazards, the value of existing land and property in hazard locations, and an analysis of risk to life, property, and the environment that may result from natural hazard events. Hazard assessments are subject to the availability of hazard-specific data. Milwaukie conducted a hazard assessment for all of the hazards for which data was available. The three levels of a hazard assessment are as follows:

- 1) ***Hazard Identification*** identifies the geographic extent and intensity of the hazard, the intensity of the hazard, and the probability of its occurrence. Maps are frequently used to display hazard identification data. Milwaukie identified six major hazards that consistently affect this geographic area. These hazards – floods, landslides, wildfires, earthquakes, severe storms: wind and winter, and volcanoes – were identified through an extensive process that utilized input from the Hazard Mitigation Advisory Committee. The geographic extent of each of the identified hazards has been identified by the Milwaukie GIS department using the best available data, and is illustrated by the maps listed in Table 3.1.
- 2) ***Vulnerability Assessment/Inventorying Assets*** combines hazard identification with an inventory of the existing (or planned) property and population exposed to a hazard. A complete listing of the community assets is located in Table 3.2. Additionally, a more detailed description of the vulnerability of these assets is located in the specific hazard sections.
- 3) ***Risk Analysis/Estimating Potential Losses*** involves estimating the damage, injuries, and financial losses likely to be sustained in a geographic area over a given period of time. This level of analysis involves using mathematical models. The two measurable components of risk analysis are magnitude of the harm that may result and the likelihood of the harm occurring. Describing vulnerability in terms of dollar losses provides the community and the state with a common framework in which to measure the effects of hazards on assets. Unfortunately, there is insufficient data for conducting a risk analysis for the natural hazards affecting Milwaukie. However, this need is identified in our action plan, and a complete risk assessment will be conducted when the resources are available.

Table 3-1. List of Hazard Mitigation Plan Maps

Map #	Type of Map	Section of the Plan
1	Base Map of Milwaukie	Section 2
2	Critical Facilities	Section 3
3	Essential Facilities	Section 3
4	Infrastructure	Section 3
5	FEMA NFIP 100-Year Floodplain	Section 4
6	FEMA NFIP 100-Year Floodplain & Flood Inundation, 1996	Section 4
7	Flood Inundation, 1996	Section 4
8	Landslide Hazards	Section 4
9	Storm (City Streets we sand)	Section 4
10	Wildfire Hazards	Section 4
11	Earthquake Hazards	Section 4

Federal Requirements for Hazard Assessment

Recent federal regulations for hazard mitigation plans outlined in 44 CFR Part 201.6 (c) (2) includes a requirement for hazard assessment. This risk assessment requirement is intended to provide information that will help communities to identify and prioritize mitigation activities that will reduce losses from the identified hazards. The federal criterion for hazard assessments and information on how the Milwaukie Natural Hazard Mitigation Plan meets those criteria is outlined in Table 3-2 below.

Table 3-2. Federal Criteria for Hazard Assessment

Section 322 Requirement	How is this addressed?
Identifying Hazards	Each hazard section includes a map illustrating the geographic extent of the hazards affecting Milwaukie using the best available data.
Profiling Hazard Events	The hazard sections of the Clackamas County Natural Hazard Mitigation Plan provide documentation for all of the large-scale hazard events affecting the region. Where data is available, City of Milwaukie has provided local impacts from historical hazard events.
Assessing Vulnerability: Identifying Assets	Table 3-3 documents the community assets that are vulnerable to natural hazards. A more detailed description of the vulnerability of these assets is located in the specific hazard sections.
Assessing Vulnerability: Estimating Potential Losses	Using the best available data, an estimate of potential losses from natural hazards is located in the hazard specific sections.
Assessing Vulnerability: Analyzing Development Trends	The Community Profile Section of this plan provides a description of the development trends in City of Milwaukie.

Hazard Assessment Mapping Methodology

The information used to identify the hazards was derived from digital databases on Milwaukie's Geographic Information System, (GIS). Milwaukie obtains its data from Clackamas County, Metro and produces some data in-house. Maps and data were produced on ArcGIS, ArcMap version 8.3 and plotted on an HP-755CM plotter.

To identify the exposure to each hazard, the hazard areas were intersected with the facilities layers. The facilities and infrastructure located within each specific hazard zone were then reported. For the evaluations of protected monetary

damage assessment the City did the same type of overlay with the city's tax lot data.

Community Assets: Vulnerability Assessment

This section outlines the resources, facilities and infrastructure that, if damaged, could significantly impact public safety, economic conditions, and environmental integrity of Milwaukie. The exposure of community assets to natural hazards is provided in Table 3-3 Milwaukie Vulnerability Assessment. The community assets were defined as follows:

Critical Facilities: Those facilities and infrastructure necessary for emergency response efforts (Map 2).

- **Fire Stations:**

- City*

- ✓ Public Safety Building (Clackamas County Fire District)

- County:*

- ✓ Lake Road Station
 - ✓ Oak Lodge Station

- **Law Enforcement:**

- ✓ Public Safety Building
 - ✓ County Sheriff
 - ✓ Oregon State Police

- **Hospitals:**

- ✓ Milwaukie Providence Hospital – 32nd Avenue
 - ✓ Kaiser Permanente Hospital – Sunnyside Road
 - ✓ Willamette Falls Hospital – Oregon City

- **Schools:**

- ✓ Milwaukie High School
 - ✓ Rowe Junior High
 - ✓ Ardenwald Elementary
 - ✓ Hector Campbell Elementary
 - ✓ Linwood Elementary
 - ✓ Milwaukie Elementary
 - ✓ Seth Llewelling Elementary
 - ✓ Portland Waldorf School
 - ✓ St. Johns School
 - ✓ School Transportation Center

Essential Facilities: Those facilities and infrastructure that supplement response efforts (Map 3).

- **City Buildings :**

- ✓ Milwaukie City Hall
 - ✓ Public Safety Building – 32nd & Harrison
 - ✓ Public Facilities Building – 6101 SE JCB
 - ✓ Milwaukie Center
 - ✓ Ledding Library
 - ✓ Old Fire Station – 40th & Harvey
 - ✓ Old Shop – 40th & Harvey

VI. A. 2/

- **County Buildings :**
 - ✓ Kellogg Treatment Plant
- **Potential Shelter Sites :**
 - ✓ Milwaukie Lutheran Church
 - ✓ St. Johns Catholic Church
 - ✓ St. Johns Episcopal Church
 - ✓ Milwaukie First Baptist Church
 - ✓ Romanian Baptist Church
 - ✓ Clackamas Christian Center
 - ✓ Milwaukie Center
 - ✓ School Gyms
 - ✓ Milwaukie Center
 - ✓ Ledding Library

Infrastructure: Infrastructure that provides services for Milwaukie (Map 4).

▪ **Bridges:**

City

- ✓ Milport Road across Johnson Creek
- ✓ 17th Avenue across Johnson Creek

County

- ✓ Oatfield Road across Kellogg Creek
- ✓ Rusk Road across Mount Scott Creek
- ✓ 55th Avenue across Johnson Creek
- ✓ Stanley Avenue across Johnson Creek
- ✓ 60th Avenue across Johnson Creek
- ✓ Linwood Avenue across Johnson Creek

Portland

- ✓ Ochoco Street across Johnson Creek
- ✓ Johnson Creek Blvd. across Johnson Creek

Oregon

- ✓ McLoughlin Blvd. across Johnson Creek N. of City
- ✓ McLoughlin Blvd. across Kellogg Creek
- ✓ McLoughlin off-ramp to Hwy. 224 across Johnson Creek
- ✓ Hwy. 224 across Johnson Creek, McLoughlin Blvd. & Main
- ✓ Hwy. 224 across railroad tracks and 26th Avenue
- ✓ Hwy. 224 across Mount Scott Creek

▪ **Transportation Networks:**

- ✓ McLoughlin Blvd.
- ✓ Highway 224
- ✓ Harrison St/42nd Ave./King Rd.
- ✓ Lake Road
- ✓ Oatfield Road
- ✓ Linwood Avenue
- ✓ 17th Avenue

▪ **Water Treatment Facilities**

- ✓ 7 City Wells
- ✓ Aeration Packed Towers – 5 @ two locations
- ✓ Elevated Water Storage Tank – 40th & Harvey
- ✓ Concrete Storage Tank – 40th & Harvey
- ✓ Ground Level Metal Tank – Stanley & Harlow
- ✓ Sewerage Pump Stations – 5

▪ **Other Utilities**

- ✓ NW Natural pipelines
- ✓ PGE Substations (One is at edge of Lake / Harmony; a second is on the East end of Johnson Creek)
- ✓ Quest facility in Oatfield
- ✓ Satellite & Communication Towers
















Table 3-3 identifies the number of facilities and infrastructure exposed to each of the natural hazards affecting the City of Milwaukie. The implications of exposure to the various hazards are outlined in each of the hazards sections. Additional tax lot information is also included in the hazard specific sections.

Table 3-3. Milwaukie Vulnerability Assessment

Hazard	Critical Facilities Exposed	Essential Facilities Exposed	Infrastructure Exposed
Flood	13	1	13
Landslide	1	0	0
Earthquake	21	1	19
Severe Storm: Wind and Winter	-	-	-
Wildfire	8	5	4
Volcano	NA	NA	NA

City of Milwaukie Critical Facilities Map #2

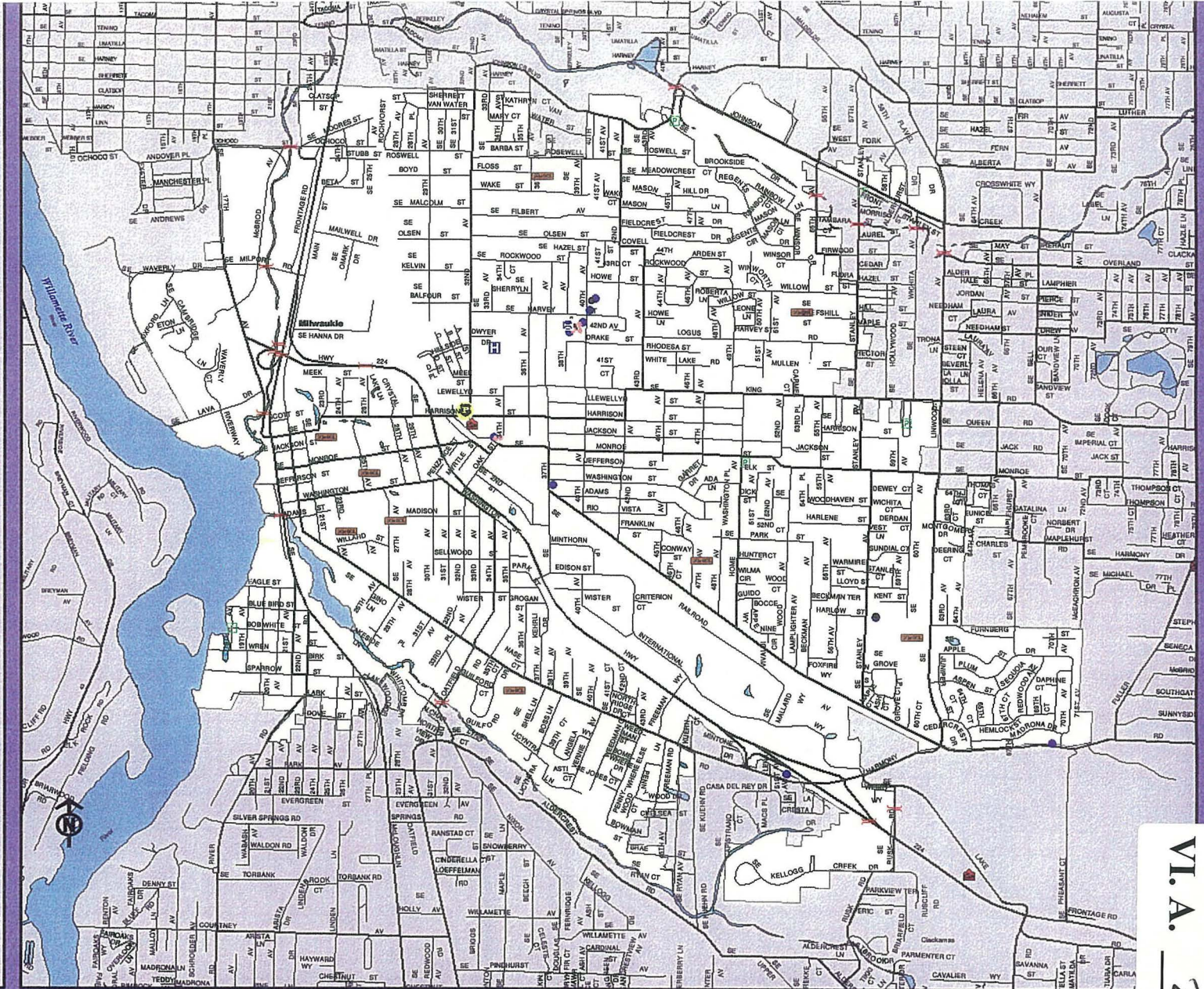
Legend

-  Bridges
-  Fire Stations
-  Police Station
-  Hospital
-  Schools
-  Well Systems
-  Aeration Tower
-  Concrete Water Tank
-  Elevated Water Tank
-  Kellogg Treatment Plant
-  Ground Metal Tank
-  Sewer Pumps
-  Old Shop\Fire Station
-  Waterways
-  Milwaukie City Limits

The information on this map was derived from digital databases on Milwaukie's GIS. Care was exercised in the creation of this Map. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors will be appreciated.








Craig Holman, GIS Coordinator
3200 SH Hawthorn Street
Milwaukie, OR 97222
503.785.7498 (holmanc@ci.milwaukie.or.us)

0 650 1,300 2,600 3,900 5,200 Feet

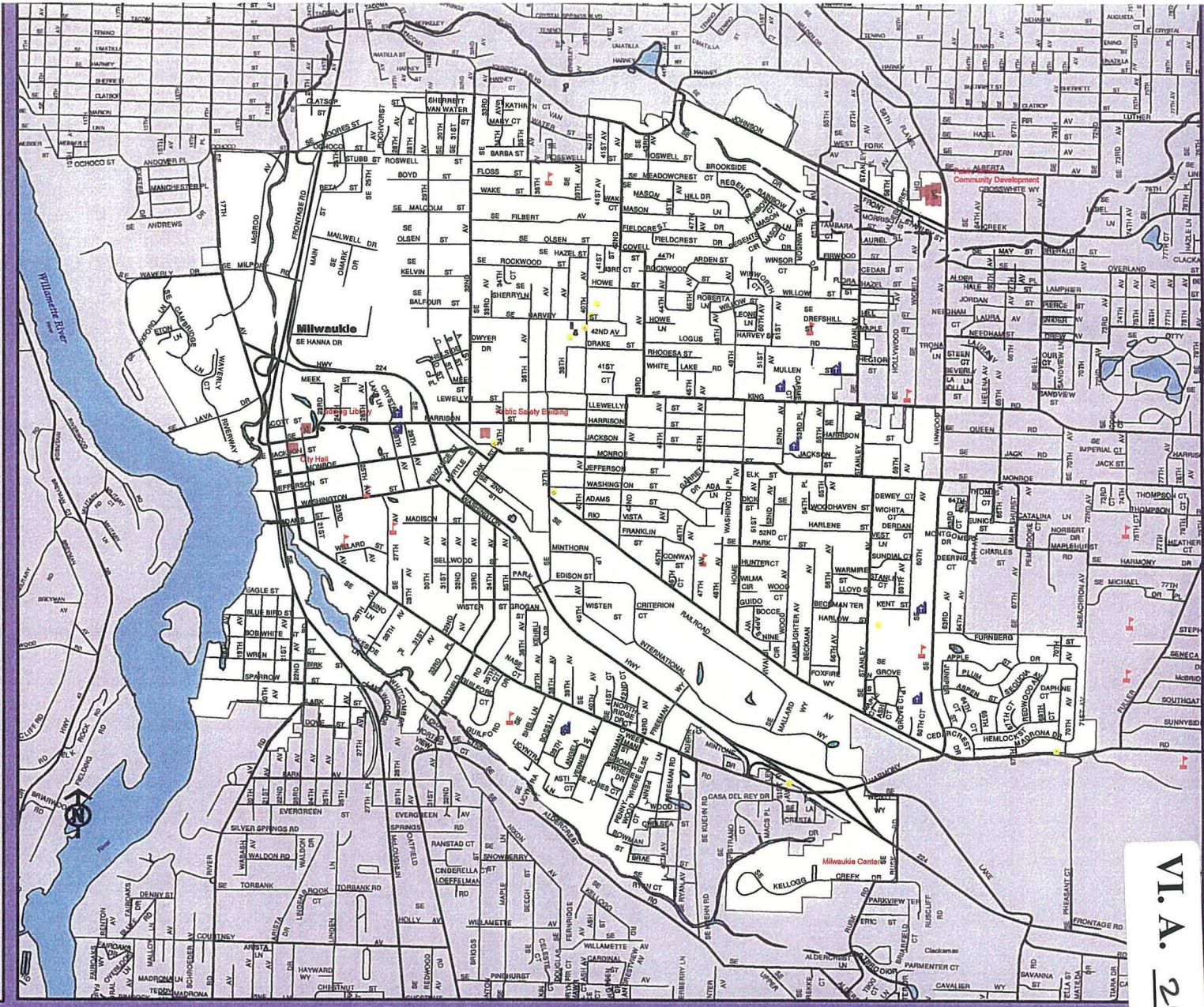
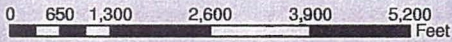


City of Milwaukie, Oregon Essential Facilities Map #3

Legend

-  Water Wells & Pumps
-  Potential Shelters, Schools/Gyms
-  Potential Church Shelters
-  Potential Shelters, City Buildings
-  Waterways
-  Milwaukie City Limits
-  Old Fire Station/Old Shop

The information on this map was derived from digital databases on Milwaukie's GIS. Care was exercised in the creation of this Map. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors will be appreciated.
 Craig Holman, GIS Coordinator
 3200 SB Harrison Street
 Milwaukie, OR 97122
 503.786.7498 (holmanc@ci.milwaukie.or.us)



V.I.A. 24

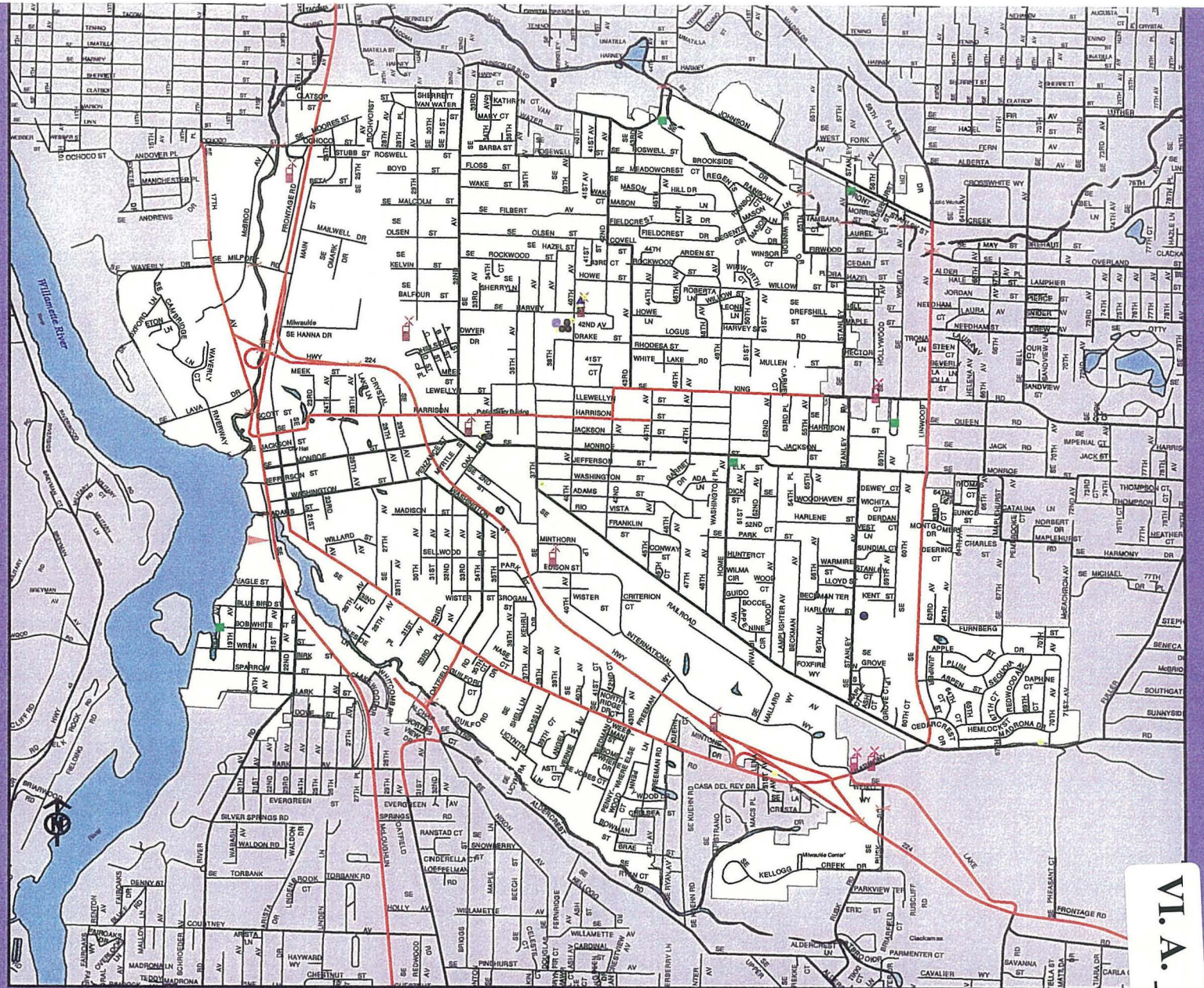
City of Milwaukie Critical Infrastructure Map #4

Legend

- Sewer Pumps
- Metal Water Tank
- ▶ Kellogg Sewer Treatment
- ▲ Elevated Water Tank
- Concrete Water Tank
- Aeration Towers
- City Wells
- ⚡ PGE Substations
- ✕ Cell Towers & Antenna
- Bridges
- Critical Transportation Networks
- Milwaukie City Limits
- Waterways

The information on this map was derived from digital databases on Milwaukie's GIS. Care was exercised in the creation of this Map. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors will be appreciated.
 Craig Holman, GIS Coordinator
 2300 SE Harrison Street
 Milwaukie, OR 97222
 503.785.7498 (holmanc@ci.milwaukie.or.us)

0 650 1,300 2,600 3,900 5,200 Feet



Section 4: Natural Hazards

Flooding

City of Milwaukie has several large rivers and smaller tributaries that are susceptible to annual flooding events. Flooding poses a threat to life and safety, and can cause severe damage to public and private property. The major rivers, creeks and tributaries include:

- Willamette River
- Johnson Creek
- Kellogg Creek
- Mount Scott Creek
- Minthorn Creek
- Spring Creek

Flooding Profile

The historical large-scale flooding events have been described in Section 6 of the county plan, and are applicable to City of Milwaukie. As such, the events will not be repeated here.

The probability of flooding events in Milwaukie was determined using scientific data, historical occurrences, and local knowledge. The probability of flooding in Milwaukie is described in Chapter Five.

Flooding Hazard Assessment

Hazard Identification

Hazard identification is the first step of flood hazard assessment. The geographic extent of the flooding hazard was determined using the designated FEMA NFIP 100-year floodplain data, as well as the inundation line for the 1996 flood. Maps 5-7 illustrate the flood hazard area for Milwaukie. Map 5 shows that there are 304 acres identified in the FEMA 100 year floodplain, which is .09% of the total 3087 acres in the City.

Vulnerability Assessment

Vulnerability assessment is the second step of flood hazard assessment. Table 4-1 below shows the number, acres, and value of tax lots in the floodplain, as well as the property affected during the 1996 flood. This information was calculated to provide an estimate for potential flood losses.

Critical features impacted in the floodplain are bridges. There is no fiscal impact data available for the bridges. Transportation network affect is 1.1 miles under the FEMA 100-year floodplain. Having all bridges affected during major flooding is significant to the traffic flow in and out of the City but does not completely cut off all avenues. McLaughlin Boulevard is a major transportation route between Portland and cities such as Milwaukie, Oak Grove and Oregon City. Flooding on McLaughlin Blvd would have a significant impact on residents and commuters in these cities going to and from Portland. The amount of property in the flood plain

VI. A. 27

is not a large area but damage to the property could be significant as it could affect residential, commercial property and public property. Flooding can affect building foundations, seep into basements, damage interiors and exteriors of buildings, as well as, contents inside the buildings dependent upon the velocity and depth of the water and items that might be floating in it. The overflowing of the City sewer system during flooding can cause further property damage.

Table 4-1. Property Assessment:

Flood Plain	Tax Lots	Acres	Value
FEMA100-year & 1996 Combined	165	200	\$ 2,088,874
FEMA 100 year	232	304	\$132,343,958
1996 Only	155	200	\$100,543,370

*Value of property in the 100-year floodplain may include property in tax lots that intersect the floodplain, including property that does not physically reside in the floodplain itself.

Risk Analysis

Due to insufficient data, Milwaukie is unable to perform a quantitative risk assessment at this time. The City has addressed this issue in the action items, and will be completing a risk assessment as data and resources become available.

Repetitive Flood Loss

City of Milwaukie works to mitigate problems regarding flood issues when they arise. Some areas in the city are more susceptible to flooding issues, and have incurred repetitive losses, meaning that they have had greater than two NFIP claims in the past ten years. According the most current data from Oregon Emergency Management, there are two repetitive loss properties in Milwaukie. The total NFIP payments are listed in Table 4-2.

Table 4-2. Milwaukie Repetitive Loss Claims

Number of Loss	Total Building Payments	Total Content Payments
1 st NFIP Claim	\$18,804	\$313,032
2 nd NFIP Claim	\$18,391	\$84,915
3 rd NFIP Claim	\$1,288	-

Source: Oregon Emergency Management

Existing Flood Mitigation Activities

Flood mitigation activities listed here include current mitigation programs and activities that are being implemented by City of Milwaukie agencies or organizations.

City of Milwaukie Codes Pertaining to Flooding

Milwaukie Municipal Code Title 18 Flood Hazard Regulation (Ord 1899, 2002)

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard;
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
- I. To maintain the functions and values of floodplains such as allowing for storage and conveyance of stream flows through existing and natural flood conveyance systems.

Milwaukie Comprehensive Plan, Chapter 3 Environmental and Natural Resources (Ord 1666)

GOAL STATEMENT: To prohibit development that would be subject to damage or loss of life from occurring in known areas of natural disasters and hazards without appropriate safeguards.

Milwaukie's future role will primarily be as a residential community with considerable employment opportunities. This future, however, is not incompatible with the conservation of the City's remaining natural resources of land, air, water, and the natural environment. The wise use and management of these resources is particularly important in Milwaukie because the City is almost completely developed and few areas remain in a natural state. The protection of these natural resources is essential if residents are to experience the pleasures and amenities, which can only be enjoyed when nature is close at hand. The Plan elements which address these issues include:

- Natural Hazards Element
- Historic Resources Element
- Open Spaces, Scenic Areas, and Natural Resources Element
- Agricultural and Forest Lands Element
- Air, Water and Land Resources Quality Element

Policies in each of these elements, as well as the technical studies and inventories documented in the Resources and Environment, Parks and Open Space, Land Use and Transportation working papers, and the Neighborhood Blockwalk, comply with Statewide Planning Goals 3, 4, 5, 6, and 7 (reference Oregon Administrative Rules 660, Division 15).

Flood Mitigation Projects

Projects completed by the Johnson Creek Watershed Council:

- Tree Plantings along the creek in various places including the most recent planting at ODS.
- Storm water detention near Milport.

Flood Mitigation Action Items

The flood mitigation action items provide direction on specific activities that organizations and residents in City of Milwaukie can undertake to reduce risk and prevent loss from flood events. Each action item is followed by ideas for implementation, which can be used by the steering committee and local decision makers in pursuing strategies for implementation.

LT-FL#1: Update Storm Water Management Plan, and identify appropriate mitigation strategies.

Ideas for Implementation:

- Identify and reduce development encroachment into storm water detention basins;
- Remove dry wells, prioritize replacements, and attain funding for upgrades.
- Identify areas that are frequently inundated due to low elevation and storm water run-off and develop mitigation strategies including public education materials.
- Refer to FEMA and the USACE for info to assist in mitigation efforts.

Coordinating Organization: Public Works
Timeline: 3-5 Years
Plan Goals Addressed: Protect Life and Property, Emergency Services, Natural Systems, Partnerships and Implementation

County Action Items Addressed LT-FL #3

LT-FL#2: Evaluate alternatives for reducing the flooding hazard for properties along Kellogg Creek, Johnson Creek, the Mount Scott Creek area, and the Willamette River.

Ideas for Implementation:




- Identify mitigation strategies for repetitively flooded properties, and discuss mitigation strategies with property owners for potential partnerships.
- Continue to develop and implement a plan for dealing with traffic on McLoughlin when it becomes inundated by the Willamette (detour routes)

Coordinating Organization: Public Works
Timeline: 3-5 years
Plan Goals Addressed: Protect Life and Property, Public Awareness, Emergency Services, Natural Systems, Partnerships and Implementation

County Action Items Addressed: LT-FL#2, LT-FL #3

City of Milwaukie, Oregon Flood Hazard Zones FEMA 100-Year Flood Zone Map #5

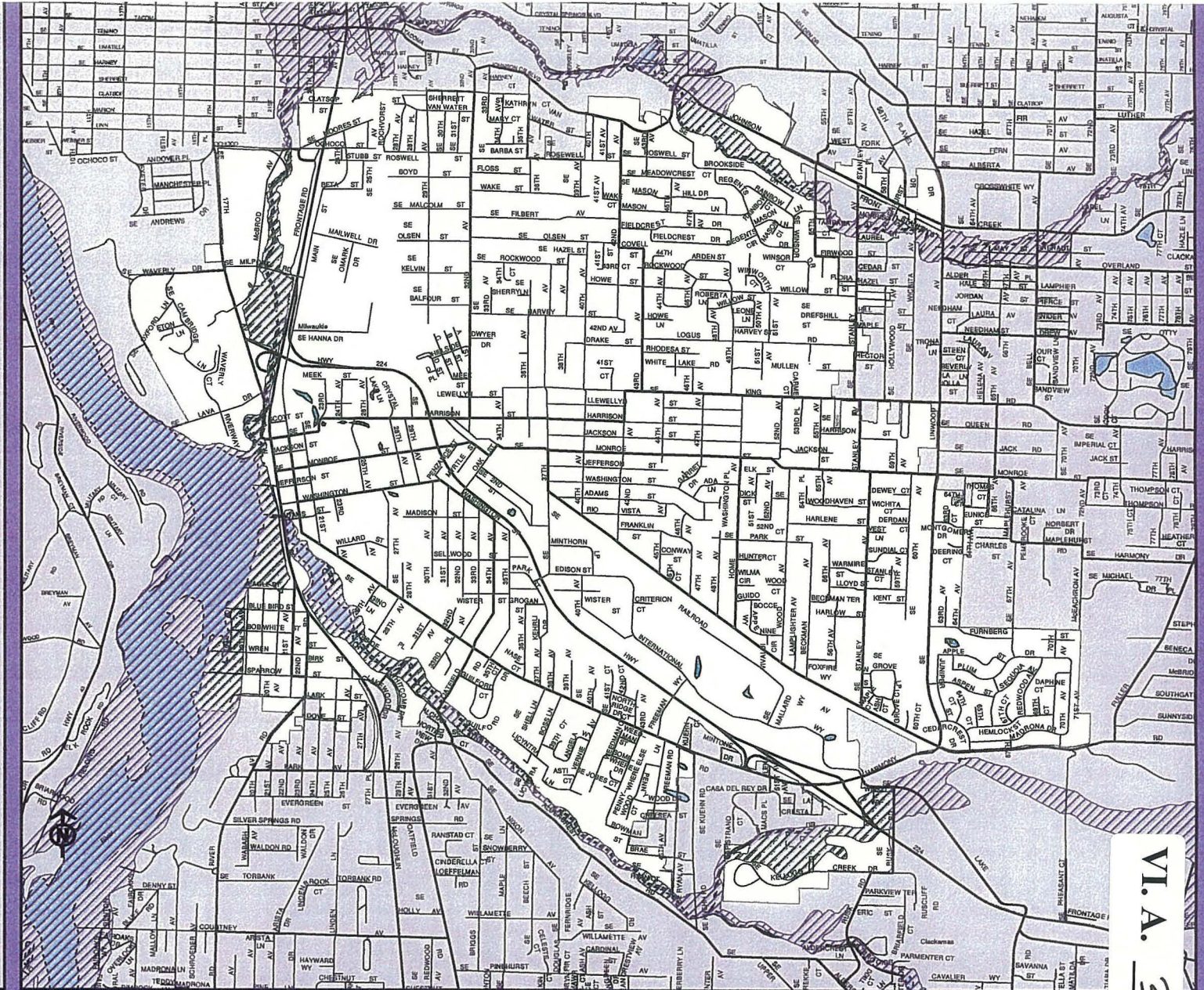
Legend

-  Milwaukie City Limits
-  Waterways
-  FEMA 100 Year Flood Zone

The information on this map was derived from digital databases on Milwaukie's GIS. Care was exercised in the creation of this Map. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors will be appreciated.





Craig Holman, GIS Coordinator
3200 SE Harrison Street
Milwaukie, OR 97222
503.785.7498 (holmanc@ci.milwaukie.or.us)

0 650 1,300 2,600 3,900 5,200 Feet



City of Milwaukie, Oregon Flood Hazard Zones FEMA & 1996 Overlay Map # 6

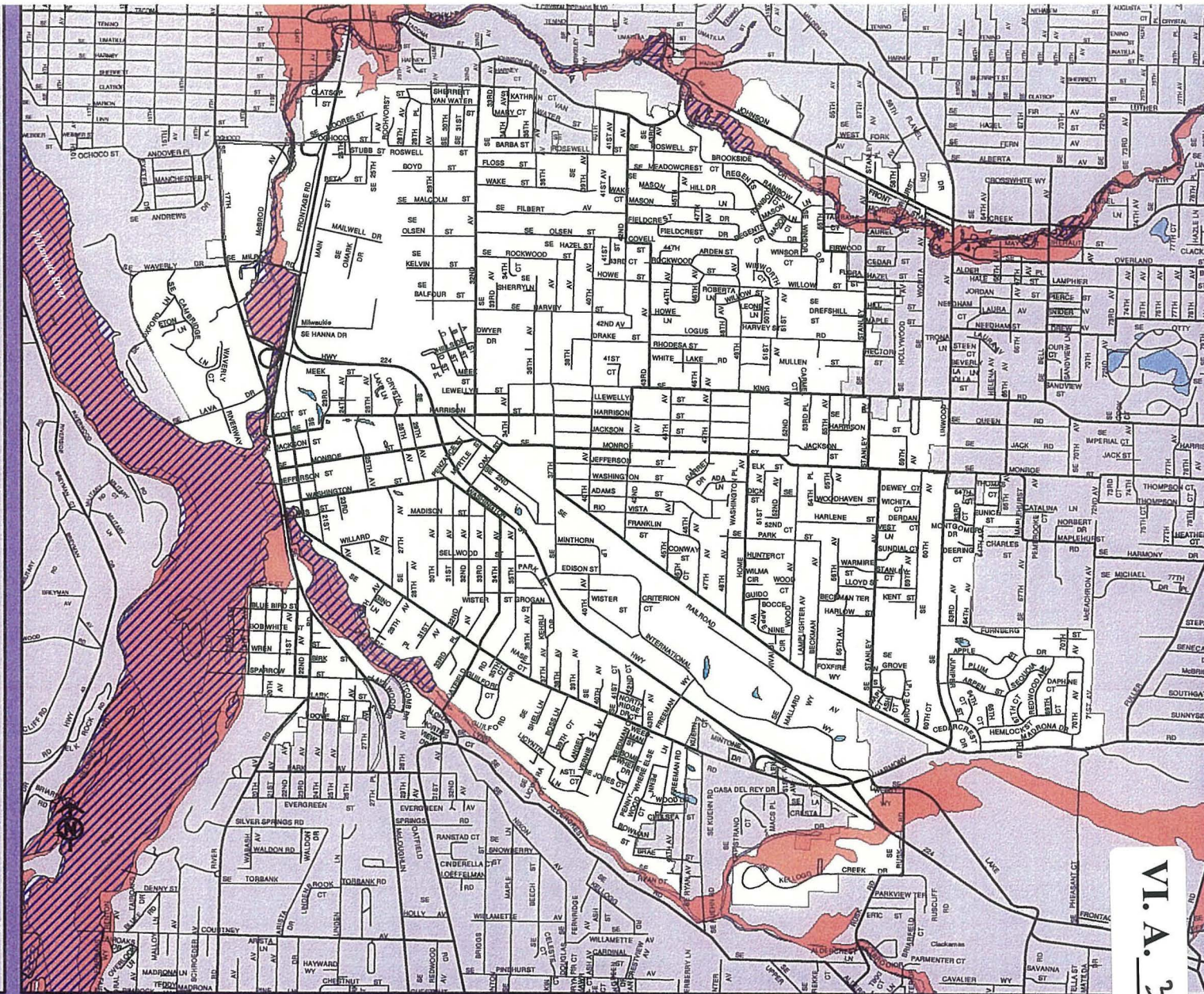
Legend

-  Milwaukie City Limits
-  Waterways
-  1996 Flood Zone
-  FEMA 100-Year Flood

The information on this map was derived from digital databases on Milwaukie's GIS. Care was exercised in the creation of this Map. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors will be appreciated.




Craig Holman, GIS Coordinator
3200 SE Harrison Street
Milwaukie, OR 97222
503.786.7498 (holman@ci.milwaukie.or.us)

0 650 1,300 2,600 3,900 5,200 Feet



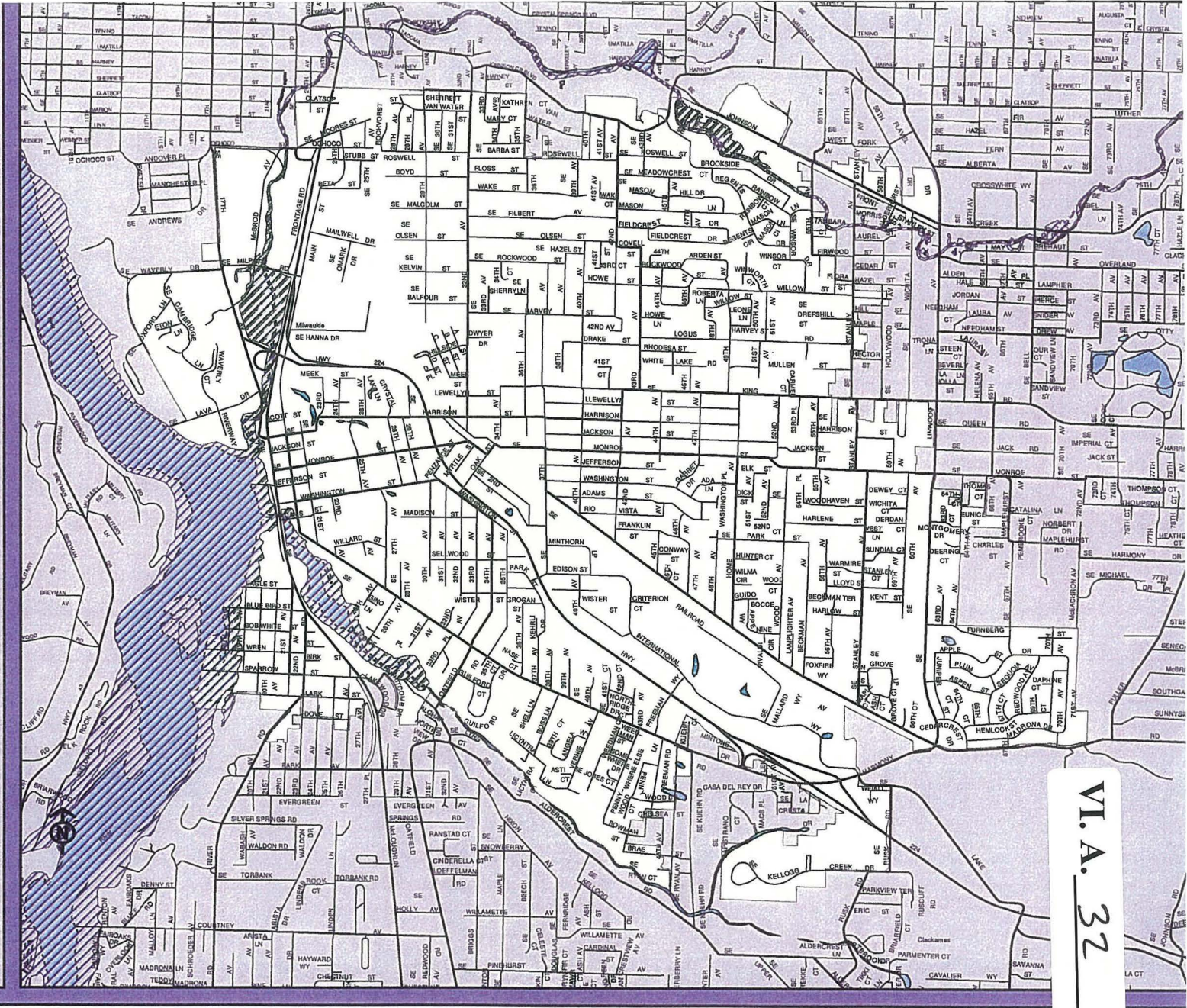
City of Milwaukie, Oregon Flood Hazard Zones 1996 Flood Boundary Map #7

Legend

-  Milwaukie City Limits
-  Waterways
-  1996 Flood Boundary

The information on this map was derived from digital databases on Milwaukie's GIS. Care was exercised in the creation of this Map. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors will be appreciated.
 Craig Holman, GIS Coordinator
 3200 SE Harrison Street
 Milwaukie, OR 97222
 503.786.7498 (holmanc@ci.milwaukie.or.us)

0 650 1,300 2,600 3,900 5,200 Feet



V.I.A. 32

Landslide

Landslide Profile

The historical landslide events have been described in Section 7 of the County Plan, and are applicable to City of Milwaukie. As such, the events will not be repeated here.

The probability of landslide events in Milwaukie was determined using scientific data, historical occurrences, and local knowledge. The probability of flooding in Milwaukie is described in Chapter Five.

Landslide Hazard Assessment

Hazard Identification

An essential step towards mitigation of landslide hazards is to identify the hazardous locations. Landslide events within the City have not significantly impacted residents or caused major property damage. Mapping landslide and debris flow allows the City to estimate damage do to a given event location and to help prevent future losses in landslide prone areas. The geographic extent of the landslide hazard was illustrated using percent slope, soil type, and bedrock type. The landslide hazard is depicted on Map 7, and shows that landslides would affect less than 1% of the City's land area.

Vulnerability Assessment

Landslide loss estimates are shown in Table 4-2 using a 20% or greater threshold to identify potential unstable slopes. The landslide hazard affects .06 miles of critical streets. Landslide events within the City have not significantly impacted residents or caused major property damage in the past but potentially landslides could inhibit traffic flow, cause damage to roads, as well as damage buildings. Erosion to hillside areas can take place during heavy rain.

Table 4-2. Landslide Loss Estimates in Milwaukie

	Lots	Acres	Value
Critical features effected by landslides	1	6.6	\$2,088,874
Property by tax lot:	22	25.5	\$13,826,352

Source: City of Milwaukie Geographic Information System

Risk Analysis

Due to insufficient data, Milwaukie is unable to perform a quantitative risk assessment at this time. The City has addressed this issue in the action items, and will be completing a risk assessment as data and resources become available.

Existing Landslide Mitigation Activities

Landslide mitigation activities listed here include current mitigation programs and activities that are being implemented by the City of Milwaukie agencies or organizations.

City of Milwaukie Codes Pertaining to Landslides

Milwaukie Comprehensive Plan, Chapter 3 Environmental and Natural Resources (Ord 1666)

GOAL STATEMENT: To prohibit development that would be subject to damage or loss of life from occurring in known areas of natural disasters and hazards without appropriate safeguards.

Milwaukie's future role will primarily be as a residential community with considerable employment opportunities. This future, however, is not incompatible with the conservation of the City's remaining natural resources of land, air, water, and the natural environment. The wise use and management of these resources is particularly important in Milwaukie because the City is almost completely developed and few areas remain in a natural state. The protection of these natural resources is essential if residents are to experience the pleasures and amenities which can only be enjoyed when nature is close at hand. The Plan elements which address these issues include:

- Natural Hazards Element
- Historic Resources Element
- Open Spaces, Scenic Areas, and Natural Resources Element
- Agricultural and Forest Lands Element
- Air, Water and Land Resources Quality Element

Policies in each of these elements, as well as the technical studies and inventories documented in the Resources and Environment, Parks and Open Space, Land Use and Transportation working papers, and the Neighborhood Blockwalk, comply with Statewide Planning Goals 3, 4, 5, 6, and 7 (reference Oregon Administrative Rules 660, Division 15).

Municipal Code Chapter 17.40 Section 17.40.010 Environmental Standards (Ord 1440)

Developments approved through this title must conform to the requirements of the environmental protection subpart of the community development ordinance (Title 16 of this code). Particular note should be made regarding requirements relating to excavation in landslide-prone areas.

Municipal Code Chapter 16.28 Erosion Control (Ord 1899)

Temporary and permanent measures for all construction projects shall be required to lessen the adverse effects of erosion and sedimentation. The owner or his/her agent, contractor, or employee, shall properly install, operate and maintain both temporary and permanent works as provided in this section or in an approved plan, to protect the environment during the useful life of the project. These erosion control rules apply to all lands within the City of Milwaukie.

Landslide Mitigation Action Items

The landslide mitigation action items provide direction on specific activities that organizations and residents in City of Milwaukie can undertake to reduce risk and prevent loss from landslide events. Each action item is followed by ideas for implementation, which can be used by the steering committee and local decision makers in pursuing strategies for implementation.

ST-LS #1: Reduce the vulnerability of property owners in landslide-prone areas.

Ideas for Implementation:

- Conduct a study to identify appropriate mitigation strategies in the area above Tideman Johnson Park, Waverly Heights, Island Station, and Tarrybrooks Hill.
- Develop public information to emphasize economic risk when building on potential or historical landslide areas.

Coordinating Organization: Department of Community Development

Timeline: Ongoing




Plan Goals Addressed: Protect Life and Property, Public Awareness, Natural Systems, Partnerships and Implementation

County Action Items

Addressed: ST-LS#1

City of Milwaukie, Oregon Potential Landslide Hazard Zones Map #8

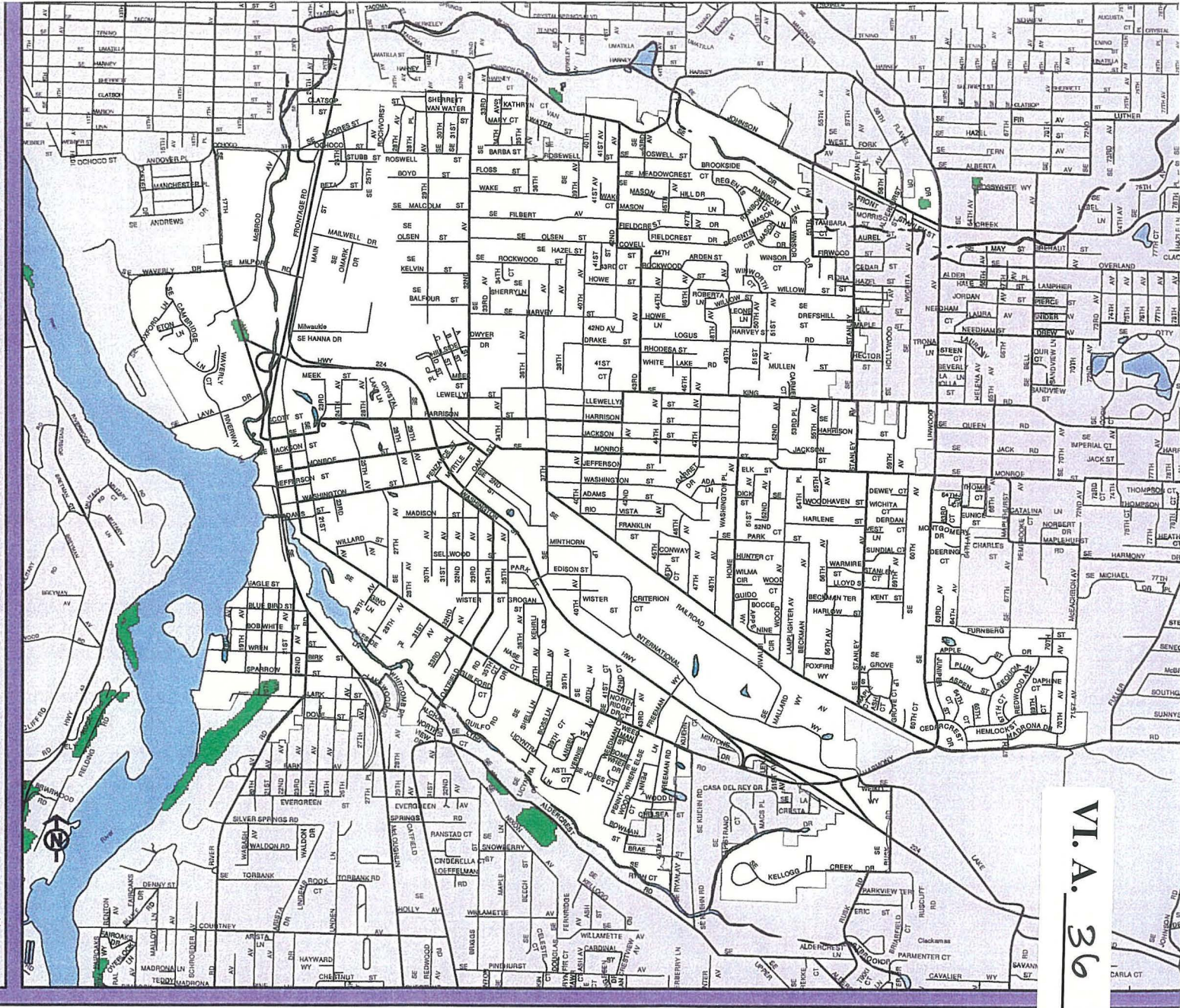
Legend

-  Milwaukie City Limits
-  Waterways
-  Landslide Hazard Zones

The information on this map was derived from digital databases on Milwaukie's GIS. Care was exercised in the creation of this Map. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors will be appreciated.

Craig Holman, GIS Coordinator
3200 SE Hazden Street
Milwaukie, OR 97222
503.786.7498 (holmanc@ci.milwaukie.or.us)

0 650 1,300 2,600 3,900 5,200 Feet



V.I.A. 36

Wildfire Profile

Statistics provided by Clackamas County Fire District #1 show the City of Milwaukie had 28 brush and grass fires from 2001 until present. Earlier wildfire history specific to Milwaukie was not available. The large-scale wildfires affecting the region are described in the Clackamas County Natural Hazards Mitigation Plan.

The probability of wildfire events in Milwaukie was determined using scientific data, historical occurrences, and local knowledge. The probability of flooding in Milwaukie is described in Chapter Five.

Wildfire Hazard Assessment

Hazard Identification

Wildfire hazard identification data is based upon fuels, weather, and topography, and was generated from Clackamas County GIS. The wildfire hazard in Milwaukie is shown on Map 10, and identified less than 1% of all land being vulnerable to this hazard.

Vulnerability Assessment

About 2 miles of critical streets are exposed to the wildfire interface zone. Past history on wildfires that interface with urban areas throughout the county and community indicate property can be damaged or destroyed with one fire as structures, vegetation and other flammables easily merge to become unpredictable and hard to manage. Other items that might affect the outcome of a wildfire are access to the location and to water, response time from the fire station, as well as the availability of personnel and equipment. Weather, such as hot dry winds and draught, can also play a part in a wildfire

Table 4-3. Wildfire Loss Estimates in Milwaukie

	Lot	Acres	Value
Critical Features –	1	2.5	\$5,903,706
	Bridge at 224 & 26 th		No data available
Property By Tax Lot	839	619	\$323,028,550

Source: City of Milwaukie Geographic Information System

Risk Analysis

Due to insufficient data, Milwaukie is unable to perform a quantitative risk assessment at this time. The City has addressed this issue in the action items, and will be completing a risk assessment as data and resources become available.

Existing Wildfire Mitigation Activities

The City of Milwaukie works with Clackamas County Fire District 1 to mitigate problems regarding wildfire issues when they arise. Currently the City does not allow back yard burning due to requirements of DEQ (back yard burning is a key contributor to fires in the interface. Also, that the County Fire Defense Board provides daily burn messages and restrictions for the community to prevent

VI. A. 30 interface fires. This information is provided from both, the State Department of Forestry and the US Forest Service for all regions of the state.

City of Milwaukie Codes Pertaining to Wildfires

Municipal Code Chapter 8.04 Nuisances Section 8.04.110 Weeds and Noxious Growth.

This code mentions controlling vegetation before becoming a fire hazard.

Local Fire Prevention/Education Programs

The City of Milwaukie contracts with the Clackamas County Fire District for all fire prevention and education. They provide the community with the following.

- Counseling juvenile fire-setters
- Teaching fire prevention in schools
- Conducting CPR classes
- Teaching proper use of fire extinguishers
- Coordinating educational programs with other agencies, hospitals, and schools
- Answering citizens' questions

Wildfire Mitigation Action Items

The wildfire mitigation action items provide direction on specific activities that organizations and residents in City of Milwaukie can undertake to reduce risk and prevent loss from wildfire events. Each action item is followed by ideas for implementation, which can be used by the steering committee and local decision makers in pursuing strategies for implementation.

ST-WF#1: Inventory and map alternative firefighting water sources and encourage the development of additional sources.

Ideas for Implementation:

- Identify alternative water sources such as ponds and reservoirs, and partner with owners to access this resource during emergencies.

Coordinating Organization: Clackamas Fire District One

Timeline: 1-2 Years





Plan Goals Addressed: Protect Life and Property, Emergency Services, Natural Systems, Partnerships and Implementation

County Action Items

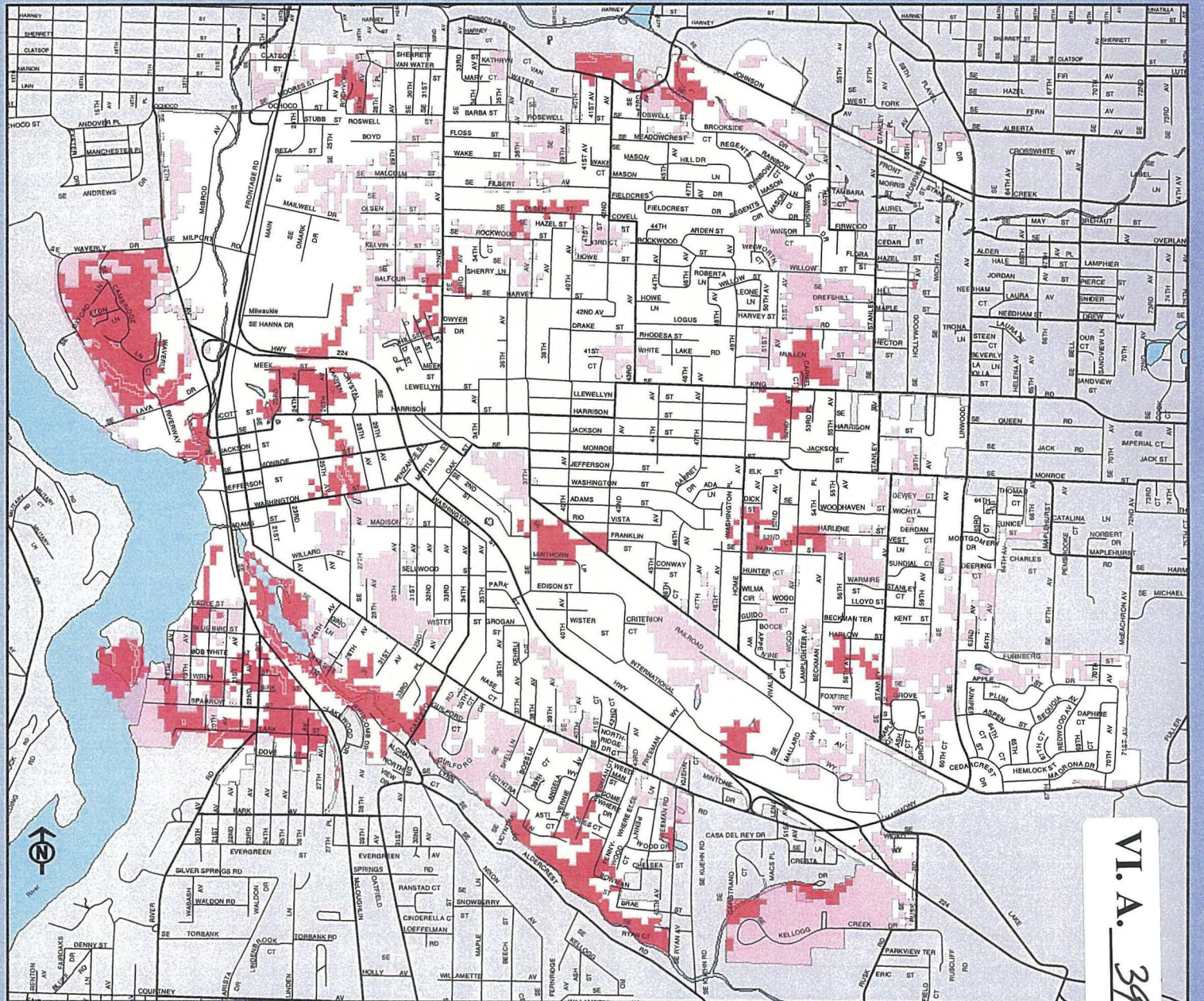
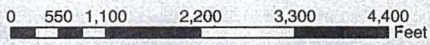
Addressed: ST-WF#3

City of Milwaukie, Oregon Wildfire Hazards Map #10

Legend

-  Milwaukie City Limits
-  Waterways
-  Moderate Fire Risk
-  High Fire Risk

The information on this map was derived from digital databases on Milwaukie's GIS. Care was exercised in the creation of this Map. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors will be appreciated.
 Craig Holman, GIS Coordinator
 3200 SE Harrison Street
 Milwaukie, OR 97222
 503.786.7498 (holmanc@ci.milwaukie.or.us)



Severe Storm Profile

The historical severe wind and winter storm events have been described in the county plan, and are applicable to City of Milwaukie. As such, the events will not be repeated here.

The probability of wildfire events in Milwaukie was determined using scientific data, historical occurrences, and local knowledge. The probability of wildfire in Milwaukie is described in Chapter Five.

Severe Storm Hazard Assessment:

Hazard Identification

The severe weather hazard is difficult to illustrate cartographically. However, the City of Milwaukie has developed a map denoting regular sanding routes, which represents those areas that require resources to reduce the effect of the severe storm hazard. However, the sanding routes map (Map 8) do not accurately portray the geographic extent of the severer storm in Milwaukie, as the entire City would be affected by large-scale storms event.

Vulnerability Assessment

The City of Milwaukie has identified 10.2 miles of streets and roadways that would be sanded during severe weather. The City has not done a study on actual number of individuals or property that can be affected during a severe winter storm. Severe storms can bring power outages and cause transportation and economic disruptions. Specific problems for residences in the City are the number of electrical wires; trees and tree limbs that come down during severe storms that cause both major and minor property damage as well as are a threat to life. Downed wires and trees can make accessibility to residences by Police and Fire difficult.

Risk Analysis

Due to insufficient data, Milwaukie is unable to perform a quantitative risk assessment at this time. The City has addressed this issue in the action items, and will be completing a risk assessment as data and resources become available.

Existing Severe Storm Mitigation Activities

The City has designated sanding routes. All new subdivision development is required to place telephone, cable and power lines underground. New single lot development is required to have service lines from the street to the home underground.

Severe Storm Mitigation Action Items

The severe winter storm mitigation action items provide direction on specific activities that organizations and residents in Milwaukie undertake to reduce risk and prevent loss from severe storm events. Each action item is followed by ideas for implementation, which can be used by the steering committee and local decision makers in pursuing strategies for implementation.

VI. A. 41

LT-SS #1: Attain funding to bury power lines subject to frequent failures to reduce power outages from the windstorm and severe winter storm hazard where possible.

Ideas for Implementation:

- Partner with PGE to continue hazardous tree inventory and mitigation programs; and
- Ensure that there are back up underground lines to major businesses & employers.

Coordinating Organization: Public Works

Timeline: 3-5 Years




Plan Goals Addressed: Protect Life and Property, Emergency Services, Natural Systems, Partnerships and Implementation

County Action Items

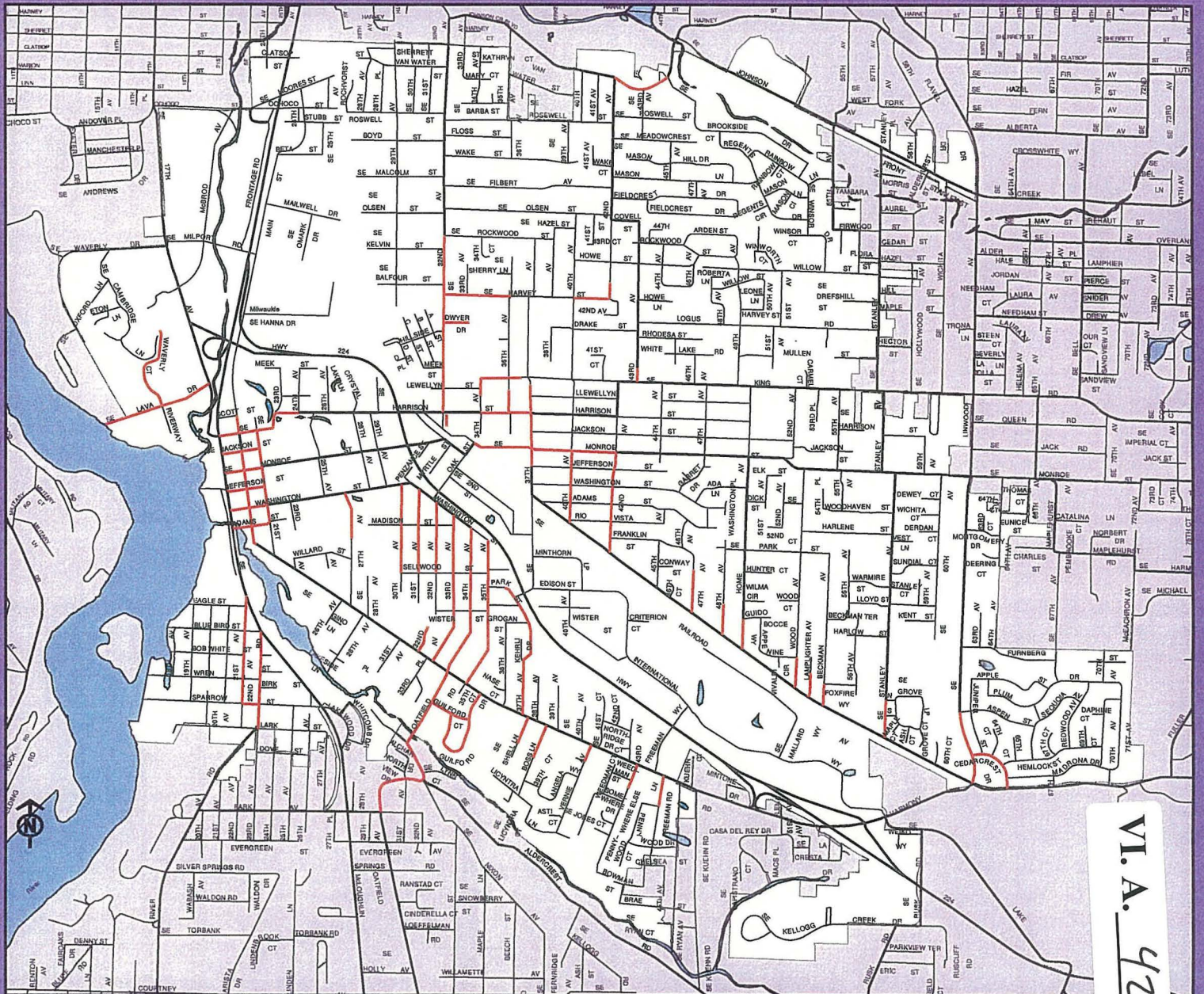
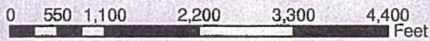
Addressed: ST-MH#5; ST-WS#1, LT-WS#2

City of Milwaukie, Oregon Severe Storm Sanding Routes Map #9

Legend

-  Milwaukie City Limits
-  Waterways
-  Sanding Routes

The information on this map was derived from digital databases on Milwaukie's GIS. Care was exercised in the creation of this Map. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors will be appreciated.
 Craig Holman, GIS Coordinator
 3200 SE Harrison Street
 Milwaukie, OR 97222
 503.786.7496 (holmanc@ci.milwaukie.or.us)



V.A. 42

Earthquake

Earthquake Profile

The historical earthquake events have been described in the county plan, and are applicable to City of Milwaukie. As such, the events will not be repeated here.

The probability of earthquake events in Milwaukie was determined using scientific data, historical occurrences, and local knowledge. The probability of earthquake in Milwaukie is described in Chapter Five.

Earthquake Hazard Assessment

Hazard Identification

The geographic extent of the earthquake hazard in Milwaukie was illustrated using data derived from DOGAMI, and shows the relative earthquake hazard. The relative hazards were determined by slope, soils, and bedrock characteristics. The original dataset shows the hazards in four relative hazard zones, and the City broke earthquake hazard information into two categories, moderate and severe. The data is reflected on Map 11.

Vulnerability Assessment

The City identifies critical features affected in Table 4-4. There is 1% of the critical features effected under the severe category that includes 5 bridges, 1 city building and one fire station. The moderate category includes 1 bridge, 1 city building, 1 school and totals less than 1% of the City's area. Total area affected by tax lot is 29% under the moderate risk category and 12% under the high-risk category as indicated in Table 4-5. Critical streets affected totals 12.4 miles.

The area vulnerable from earthquake is larger than from any other hazard identified and potentially would produce more damage to property and life although degree of damage is clearly related to degree an earthquake is felt. Older buildings and the sewer system in the City are most vulnerable. Earthquakes shift soil that could cause landslides. Transportation routes and economics within the City can also be affected. Demand on resources such as Police, Fire and Public Works would also be impacted.

Table 4-4. Critical Features Affected

Category	Lot	Acres	Value
Moderate	2	18.78	\$7,622,970
Severe	2	31.78	\$3,356,168

Table 4-5. Tax Lots Affected

Category	Lot	Acres	Value
Moderate	1959	904	\$551,246,971
Severe	338	371	\$207,371,391

Risk Analysis

The County Plan provides a quantitative analysis of nine potential earthquake scenarios for the county. This analysis includes an estimation of fatalities, direct damage losses number of buildings in complete damage state, and number of people requiring shelter. Milwaukie does not have the resources to conduct a local risk assessment for the earthquake analysis, so the data reported in the county plan is the best quantitative assessment for the earthquake hazard in Milwaukie.

Existing Earthquake Mitigation Activities

City of Milwaukie Codes

Milwaukie Comprehensive Plan, Chapter 3 Environmental and Natural Resources (Ord 1666)

GOAL STATEMENT: To prohibit development that would be subject to damage or loss of life from occurring in known areas of natural disasters and hazards without appropriate safeguards.

Milwaukie's future role will primarily be as a residential community with considerable employment opportunities. This future, however, is not incompatible with the conservation of the City's remaining natural resources of land, air, water, and the natural environment. The wise use and management of these resources is particularly important in Milwaukie because the City is almost completely developed and few areas remain in a natural state. The protection of these natural resources is essential if residents are to experience the pleasures and amenities, which can only be enjoyed when nature is close at hand. The Plan elements which address these issues include:

- Natural Hazards Element
- Historic Resources Element
- Open Spaces, Scenic Areas, and Natural Resources Element
- Agricultural and Forest Lands Element
- Air, Water and Land Resources Quality Element

Policies in each of these elements, as well as the technical studies and inventories documented in the Resources and Environment, Parks and Open Space, Land Use and Transportation working papers, and the Neighborhood Blockwalk, comply with Statewide Planning Goals 3, 4, 5, 6, and 7 (reference Oregon Administrative Rules 660, Division 15).

Municipal Code Chapter 16.12 Seismic Conditions (Ord 1439)

Section 16.12.020 Building requirements.

Construction of new commercial, industrial and multifamily structures shall conform to the requirements of the Oregon Structural Specialty Code requirements for Seismic Zone 3.

Construction of single-family residences and duplexes shall conform to the requirements of the Oregon One And Two Family Dwelling Specialty Code for Seismic Category D1

The public works director through the building inspector shall ensure compliance with the requirements of this chapter. Plans submitted with applications for building permits shall be reviewed for compliance with the requirements of this chapter.

Earthquake Mitigation Action Items

The earthquake mitigation action items provide direction on specific activities that organizations and residents in the City of Milwaukie can undertake to reduce risk and prevent loss from earthquake events. Each action item is followed by ideas for implementation, which can be used by the steering committee and local decision makers in pursuing strategies for implementation.

LT-EQ#1: Conduct seismic evaluations on identified critical/essential facilities & infrastructure for implementing appropriate structural and non-structural mitigation strategies.

Ideas for Implementation:

- Attain funding to perform evaluations;
- Prioritize seismic upgrades based on criticality of need and population served.

Coordinating Organization: Facilities

Timeline: 3-5 Years

Plan Goals Addressed: Protect Life and Property, Emergency Services, Partnerships and Implementation

County Action Items

Addressed: LT-EQ#3 & LT-EQ#4

City of Milwaukie, Oregon Earthquake Hazards Map #11

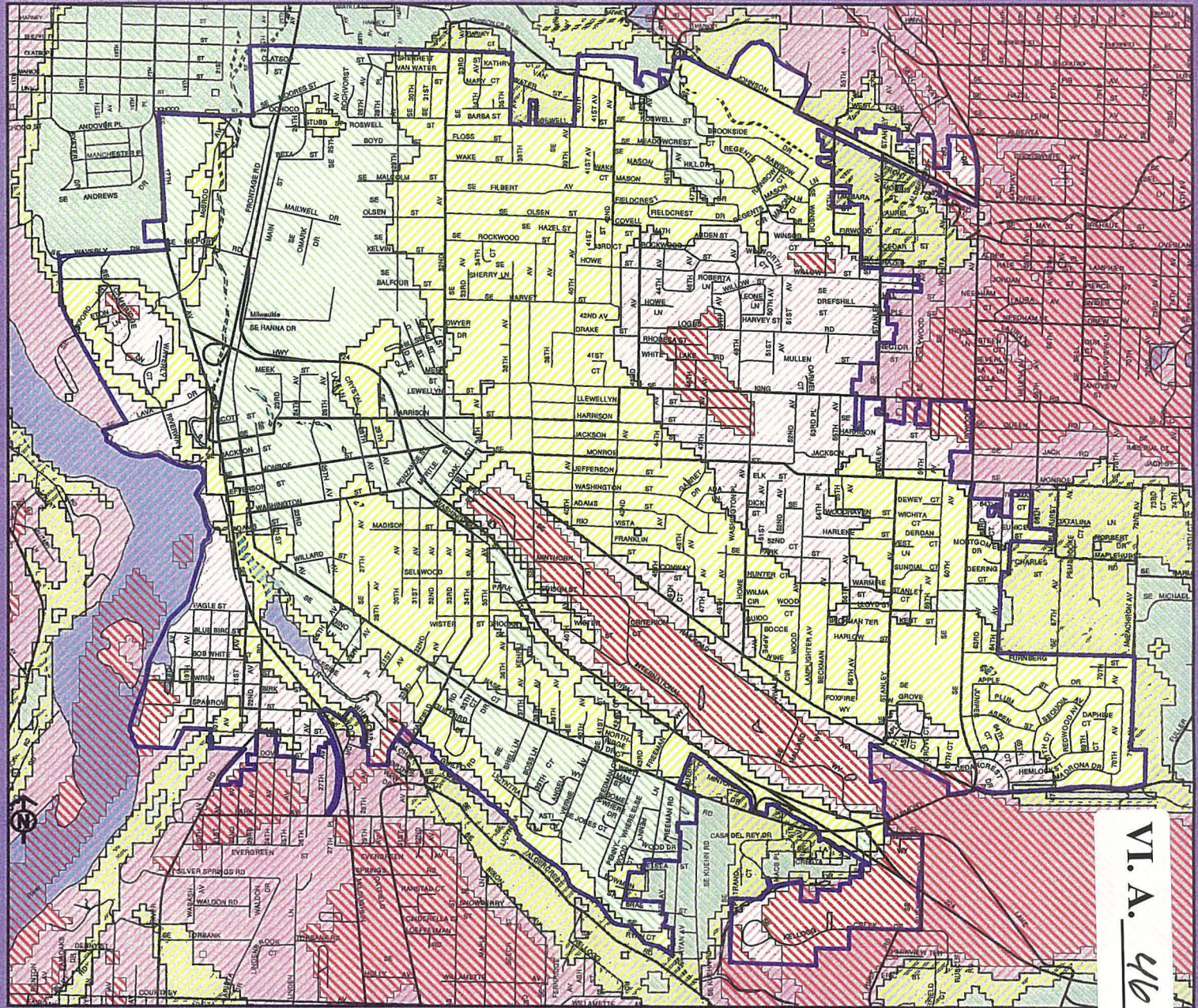
Legend

-  High Quake Hazard
-  Moderate Quake Hazard
-  Medium Quake Hazard
-  Low Earthquake Hazard
-  Waterways
-  Milwaukie City Limits

The information on this map was derived from digital databases on Milwaukie's GIS. Care was exercised in the creation of this Map. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors will be appreciated.

Craig Holman, GIS Coordinator
7300 SE Harrison Street
Milwaukie, OR 97222
503.786.7498 (holman@cimilwaukie.or.us)

0 600 1,200 2,400 3,600 4,800 Feet



V.I.A. 46

Volcanic Eruption

Volcanic Eruption Profile

The historical volcanic eruption events have been described in the county plan, and are applicable to Milwaukie. As such, the events will not be repeated here.

The probability of volcanic eruptions in Milwaukie was determined using scientific data, historical occurrences, and local knowledge. The probability of volcanic eruptions in Milwaukie is described in Chapter Five.

Volcanic Eruption Hazard Assessment

The hazard assessment in the Clackamas County Natural Hazards Mitigation Plan best describes the volcano hazards for the Milwaukie area. As such, the information will not be repeated here.

Existing Volcanic Eruption Mitigation Activities

The existing volcanic hazard mitigation activities are conducted at the County, regional, state, and federal levels and are described in the Clackamas County Natural Hazards Mitigation Plan. As such, the information will not be repeated here.

Volcanic Eruption Mitigation Action Items

Milwaukie will not be undertaking any local volcanic eruption mitigation activities, but will partner with the county in the implementation of identified mitigation strategies.

Multi-Hazard

Multi-Hazard Action Items (MH)

Multi-hazard action items are those activities that pertain to more than one of the six hazards in the mitigation plan: flood, landslide, wildfire, severe storm: wind and winter, earthquake, and volcanic eruption.

ST-MH#1: Improve and attain resources and equipment essential for responding to and recovering from disasters.

Ideas for Implementation:

- Contact local facilities that have large trucks that could serve as water tenders in emergency situations, or purchase water tenders for the city;
- Partner with national guard, local businesses, contractors and developers;
- Attain funding to purchase one fixed generator for the Lava Drive pump station;
- Attain funding to purchase one 250 Kw portable generator and transfer system for city hall and shelter sites; and
- Attain funding to purchase one storage trailer for emergency supplies.

Coordinating Organization: Public Works
Timeline: 1-2 Years
Plan Goals Addressed: Protect Life and Property, Emergency Services, Natural Systems, Partnerships and Implementation
County Action Items Addressed: ST-MH #2; ST-MH #5

ST-MH#2: Ensure that there are adequate shelter facilities in hazard-free zones to serve Milwaukie residents.

Ideas for Implementation:

- Identify and contact potential shelter sites to see if there is an interest in becoming a designated Red Cross shelter site.
- Contact Red Cross Shelter Sites to renew and maintain agreements.

Coordinating Organization: Hazard Mitigation Advisory Committee
Timeline: Ongoing
Plan Goals Addressed: Protect Life and Property, Public Awareness, Emergency Services, Partnerships and Implementation
County Action Items Addressed: ST-MH #5

ST- MH#3: Improve the hazard assessment in the Milwaukie Natural Hazards Mitigation Plan.

Ideas for Implementation:

- Attain funding to gather more localized hazard data to illustrate the geographic extent of natural hazards in Milwaukie;
- Update vulnerability assessment as new development occurs; and

- Contract with the County or other service provider to conduct a risk analysis for Milwaukie.

Coordinating Organization: City Geographic Information Systems
Timeline: Ongoing
Plan Goals Addressed: Protect Life and Property, Public Awareness, Emergency Services, Natural Systems, Partnerships and Implementation
County Action Items Addressed: ST-MH #2; LT-WF #1

ST-MH#4: Improve network of communications during a disaster.

Ideas for Implementation:

- Recruit and provide training for Amateur Radio Operators;
- Address 800 MHz communication deficiencies;
- Improve communication between school officials and parents by updating school emergency contact information for parents/children every 3 months;
- Supply schools with communication equipment necessary for emergency situations;
- Post bulletins on the internet for school emergency info, community bulletin board on cable, etc.; and
- Utilize county network for the Education Service District

Coordinating Organization: Hazard Mitigation Advisory Committee
Timeline: Ongoing
Plan Goals Addressed: Protect Life and Property, Public Awareness, Emergency Services, Partnerships and Implementation
County Action Items Addressed: LT-MH#1

ST-MH#5: Develop, enhance, and implement education programs designed to reduce the losses from natural hazards.

Ideas for Implementation:

- Gather hazard related information and public information materials, and disseminate to public through local publications;
- Identify property owners in the hazard zones, and conduct a target mailing to disseminate hazard information;
- Conduct public education as hazard seasons approach;
- Target neighborhood associations for public education and outreach;
- Add emergency preparedness and response curriculum to school programs; and
- Develop public education flyers as billing inserts.

Coordinating Organization: Hazard Mitigation Advisory Committee
Timeline: Ongoing
Plan Goals Addressed: Protect Life and Property, Public Awareness, Emergency Services, Natural Systems, Partnerships and Implementation
County Action Items

ST-MH#6: Promote CERT program activity in the area and recruit new members for training.

Ideas for Implementation

- Provide information about the CERT program to Milwaukie residents through local publications, neighborhood organizations, churches, etc.;
- Identify needs of local CERT programs and attain funding to purchase CERT supplies.

Coordinating Organization: Clackamas Fire District One
Timeline: Ongoing
Plan Goals Addressed: Protect Life and Property, Public Awareness, Emergency Services, Partnerships and Implementation
County Action Items Addressed: LT-MH#1; LT-MH#2

ST-MH#7: Develop and enhance strategies for debris management for all hazards.

Ideas for Implementation:

- Develop a Debris Management Plan that looks at each need for each hazard inventory of equipment needed;
- Develop an Inter Governmental Agreement with other jurisdictions, businesses, tree service outfits to share equipment and manage debris during disasters.

Coordinating Organization: Public Works
Timeline: Ongoing
Plan Goals Addressed: Protect Life and Property, Emergency Services, Natural Systems, Partnerships and Implementation
County Action Items Addressed: ST-SWS #1; ST-WS #2; ST-MH #2

ST-MH#8: Integrate the goals and action items from the Milwaukie Natural Hazard Mitigation Plan into existing regulatory documents and programs, where appropriate.

Ideas for Implementation:

- Use the mitigation plan to help the City's Comprehensive Land Use Plan meet State Land Use Planning Goal 7, designed to protect life and property from natural disasters and hazards through planning strategies that restrict development in areas of known hazards;
- Integrate the city's mitigation plan into current capital improvement plans to ensure that development does not encroach on known hazard areas; and
- Partner with other organizations and agencies with similar goals to promote building codes that are more disaster resistant at the state level.

Coordinating Organization: Hazard Mitigation Advisory Committee
Timeline: Ongoing
Plan Goals Addressed: Protect Life and Property, Public Awareness, Emergency Services, Natural Systems, Partnerships and Implementation
County Action Items Addressed: ST-MH #1

LT-MH#1: Improve vegetation management throughout the city.

Ideas for Implementation:

- Partner with Union Pacific to maintain vegetation along the railroad;
- Encourage planting of native species along the waterways;
- Identify interface zones and target them for public education for defensible space, landscaping techniques, etc.

Coordinating Organization: Hazard Mitigation Advisory Committee
Timeline: Ongoing
Plan Goals Addressed: Protect Life and Property, Public Awareness, Emergency Services, Natural Systems, Partnerships and Implementation
County Action Items Addressed: ST-WS#2 & ST-WS#1

Section 5:

Mitigation Planning Priority System

Action Item Prioritization Methodology

The Hazard Mitigation Advisory Committee (HMAC) has prioritized the identified mitigation strategies in order to better allocate resources for plan implementation. The criteria used for prioritizing the action items are the plan goals, hazards addressed, criticality of need, population served, and likelihood of success.

Although this methodology provides a guide for the HMAC in terms of implementation, the HMAC has the option to implement any of the action items at any time. This option to consider all action items for implementation allows the committee to consider mitigation strategies as new situations arise, such as capitalizing on funding sources that could pertain to an action item that is not the highest priority.

Step 1: Prioritize Plan Goals

The Milwaukie mitigation goals including Protect Life and Property, Public Awareness, Emergency Services, Natural Systems, and Partnerships and Implementation were considered during each phase of the mitigation planning process. As the mitigation action items were developed, the HMAC identified which plan goals were addressed by each action item. The HMAC ranked the plan goals to determine the priorities for Milwaukie, and each goal was given a score of one point to five points, in ascending order. The points for the plan goals were then totaled for each action item. The prioritized plan goals are as follows:

- 5 Points: Protect Life and Property
- 4 Points: Emergency Services
- 3 Points: Public Awareness
- 2 Points: Partnerships and Implementation
- 1 Point: Natural Systems

Step 2: Prioritize Hazards

The natural hazards addressed by the Milwaukie Natural Hazard Mitigation Plan were prioritized using a FEMA-accepted hazard analysis methodology for Emergency Operations Plans. This methodology considers the history of the hazard, the vulnerability to the hazard, the maximum threat of the hazard (worst case scenario), and the probability of the hazard. Each of these criteria is weighted, and the final score is used for prioritizing the hazards. The following is a full description of the methodology used:

Categories Considered:

HISTORY:	The record of occurrences of previous major emergencies or disasters (weight factor = 2).
LOW	0 - 1 event per 100 years
MEDIUM	2 - 3 events per 100 years

VI. A. 53

HIGH 4 + events per 100 years

VULNERABILITY: The percentage of population and property likely to be affected (weight factor = 5).

LOW < 1% affected
MEDIUM 1 - 10% affected
HIGH > 10% affected

MAXIMUM THREAT: The maximum percentage of population and property that could be impacted under a worst-case scenario (weight factor = 10).

LOW < 5% affected
MEDIUM 5 - 25% affected
HIGH > 25% affected

PROBABILITY: The likelihood of occurrence within a specified period of time (weight factor = 7).

LOW > 1 chance per 100 years
MEDIUM > 1 chance per 50 years
HIGH > 1 chance per 10 years

Severity Ratings:

LOW = 1 - 3 points
MEDIUM = 4 - 6 points
HIGH = 7 - 10 points

Although the methodology used allows the Milwaukie to quantify and compare natural hazards, it is flawed in that it compares hazards with high probabilities and relatively low consequences with hazards that have low probabilities and high consequences. The HMAC took this into consideration during the prioritization process, and the results are shown in table 5-1. The hazards were given a score of one point to eight points, in ascending order of importance. The Multi-Hazard action items were given the highest score (8), as they address more than one hazard. The points for the hazard scores were then totaled for each action item.

Table 5-1 Natural Hazard Prioritization Score

Hazard	History	Vulnerability	Max. Threat	Probability	Total	Hazard Score
Multi-Hazard	-	-	-	-	-	8
Severe Winter Storm	18	45	90	63	216	7
Earthquake	14	35	100	49	198	6
Windstorm	14	35	70	49	168	5
Flood	20	15	60	35	130	4
Wildfire	14	10	30	70	124	3
Landslide	2	5	10	7	24	2
Volcano	2	35	40	35	112	1

Step 3: Incorporate Criticality of Need, Large Number of Population Served, Likelihood of Success

The final score for each action item was computed by summing the plan goal score and the hazard score. The committee then considered the criticality of need, the number of population served, and the likelihood of success. The HMAC was given an opportunity to add five points to the action item that has a high criticality of need, four points were given to the action item that has a high probability of success, and three points were given to an action item that serves a large number of the population. The prioritized action items are as follows:

Table 5-2. Action Item Prioritization Score

<i>Existing Resources</i>		<i>Funding Required</i>	
Short-Term Multi-Hazard #3	29	Short-Term Multi-Hazard #7	34
Short-Term Multi-Hazard #6	27	Long-Term Earthquake #1	32
Short-Term Multi-Hazard #2	22	Short-Term Multi-Hazard #5	31
Short-Term Multi-Hazard #4	22	Short-Term Wildfire #2	22
Short-Term Multi-Hazard #1	17	Long-Term Wildfire #1	21
Short-Term Landslide #2	15	Short-Term Flood #1	21
		Long Term Multi-Hazard #1	19
		Short-Term Wildfire #1	17
		Long-Term Flood #1	16
		Short-Term Flood #2	15
		Short-Term Landslide #1	15

Resource Directory

Clackamas County Resource Directory from the County's Natural Hazard Plan is considered to be a very comprehensive resource listing. The City of Milwaukie has chosen to use their directory but has modified it to provide contact information for local agencies, organizations, and departments that may address natural hazard mitigation activities. This resource directory provides a listing of potential partners for action item Implementation. The City's Hazard Mitigation Advisory Committee will continue to add contact information for organizations as new partners are identified.



To: City Council

Through: Mike Swanson, City Manager

From: Alice Rouyer, Director of Community Development & Public Works
Jeff King, Project Manager JK

Subject: Intergovernmental Agreement with Clackamas County regarding Enterprise Zone services provided by the County

Date: August 29, 2003 for the September 16, 2003 meeting

Action Requested

Authorize the City Manager to sign an intergovernmental agreement (IGA) with Clackamas County to provide joint City/County Enterprise Zone services for the City of Milwaukie.

Background

The City of Milwaukie along with Clackamas County has participated in the State of Oregon Economic and Community Development Department chartered enterprise zone program since 1997. In Milwaukie, the enterprise zone designation covers the International Way, Johnson Creek and North Milwaukie industrial areas. The current zone designation expires in 2008. Businesses located in the enterprise zone are eligible for a 3 to 5 year tax abatement (except for land) if then can demonstrate that they: 1) pay above average wages, 2) increase employment by 10% and 3) consider hiring local workers first. This is a tax abatement program provides a financial incentive for redevelopment and job creation. It is an important tool to help attract new business and expansion of existing operations.

Since the inception of the zone, the City has had an agreement with Clackamas County to allow their staff provide administrative and management services for zones in the City. This was done to consolidate services with enterprise zones located in the County. The current IGA with Clackamas County has expired. This agreement continues joint cooperation and coordination of roles. City coordination of the program will be provided by Community Development staff.

VI. B. 2

Services provided by the County includes the following:

- Administration of the program in accord with the Zone Management Plan;
- Assist business with application completion;
- Coordination with the City on the approval process;
- Provide annual reports to the City on enterprise zone activity and administration;
- Enterprise zone marketing; and
- Annual monitoring.

The attached IGA proposes a joint City/County program for providing these services in Milwaukie. Under this agreement, Clackamas County would provide a majority of the marketing, technical assistance, application processing, administrative services, program implementation responsibilities and long-term monitoring. Milwaukie, in return, would provide information and requirements to all new businesses interested or eligible in the enterprise zone.

Concurrence

Staff in Community Development, the City Attorney's Office and the City Manager's office has reviewed the proposed IGA.

Fiscal Impact

No direct fiscal impact.

Work Load Impact

As part of this agreement, the County, in coordination with the City, will provide enterprise zone marketing, management and administrative services for the Milwaukie enterprise zones. Existing Community Development staff would coordinate with the County and help provide enterprise zone information to businesses.

Recommendation

Authorize the City to sign the attached IGA with the County.

Attachments

Attachment 1: Intergovernmental Agreement w/attached Zone Management Plan.

ATTACHMENT 1**INTERGOVERNMENTAL AGREEMENT
FOR ENTERPRISE ZONE SERVICES**

This Intergovernmental Agreement For Enterprise Zone Management Services ("Agreement"), authorized by ORS 190.010, is made this ___ day of _____, 2003, is made and entered by and between the City of Milwaukie ("Milwaukie"), a municipal corporation, and the Clackamas County ("County"), a municipal corporation, the promises and agreements of each being in consideration of the promises and agreements of the other.

(1) RECITALS

WHEREAS, the County and City support economic development tools and services to promote new jobs, increased investment and expanded tax base.

WHEREAS, Milwaukie is an Oregon municipal corporation organized pursuant to its Charter and presently provides business and industrial lands within its boundary;

WHEREAS, Clackamas County and Milwaukie jointly participate in the Oregon Enterprise Zone program and desire to provide for coordinated enterprise zones services in order to better strengthen and support growth of the local economy;

WHEREAS, Clackamas County and Milwaukie have the authority to enter into this Agreement pursuant to their respective Charters or Principal Acts and ORS Chapter 190.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS CONTAINED HEREIN, THE PARTIES AGREEMENT AS FOLLOWS:

(2) AGREEMENT

1. Background. The Milwaukie / North Clackamas County Enterprise Zone was designated on December 4, 1997 and will expire on June 30, 2008. The zone is part of a tax abatement program created and administered by the Oregon Economic and Community Development Department. Clackamas County, the City of Portland and the City of Milwaukie are joint sponsors of this enterprise zone. Businesses located in the enterprise zone are eligible for a 3 to 5 year tax abatement if then can demonstrate that they: 1) pay above average wages, 2) increase employment by 10% and 3) consider hiring local workers first. This is a tax abatement program provides a financial incentive for redevelopment and job creation.

VI. B. 4

2. Term. The term of this Agreement begin on the _____ of _____ 2003 and can be amended from time to time by mutual agreement commemorated by letter.
3. Scope of Program.

A. The COUNTY will designate a zone manager and administer the program on behalf the CITY of Milwaukie and the City of Portland as defined in the County Zone Management Plan which is incorporated into this Agreement as Attachment A.

B. In order to be eligible for the three-year abatement, an employer must pay new employees a minimum wage of 150% of Oregon Minimum wage for three years. Benefits can be used to reach this pay level. To be eligible for the five-year abatement the employer must pay 150% of average County wages for either Multnomah or Clackamas County, whichever is higher. Benefits can be use to achieve this salary

The COUNTY shall keep the CITY informed of all new developments, issues, or concerns affecting Enterprise Zone operations. COUNTY shall endeavor to notify the CITY in advance of any public announcement that is to be made on the subject. The CITY shall endeavor to notify the COUNTY of any developments or issues concerning the Agreement in advance of any public announcements on the subject. The COUNTY agrees to provide the CITY with a regular report not less than once a fiscal year defined as every twelve months as required by ORS 285.560 to 285.617.

- C. Unless otherwise specifically prescribed in this Agreement, the following provisions shall govern its interpretation and construction:
- D. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number.
- E. Time is of the essence of this Agreement. Neither the COUNTY nor the CITY shall be relieved of its obligation to comply promptly with any provisions of this Agreement by any failure of the other party to enforce prompt compliance with any of its provisions.
- F. Unless otherwise specified in this Agreement, any action authorized or required to be taken by the CITY may be taken by the Council or by the City Manager.
- G. Every duty and every act to be performed by either party imposes an obligation of good faith on the party to perform such.
- H. All notices, reports, or demands required to be given in writing under this Agreement shall be deemed to be given when delivered personally to the person designated below, or when five (5) days have elapsed after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid, or on the next addressed business day if sent by express mail or overnight air courier to the party to which the notice is being given, as follows:

For CITY

For COUNTY

Michael Swanson

Jon Mantay

City Manager

County Administrator

10722 S.E. Main

906 Main Street

Milwaukie, Oregon 97222

Oregon City, Oregon 97045

Such addresses may be changed by either party upon written notice to the other party given as provided in this section.

4. Hold Harmless. Each party agrees to release, defend, indemnify and/or hold harmless the other, its officers, commissioners, councilors, employees, and agents from and against all damages, claims, injuries, costs or judgments which may in any manner arise as a result of the party's performance under this contract, subject to Oregon Tort Claims limitations.
5. Termination. This Agreement may be terminated by either party as of the 30th day of June of any year during the term of this Agreement by giving notice six (6) months prior.
6. Disputes. Disputes regarding this agreement, which cannot be resolved by respective managers, shall first be directed to each party's counsel. Failing resolution, parties shall mutually agree upon a third party mediator.
7. Discrimination. The parties agree not to discriminate on the basis of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, or source of income in the performance of this Agreement.
8. Waiver of Breach. A waiver of any breach of any provision of this Agreement by either party shall not operate as a waiver of any subsequent breach of the same or any other provision of this Agreement.

City of Milwaukie, an Oregon municipal corporation

Clackamas County, a political subdivision of the State of Oregon

by: _____
James Bernard , Mayor

by: _____
Bill Kennemer, Chair

Approved as to form:

Gary Firestone, City Attorney

James Coleman, County Counsel

ATTACHMENT A

Milwaukie-North Clackamas Enterprise Zone Management Plan

The City of Milwaukie agrees to provide the following service in support of the Milwaukie-North Clackamas Enterprise Zone:

1. Provide information about the Zone on the City's Internet web site prior to October 1, 2003, and to update this information on an annual basis.
2. Provide information to eligible businesses upon or prior to the filing for any City planning approvals or permits by the eligible business,
3. Marketing the enterprise zone benefit to prospective business seeking to locate or expand with the Zone.
4. To coordinate economic development activities within the Zone that support job creation, and business investment.

Clackamas County agrees to provide the following services in support of the Milwaukie-North Clackamas Enterprise Zone:

1. The County will administer the program in accord with this Zone Management Plan.
2. Provide eligible businesses with enterprise zone applications and program regulations.
3. Assist eligible businesses with zone application completion.
4. Notify the City of any eligible businesses planning to apply to the City for enterprise zone benefits.
5. Continue to provide information about the Zone on the City Internet web site prior to October 1, 2003, and to update this information on an annual basis.
6. Provide the City timely notice of any statutory or administrative changes to the state enterprise zone requirements.
7. Provide a report to the City on activities within in the Zone at least once a fiscal year.
8. Marketing the enterprise zone benefit to prospective business seeking to locate or expand with the Zone.
9. To coordinate economic development activities within the Zone that support job creation, and business investment.

The City and County shall jointly provide the following services:

1. Provide information to existing businesses located within the Zone on the possible benefits and program requirement by mail or electronic mail.
2. Provide an Internet link to the other party's Internet web site section devoted to economic development.



TO: Mayor and City Council

FROM: Mike Swanson, City Manager

DATE: September 8, 2003

RE: Consideration of a Lien in the Amount of City Costs for Abating the Nuisance on Certain Real Property Owned by the Union Pacific Railroad

Action Requested

Approval of a proposed Resolution setting a lien in the amount of \$22,500.87 to cover the costs for abating the nuisance on certain property owned by the Union Pacific Railroad.

Background

This issue was first before Council on August 19, 2003. The staff report and minutes for that proceeding are attached.

As of the date of this report there has been no resolution of the issues in line with the discussions of your August 19 meeting.

An alternative has been discussed—namely, that of proceeding solely against Emmert International utilizing the City's civil penalty provision of the City Code. However, that alternative seeks only to assess the costs against one of the parties responsible for the nuisance.

Pursuant to the terms of the October 2001 agreement, the City agreed that it would not pursue any remedies it might have against Peterson, substituting Emmert in his place. It did not, however, absolve the Union Pacific—the lessor--of any responsibility it had to maintain its property in conformance with the Milwaukie

VI. C. 2

Municipal Code. One would have to stretch the meaning of the agreement beyond credulity to arrive at that conclusion. To give effect to that unreasonable conclusion now when it was never intended leaves the City without the best security for recouping its costs in this matter.

Recommendation

I am recommending that the City proceed with the lien, in the amount as amended, as recommended at the August 19, 2003 Council hearing.

Attachments:

1. Council staff report for August 19, 2003 meeting.
2. Approved minutes of the August 19, 2003 City Council meeting.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING A LIEN IN THE AMOUNT OF CITY COSTS FOR ABATING THE NUISANCE ON CERTAIN REAL PROPERTY OWNED BY UNION PACIFIC RAILROAD.

WHEREAS, the City of Milwaukie abated a nuisance located on property owned by the Union Pacific Railroad located west of 21st Avenue, north of Lake Road and east of the Union Pacific Railroad tracks, having first complied with all requirements to declare the nuisance and enter onto the property;

WHEREAS, on July 16, 2003, the City Recorder provided notice of the costs of abatement as required by MMC 8.04.200A;

WHEREAS, Union Pacific timely filed a notice of objection to the amount of the costs of abatement on July 25, 2003;

WHEREAS, the City Council held a public hearing on August 19, 2003 to hear the objections to the costs;

NOW, THEREFORE, BE IT RESOLVED:

Section 1. The total cost of the abatement is \$22,500.87. The notice of costs of abatement accurately reflected the City's costs. This amount includes administrative overhead as allowed by MMC 8.04.200A.1. The amount expended is reasonable given the extent of the nuisance. The administrative costs reflect the City's actual costs.

Section 2. The amount of \$22,500.87 shall be assessed as costs for the abatement and entered as a lien in the City's lien docket.

Section 3. Because the matter was not heard by City Council within 30 days of the original notice, the assessment for costs shall not be docketed as a lien until 15 days after adoption of this resolution and shall not be docketed as a lien if the amount is paid in full within 15 days.

Section 4. This resolution shall take effect immediately upon adoption.

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

James Bernard, Mayor

VI. C. 4

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

ATTEST:

By: _____
City Attorney

Pat DuVal, City Recorder

G:\muni\Milwaukie\nuisancecostres.doc



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: August 11, 2003
RE: Resolution Authorizing a Lien in the Amount of City Costs for Abating the Nuisance on Real Property Owned by the Union Pacific Railroad

ACTION REQUESTED

Approval of the proposed resolution, which assesses the costs of the nuisance abatement, including administrative overhead, pursuant to Milwaukie Municipal Code Section 8.04.200.

BACKGROUND

Property owned by the Union Pacific Railroad located west of 21st Avenue, north of Lake Road, and east of the Union Pacific tracks in the City was cited for maintaining a nuisance pursuant to Milwaukie Municipal Code Sections 8.04.020 and 8.04.135.

In a hearing before Council on January 21, 2003, it was determined that a nuisance existed on the property, but the finding was held in abeyance until April 28, 2003. The Council further found that should the nuisance be abated by that date, the finding would be vacated. The nuisance was not abated by the date specified in the Council's January 21 decision.

Pursuant to Milwaukie Municipal Code Section 8.04.190, if a nuisance has not been abated "within the time allowed, . . . the city manager may cause the nuisance to be abated." Therefore, a Request for Proposals (RFP) was drafted to retain a qualified demolition/deconstruction contractor to effect abatement by the City. The RFP was advertised and distributed on May 12, 2003, and one qualified bid was received. The bid proposed two alternatives. On the one hand was the demolition alternative proposed at a cost of \$9,800; on the other hand was a deconstruction bid at a cost of \$17,000. The bid was reviewed by a committee, and Dan Obrist Excavation was selected to perform the demolition. Demolition was the option selected as being the least costly alternative.

VI. C. 6

Milwaukie Municipal Code Section 8.04.190(C) requires that an "accurate record of the actual cost incurred by the city in abating the nuisance, including any administrative expense," be kept. Milwaukie Municipal Code Section 8.04.200(A)(1) provides that the City Recorder, "by registered or certified mail, postage prepaid, shall forward to the owner or person in charge of the property a notice stating . . . [t]he total cost of abatement including administrative overhead . . ." The owner or person in charge of the property may file a notice of objection to the cost of the abatement, and that objection is heard and determined by Council.

CONCURRENCE

The City Manager and City Attorney concur with the recommended action.

FISCAL IMPACT

If the recommended action is not taken as it relates to the non-administrative costs, the City will lose the amount of those costs. If the recommended action is taken as it relates to the non-administrative costs, the City will enter a lien against the property which may be satisfied in the near or far term as the property owner determines. In any event, it will accrue interest at the rate of six percent per annum from the date of entry of the lien in the lien docket pursuant to Milwaukie Municipal Code Section 8.04.200(D).

If the recommended action is not taken as it relates to the administrative costs, the City will not be reimbursed for those costs, which have been budgeted. If the recommended action is taken as it relates to the administrative costs, the effect will be the same as stated above with the non-administrative costs.

Attachments:

1. July 16, 2003 Letter from City Recorder Pat DuVal to Union Pacific Railroad
2. July 24, 2003 Letter from Lisa L. Burnside, Union Pacific Railroad to Pat DuVal
3. July 24, 2003 Letter from Lisa L. Burnside, Union Pacific Railroad to Rich Peterson
4. Milwaukie Municipal Code Sections 8.04.190 and 8.04.200



L.L.B.
JUL 2 2003

July 16, 2003

Union Pacific Railroad
Attention: Lisa Burnside
1800 Farnam Street
Omaha, NE 68102

Pursuant to Milwaukie Municipal Code Section 8.04.200, notice is hereby given that the total cost of abatement at the property located west of 21st Avenue, north of Lake Road and east from the Union Pacific Railroad tracks on the Union Pacific property, within the City of Milwaukie, County of Clackamas, State of Oregon is, \$22, 522.97 This amount includes Legal fees and administrative overhead. The costs are itemized as follows:

Abatement Services July 3, 2003

Dan Obrist Excavation	\$ 9,800.00
Metro Solid Waste Transfer Station (disposal)	\$ 3,555.77
Abatement Surveys	\$ 1,075.00
	\$ 55.00
Total	\$ 14,485.77

Administrative Costs

City Services	Hours	182 hrs
	Total Cost	\$ 5,228.20
Legal Services		\$ 2,809.00
Total	Total	\$ 8,037.20

Total Abatement and Administrative/Legal Total \$ 22, 522.97

The City of Milwaukie declared nuisances to exist on your property as described in sections 8.04.135 on January 21, 2003. The City abated these nuisances on July 3, 2003, after you failed to do so.

If the costs of abatement are not paid within thirty days from the date of this notice they will become a lien against the property. If you, as owner or person in charge of the property, object to these costs, you may file a Notice of Objection with the City Recorder not more than ten days from the date of this notice. Upon expiration of the ten days, the City Council will consider your objections during the course of regular business and shall make a final lien determination. Once the lien amount is determined and activated it shall bear interest at the rate of 6 percent per annum. If you have further questions please contact me at 786-7502.

Sincerely,
Pat DuVal
Pat DuVal,
City Recorder

VI. C. 8

July 24, 2003

File 1979-63

SENT VIA UPS NEXT DAY AIR DELIVERY

PAT DUVAL
CITY RECORDER
CITY OF MILWAUKIE
10722 SE MAIN ST
MILWAUKIE, OR 97222

NOTICE OF OBJECTION

Dear Ms. DuVal:

This is in response to your letter dated July 16, 2003, concerning abatement at property located at approximately 21st Avenue and Lake Road in Milwaukie, Oregon.

Union Pacific Railroad Company objects to the lien proposed to be filed against our real property. The house that was removed from the premises was personal property of Rich Peterson, who leases the property from us. The house was not attached to the land and was not part of the realty. It did not belong to the Railroad. As Mr. Peterson is the cause of the nuisance, relief for the costs of abatement should be sought from Mr. Peterson.

The Railroad strongly believes it is not responsible for these costs. However, in the event it should be determined the Railroad is liable for these costs, the Railroad also objects to the amount the City claims as the cost of abatement. If it should be determined the Railroad is responsible, we will not pay for the \$8,037.20 of the City's "Administrative Costs." Those costs are part of the job of employees of the City. The Railroad will not pay for an "overhead" charge. Also, the Railroad objects to the \$55.00 amount listed in your letter as there is no identification of what it covers.

Union Pacific Railroad respectfully requests the City not to file a lien against our property but to seek damages from Rich Peterson, the responsible party.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa L. Burnside".

Lisa L. Burnside
Senior Manager - Real Estate
(402) 997-3596

e-mail: LLBURNSI@up.com

Real Estate

UNION PACIFIC RAILROAD
1800 Farnam Street, Omaha, Nebraska 68102
fx. (402) 997-3601

VI. C. 9



July 24, 2003

File 1979-63
Audit No. 220773

SENT VIA UPS NEXT DAY AIR DELIVERY
and FAX TO (503) 266-3654

RICH PETERSON
714 NW TERRITORIAL ROAD
CANBY, OR 97013

Dear Mr. Peterson:

This is in regard to the Lease between Union Pacific Railroad Company ("Railroad," "Lessor") and you, Rich Peterson ("Lessee"), covering your use of certain Railroad-owned real property in Milwaukie, Clackamas County, Oregon.

Attached is a copy of a letter dated July 16, 2003, from Pat DuVal, City Recorder for the City of Milwaukie. The City is demanding payment of \$22,522.97 for the abatement of a public nuisance caused by the house you placed on the leased Premises.

Your attention is specifically called to certain sections of the Lease:

Section 1 of Exhibit B states "No improvements placed upon the Premises by Lessee shall become a part of the realty."

Section 6 of Exhibit B states in part "Lessee shall not use or permit the use of the Premises for any unlawful purpose, maintain any nuisance, permit any waste, or use the Premises in any way that creates a hazard to persons or property. Lessee shall keep the Premises in a safe, neat, clean and presentable condition, and in good condition and repair" and "Lessee shall comply with all governmental laws, ordinances, rules, regulations and orders relating to Lessee's use of the Premises."

Section 9 of Exhibit B states "Lessee shall not allow any liens to attach to the Premises for any services, labor or materials furnished to the Premises or otherwise arising from Lessee's use of the Premises. Lessor shall have the right to discharge any such liens at Lessee's expense."

Real Estate

UNION PACIFIC RAILROAD
1800 Farnam Street, Omaha, Nebraska 68102
fx. (402) 997-3601

VI. C. 10

In the event you may have sold your personal property, the house, to another party, your attention is also called to Section 18 of Exhibit B which states in part "Lessee shall not sublease the Premises, in whole or in part, or assign, encumber or transfer (by operation of law or otherwise) this Lease without prior consent of Lessor, which consent may be denied at Lessor's sole and absolute discretion. Any purported transfer or assignment without Lessor's consent shall be void and shall be a default by Lessee.

As evidenced by the City's letter demanding payment for the costs to abate a public nuisance (removal of your house), you have violated several sections of the Lease.

The Railroad demands you take the appropriate action to prevent the City from filing a lien against the Premises. In the event the City files a lien against the Railroad's property, the Railroad will use all of its legal remedies to collect from you said lien payment and all related legal expenses incurred by the Railroad.

Your immediate attention to this matter is required.

Sincerely,



Lisa L. Burnside
Senior Manager - Real Estate
(402) 997-3596

e-mail: LLBURNSI@up.com

CC: Pat DuVal, City Recorder – via UPS Next Day Air
John H. Hammond, Jr., Hutchison, Hammond & Walsh – via FAX to (503) 656-1092
Ted Stenstrom, UPRR Director-Real Estate
Brian Morrissey, UPRR General Director-Real Estate

Section 8.04.190 Abatement--By city.

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

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

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

Section 8.04.200 Assessment of costs.

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

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

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

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

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

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

burden will be on the claimant because the officer's inventory was reasonable in that it safeguarded the inventory in the car. The intent is not to detect or identify evidence for another crime. It is to protect the property that is in the vehicle and to protect the City from liability should something disappear from the car. It is an administrative procedure, not a criminal investigation.

It was moved by Councilor Lancaster and seconded by Councilor Loomis for the first and second reading by title only and for adoption of an ordinance amending Municipal Code Section 10.50.030.C(3) – Inventories of Impounded Vehicles. Motion passed unanimously among the members present. The City Attorney read the ordinance twice by title only.

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

ORDINANCE NO. 1925:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE SECTION 10.50.030 SECTION C, SUBSECTION 3 – TO ALLOW PROPER INVENTORY OF IMPOUNDED VEHICLES.

Consider Lien in Amount of City Costs for Abating the Nuisance on Certain Real Property Owned by Union Pacific Railroad – Resolution

Firestone presented the staff report in which the City Council was requested to consider a resolution setting a lien amount on property owned by Union Pacific Railroad. Anyone with an interest has the right to make a statement, and Firestone explained a procedure the City Council might wish to consider.

The City declared a nuisance on property owned by the Union Pacific Railroad located west of 21st Avenue, north of Lake Road, and east of the railroad tracks having first complied with all applicable code requirements. After the nuisance was declared and the nuisance was not abated, the City took steps to abate the nuisance which was an unpermitted house temporarily stored in violation of various regulations. The abatement consisted of demolishing the building and restoring the site to a reasonable condition. As required by Milwaukie Municipal Code section 8.04.200, the city recorder provided notice of the cost of abatement. In response to that notice, the property owner, Union Pacific Railroad, filed a timely objection to the amount. Another objection was filed as well. Comments have been received on behalf of Mr. Peterson who at one point had an interest in the property.

Code Compliance Coordinator Steve Campbell explained 2 adjustments to the abatement amount. The Metro disposal fee was adjusted to \$17.10 less. The abatement survey was actually \$50 instead of \$55. The total abatement cost with these adjustments would be \$22,500.87. The City contracted for an asbestos survey in the

amount of \$1,075 and lead-based paint survey in the amount of \$50. These are typical surveys in a demolition scenario.

Firestone said the City is authorized to include administrative costs in abatement costs under Code section 8.04.200.A.1. This is a quasi-judicial proceeding, and the Council's role is to decide on the objections and to set the abatement assessment amount. Staff requests that the City Council adopt the proposed resolution but adjusting the cost downwards by \$22.10 for a total amount of \$22,500.87.

Jack Hammond, 21790 Willamette Drive, West Linn, attorney representing Rich Peterson. There is a long record of this proceeding, and he sympathizes with the City Council on its perseverance on this epic. Hammond first got involved in this process last year. Mr. Peterson was trying to work through setback issues. He had an option from Union Pacific Railroad to relocate the property from another location where he had a temporary lease from Southern Pacific. Peterson tried to work through those setback requirements but was unable to do so. The City was pressing ahead at that point with a nuisance abatement, and Mr. Peterson was advised to commence abatement of the building. He was, in fact, negotiating in September and October with the individual with whom the City finally contracted to demolish the building. Mr. Peterson was prepared to go ahead. Historically, there were issues coming up about preservation of the building because of its historic nature.

Sometime in the timeframe of September/October of last year, Terry Emmert of Emmert International approached the City. Peterson and Hammond had not solicited Emmert to do so. Emmert approached the City and indicated he had several building lots where he could move the house and preserve it. Peterson and Hammond were contacted by the City as to whether or not they wished to participate in that process and convey interest in the building to Mr. Emmert. In the past Hammond has dealt with Mr. Emmert and his company, and sometimes those involvements were relatively complex. Peterson and Hammond felt it was important for all parties concerned that there be an agreement that set forth precisely the obligations of all the parties. An agreement was entered into on October 31, 2002, with the City and Mr. Emmert conveying Peterson's interest in the building to Mr. Emmert. Mr. Peterson was absolved of any liability or responsibility from the building by both the City of Milwaukie and Mr. Emmert. The City of Milwaukie agreed not to institute any abatement proceedings in relation to the nuisance. Emmert assumed all responsibilities for moving the building from the site. At that point, Peterson and Hammond thought that things were done. Obviously they were not done, and things went on for some time with the City's ultimately being forced to abate the nuisance. Hammond does not argue there was a nuisance and was something that should be abated.

Hammond does not think it is proper to place a lien on Union Pacific property. Its only privity was in relation to Mr. Peterson who had a lease and an option to move the house. Once Mr. Peterson was absolved of any ownership or responsibility for abatement in relation to the house whatsoever, it seemed clear that that relief was passed through to Union Pacific, which has no privity or relationship to Mr. Emmert.

After Mr. Emmert assumed responsibility for the building, he did not, as Mr. Peterson had done, go to Union Pacific and ask for permission to have the building sited there. There has been a long litany of the City's relationship with Mr. Emmert and how everyone got to this point. Hammond does not think it is appropriate to impose the lien on Union Pacific. If the City does that, the concern is that Union Pacific is an innocent party. There are all manner of things that could happen as far as the relationship between Union Pacific and the City of Milwaukie goes. If Union Pacific takes action against Mr. Peterson, he asserts as a result of the contract with the City that there is a contractual bar from the City's imposing a lien that would have liability repercussions on Mr. Peterson. There is an indemnity agreement with Mr. Emmert. If there is another way to deal with the problem, the City Council may wish to seriously consider other options. He has been a city attorney himself for 30 years, and he freely admits this is a very unusual situation because of the contract between the three parties. Usually if there is a nuisance abatement, there is no question a lien is imposed on the property. The owner always has some significant involvement as to why the nuisance was there with derivative responsibility that does not occur in this case. The City has spent money, and it is the responsibility of the City Council to look for a way to become whole. He believes there is a way to do that. He got a copy of the entire record a couple of days ago and subsequently requested a deferral of the action to come up with another avenue. He was not granted that deferral. He has come up with another option, which he hopes the City Council would allow Firestone to consider.

The notice of assessment and placement of the lien was sent only to Union Pacific. However, under the City's ordinance, it could have gone to either the owner, which is Union Pacific, or to the person in charge of the property itself. There is no question from the contract between the City, Emmert, and Peterson that Emmert is in charge of the building and had the sole responsibility for the movement of the building from that location. The resolution imposing the nuisance in January 2003 identified Mr. Emmert and Emmert International as the person in charge of the building. It is replete throughout the correspondence between the City, through Mr. Swanson and other staff members, and Mr. Emmert that he was continually treated as the person in charge and asked to abate the nuisance. One way the deal with this is to defer action this evening on the request for the imposition of the lien, which identifies only Union Pacific, and ask the city recorder to issue another assessment order to Mr. Emmert as the person in charge of the building and propose to assess the amount of the abatement costs against Mr. Emmert and Emmert International. He would then have 10 days to file an objection. The City Council would deal with this at a subsequent hearing. If the City Council goes through that process and determines the assessment should be made against Mr. Emmert and enters it by resolution, Mr. Emmert would have 60 days to challenge that assessment or writ of review in circuit court. If he did not do that, the matter would be factually over, and that assessment would be legally in place. If that were the case, there would be no lien on the property, which is the traditional way of dealing with this type of situation. ORS 221.915 indicates that matters may be docketed in municipal court for enforcement purposes and can include execution and garnishment powers. The Milwaukie Charter indicates the municipal court has original jurisdiction over all actions to recover penalties as defined by the code. It seems to

Hammond the interplay of ORS 221.915 and Charter Section 28 would allow the municipal court to execute on the judgment, which is a quicker way of resolving the issue rather than placing a lien on property that would probably result in a complicated lawsuit. He understands this is a complicated option, but is a clear way to go after the responsible person. This is the only way Hammond sees the City can actually get to that responsible person without placing a lien on an innocent property owner and derivatively bringing in other parties on a complicated lawsuit. This option seems a more direct way to deal with it.

Councilor Loomis asked if Mr. Peterson had to pay anything to lease the property from Union Pacific.

Hammond said the amount was nominal. Union Pacific was looking at the option of selling surplus property to Mr. Peterson. Unfortunately Mr. Peterson had not consulted Hammond before taking the first step. He spent an enormous amount of money on plans, engineers, planners, and attorneys. This has been a nightmare for Peterson as well as for the City.

Councilor Barnes asked if Mr. Peterson informed Union Pacific on October 31, 2002, that he felt he was no longer the property owner.

Hammond said Mr. Peterson did not inform Union Pacific and did not know why. Things were moving quickly at that point. Peterson was under the gun for the abatement and was ready to destroy the building. He was dealing with a railroad company on Omaha, which probably had a lot to do with it.

Jill Schneider, Kilmer, Voorhees & Laurick, 732 NW 19th Avenue, Portland, representing Union Pacific. Union Pacific did not know the property had been sold and, in fact, did not know until June 2003 when all of the abatement stuff became public. Union Pacific was quite surprised because this October 2002 contract relieved the client of any kind of remedy whatsoever. The contract the City apparently negotiated and certainly executed says that any costs for the nuisance are not to be directed to Mr. Peterson. The contract between Union Pacific and Mr. Peterson says he is responsible for the nuisance. What is Union Pacific's role? Perhaps if it had been involved with negotiating the contract, Union Pacific might think the nuisance and abatement a little bit more just. Union Pacific understands the problem with the nuisance and the costs of trying to get rid of the building. She has not been privy to the entire file but understands the City Council is extremely frustrated. Imagine Union Pacific's frustration when it gets legal papers saying it is responsible for a building it does not own and apparently its tenant no longer owns. Union Pacific seems not to be able to do anything about it because of a contract that was executed by the City. Now the City is saying Union Pacific is responsible for something for which it no longer had any way to remedy. It is very frustrating and leads Union Pacific to believe this nuisance abatement assessment should not be properly directed in the form of a lien on Union Pacific's property. It clearly belongs to Mr. Emmert. He is responsible for relieving this nuisance by the contract that the City negotiated and executed. Union Pacific is at the position that it will

consider a slander on title. It is not in Union Pacific's hands; there is no remedy even though it had contractual rights. The contractual rights have been taken from Union Pacific by a contract to which it was not a party and had no input. Union Pacific does not believe this lien is proper.

Councilor Barnes asked if Union Pacific knew of this building being on the property.

Schneider said Union Pacific knew the building was on the property. It was inserted in the contract that the property was not allowed to be a nuisance and that Mr. Peterson would be responsible for any abatement if the property was determined to be a nuisance. It was Mr. Peterson's legal responsibility. The October 2002 contract says, however, it is not his responsibility.

Firestone said the property owner is always responsible for a nuisance whether or not created by some third party and has an obligation to ensure there is no nuisance on the property. The municipal code clearly requires the Council to determine the amount. After that, the code provides procedures for the amount to become a lien. One place where the code does allow some leeway, is that the Council can provide some direction as to when the lien is recorded. Council can provide some time for staff to determine if the matter can be resolved otherwise. He believes it is worth talking to Hammond and Union Pacific as to what could possibly be worked out in this situation. Ultimately, under the code, the owner of the property is responsible, and his initial reading is that is the owner of the real property.

Firestone did disagree that Union Pacific cannot do anything about the situation. It can bring a claim against Mr. Peterson who can turn it over to Emmert International. The City could impose the lien, Union Pacific goes after Mr. Peterson, and Mr. Peterson goes after Emmert International. That way the matter would be resolved with the least amount of City involvement. To clarify, the City did not draft the October 2002 agreement. There was a nuisance proceeding against the property at the time Mr. Peterson had an interest. The City declared the nuisance. Mr. Peterson and Emmert International came up with the plan to transfer the structure to Mr. Emmert. The City, at that time and for as long as possible, was trying to preserve the house, so it agreed to this agreement that basically took Mr. Peterson off in return for getting commitments from Mr. Emmert that the house would be moved. The house was not moved. Firestone agreed with Hammond and Schneider that ultimately Emmert International is responsible and should pay. However, nuisances are matters that arise from a real property, and the owner of the real property is responsible. Hence, the lien is filed against the real property.

Mayor Bernard felt the issue should be negotiate further. He has no problem with the lien price. He would direct counsel and staff to talk to parties to consider options.

Firestone outlined the options if the City were to follow that approach. One is to continue this matter to a future meeting to let all of the issues be resolved. The other

option is to set the amount of the lien and essentially delay implementation to some future date. In either case there would be discussions and negotiations in the interim.

Councilor Barnes asked if the interest can be continued even if the issue were on hold.

Firestone responded the clearest way to do that would be to set the amount at this meeting and state that interest begins to accrue in a certain number of days. The implementation and at least the lien could be on hold.

The counsels for Union Pacific, Peterson, and the City of Milwaukie, agreed 30 days should be sufficient to discuss the issues.

Councilor Loomis was in favor of seeking another option. He agreed the lien was probably not fair to Union Pacific.

Firestone said because the lien amount must be set by resolution, the draft resolution would have to be amended as to the total amount. Section 2 would have to be amended to read, "the amount of the abatement shall not be assessed and shall not be entered as a lien in the City's lien docket until a further meeting on this issue by the City Council."

Councilor Lancaster suggested just holding the decision for the 30-day period.

Councilor Barnes wants the interest to continue on this bill.

Firestone said statutory interest is about 9%. Parties have a certain amount of time to pay, so the interest probably would not be triggered immediately. Typically, the City would give 30 days to pay, but the City Council could say at the next meeting at which this is considered that interest shall start immediately.

It was moved by Mayor Bernard and seconded by Councilor Loomis to continue this matter to September 16, 2003. Motion passed unanimously among the members present.

Milwaukie Downtown Implementation Grant

Community Development/Public Works Director Alice Rouyer said last year the City received an unanticipated \$15,000 grant from the Oregon Downtown Development Association (ODDA) to help with downtown redevelopment. After some meetings with community leaders, it became clear people were interested in determining what to do after the North Main Project. There are plans underway for McLoughlin Boulevard, the riverfront park, as well as several other projects, but the question is sequencing. The ODDA grant of \$15,000 along with a \$5,000 match will help Milwaukie embark on this "next projects" phase. The grant funds must be used by October 31, 2003. The scope of work is designed in a way that there will not be a lot of meetings and process. Staff believes a core group of people can be interviewed and a final report prepared by

RESOLUTION NO. _____

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

WHEREAS, Portland General Electric (PGE) has been serving Oregon for over 100 years; and,

WHEREAS, condemnation of a private business through establishment of an entirely new government entity with independent taxing authority is a distraction the community does not need as it struggles to deal with maintaining existing businesses and government services; and,

WHEREAS, condemnation sends the wrong messages to businesses looking to invest in Oregon; and,

WHEREAS, a PUD would add uncertainty to an economy that is already severely strained and further promote the view that Oregon is "anti-business;" and,

WHEREAS, local government services face the prospect of losing as much as \$60 million annually in taxes and franchise fees paid by PGE; and,

WHEREAS, energy conservation and renewable programs in Oregon stand to lose an estimated \$10-15 million a year in public purpose funds; and,

WHEREAS, a start up government utility would need to go deeply into debt to acquire the facilities of PGE and such debt would have to be repaid either through rates or through new taxes; and,

WHEREAS, a PUD condemnation proceeding will result in protracted litigation taking years and millions of dollars to resolve; and,

WHEREAS, creating a new government utility could cost Oregon thousands of private sector jobs and create a negative impact on the overall economy; and,

WHEREAS, a start-up government utility would own little, if any power generation and would be dependent on the volatile wholesale market for nearly all power supply; and,

WHEREAS, Yamhill County would no longer be served by the integrated generation, transmission and distribution systems of PGE; and,

VI. D. 2

WHEREAS, using the state's limited federally tax-exempt bonds to purchase PGE's distribution system in Yamhill County would harm the state's low-income housing and economic development programs and local efforts; and,

WHEREAS, PGE contributes nearly \$1 million each year to local charitable causes – contributions that are not charged to ratepayers; and,

WHEREAS, PGE has a demonstrated record for high customer service satisfaction and exceptional reliability performance; and,

WHEREAS, the proposal of government take-over by formation of a new People's Utility District in Yamhill County will increase uncertainty and risk for the remaining electric customers of PGE; and,

WHEREAS, The Yamhill PUD proposal offers not a single persuasive argument for customers of PGE to support formation; and,

NOW, THEREFORE BE IT RESOLVED, that the Mayor and the city council of the City of Milwaukie oppose the formation of the PUD and the subsequent condemnation and forced government takeover of the assets of Portland General Electric's distribution systems in Yamhill County.

Introduced and adopted by the City Council of the City of Milwaukie on September 16, 2003.

This resolution is effective September 16, 2003.

James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:

Pat DuVal, City Recorder

Ramis, Crew, Corrigan & Bachrach, LLP