

MINUTES

MILWAUKIE CITY COUNCIL NOVEMBER 4, 2003

CALL TO ORDER

Mayor Bernard called the 1921st meeting of the Milwaukie City Council to order at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Council President Larry Lancaster	Councilor Deborah Barnes
Councilor Joe Loomis	Councilor Susan Stone

Staff present:

Mike Swanson, City Manager	JoAnn Herrigel, Community Services Director
Gary Firestone, City Attorney	Scott Guy, Police Sergeant

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Historic Moments

Councilor Barnes read an article entitled "Hot Time in the Old Town" from *The Bee* dated December 1, 1906 in which the reporter told the story of a rather heated political encounter in Milwaukie. Milwaukie Museum Curator Madalaine Bohl is preparing this series of historical notes in honor of the City's Centennial Year.

Public Safety Appreciation Week

Mayor Bernard read a proclamation naming the week of November 24 – 30, 2003 as *Public Safety Awareness Week*. Sergeant Scott Guy was present representing the Milwaukie Police Department.

Donation to Celebrate Milwaukie, Inc. for Riverfront Development

James Bernard spoke as a member of the non-profit organization Celebrate Milwaukie, Inc. (CMI). In May he took over the business management of the Sunday Farmers Market and agreed to share the profit with CMI. He presented a check for \$1,000 to Ed Zumwalt to be dedicated to riverfront development. He challenged others to contribute. He thanked members of the Riverfront Board Gary Klein, Dave Green, Steve Loaiza, Mike Stacey, Mitch Wall, Michael Martin, and Paul Verbout and staff liaison JoAnn Herrigel.

Ed Zumwalt said this is the kick-off of CMI's efforts to raise \$1 million for the riverfront project. The members of the Riverfront Board have been key to the project. The Centennial Committee was charged with getting the community in touch with its waterfront, and residents and visitors enjoyed this year's events. He committed to an ongoing effort to get riverfront park access over McLoughlin Boulevard.

Community Services Director JoAnn Herrigel briefly discussed fund raising plans including a flyer that talks about the riverfront and design and development costs. CMI, as a non-profit, would accept donations, and the City would use those funds to develop the plan and the park itself.

Zumwalt added when the neighborhoods met on the riverfront for a joint National Night Out Event, many of the 200 visitors had never seen the natural beauty of the area.

The group discussed the Centennial Event on December 20. It will start about 3:00 p.m. with the burial of the time capsule north of the Antique Mall followed by a bonfire, food, music, and the Christmas Fleet viewing. People interested in putting something in the time capsule can contact City Hall or the Lake Road Neighborhood Association.

CONSENT AGENDA

It was moved by Mayor Bernard and seconded by Councilor Barnes to move the resolution approving the communication agreement and the resolution changing the date of the second meeting of the month to November 17. Motion passed unanimously.

It was moved by Mayor Bernard and seconded by Councilor Barnes to approve the Consent Agenda that consisted of:

- A. City Council Minutes of October 21, 2003;**
- B. Public Safety Advisory Board Appointments: Karen Martin, Hector Campbell Neighborhood, and Gene Covey, Lewelling Neighborhood;**
- C. Resolution No. 45-2003: A Resolution of the City Council of the City of Milwaukie, Oregon, Adopting the Mayor/Council Communication Agreements.**
- D. Resolution No. 46-2003: A Resolution of the City Council of the City of Milwaukie, Oregon, Determining the Second Regular Council Session of November Will Be Called to Order at 6:00 p.m. on November 17, 2003.**

Motion passed unanimously among the members present.

AUDIENCE PARTICIPATION – None.

PUBLIC HEARING – None scheduled

OTHER BUSINESS

Consider Donation Agreement and Easement Agreement between the City and Gary E. and Sharon L. Klein -- Resolution

Swanson said the Kleins have been working with the City for several months on this land donation and easement agreement. The property lies on the north end of the publicly owned riverfront property. The landscape architect working for the City identified it as being an "extremely important addition" to the riverfront project.

Herrigel said an agreement was worked out with the Kleins whereby they would sign a donation agreement and the City would provide an easement to the property, which is landlocked. She wished to convey that the Kleins worked very hard to make this happen because they believe in the riverfront project, the preservation of the property as an open space, and allowing trails in one section. They have been very open and beneficent, and this is a very lovely gift from the Kleins to the City during its Centennial Year. She noted that some adjustments needed to be made to the legal description.

Swanson said the actual transaction is a donation agreement and grant of easement. The donation agreement sets forth the terms of the transfer. The grant of easement would be recorded and become part of the record. An appraiser has been retained to value the property, and there are some timing and income tax issues. The Kleins will have to execute a quit claim deed before the end of the calendar year or the easement will be extinguished. The one change that needs to be made at this point is the legal description of the easement, but it does not impact the terms of the transaction. The resolution before Council allows the Mayor to sign the agreement even though the legal description of the easement will be different.

The agreement does have some restrictions. The Kleins own a house that overlooks the area, and they are interested in maintaining its natural state. There is a provision that requires the City keep it in a clean and natural condition. If the Kleins feel the City is failing to do so, there is a notice provision. If the City does not cure the problem, then the Kleins can take certain actions. The right to do that is limited to only the Kleins and their heirs and only as long as they own the property. If the Kleins sell the property to a third party, then that restriction would not succeed.

City Attorney Gary Firestone had little to add with the exception of stressing the need for revising the legal description to provide an adequate easement.

Swanson said the Kleins moved to Milwaukie in the past few years to what was Gary's boyhood home. Klein joined the Riverfront Board and has become a fairly ardent supporter of the riverfront and the City's efforts. The land donation is the expression of his support. This action is above and beyond, and over the past year people like Gary and Sharon Klein, Ed Zumwalt, and City staff have put a lot of energy into the riverfront and Centennial projects.

It was moved by Councilor Lancaster and seconded by Councilor Loomis to adopt the resolution authorizing the Mayor to sign the donation agreement and grant of easement for ingress and egress between the City of Milwaukie and Gary E. and Sharon L. Klein.

Mayor Bernard said this is a good example of the potential the riverfront offers this community. Although he would not guess at the value of the property, it is the key piece to getting the path near the riverfront. He felt the community should express its thanks to the Kleins for this gift.

Councilor Lancaster added it seems the city manager deserves some credit for engaging people despite some negative history. These people are donating a critical piece to a beautiful picture, and he feels all the riverfront supporters should be recognized.

Motion passed unanimously.

RESOLUTION NO. 47-2003

RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE DONATION AGREEMENT AND GRANT OF EASEMENT FOR INGRESS AND EGRESS BETWEEN THE CITY OF MILWAUKIE AND GARY E. KLEIN AND SHARON L. KLEIN.

Councilor Loomis added Milwaukie has a rich history of donations and this is a wonderful thing to happen in the Centennial Year. He hopes to have the chance to thank the Kleins in person.

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

Firestone felt it would be best to initiate the discussion in executive session and return to the regular session if the Council wishes to act. The executive session would be held pursuant to ORS 192.660 1(h) to consult with counsel regarding litigation likely to be filed. The Milwaukie City Council went into executive session at 6:30 p.m. and returned to the regular open session at 6:48 p.m.

AUDIENCE PARTICIPATION

While the city attorney and city recorder prepared a resolution to be considered during the regular session pursuant to executive session direction, the Council heard public comment on general community issues.

Ed Zumwalt, 10888 SE 29th Avenue, Milwaukie, discussed institutional memory and City Council resolutions which seem to go forgotten. He cannot count the number of visioning and goal setting meetings he has attended over the past 7 years. Where is

the continuity? There is a lot of work to do in developing the City and the riverfront. He understands it is politics, democracy, and a system of checks and balances, but it bothers him when there is so much to be done.

The group discussed the issue. **Councilor Loomis** commented he does not want Council decisions to be personal. This is a strong community and broad-based decisions will live on, and he does not feel anyone on Council has a personal agenda.

Zumwalt added there have been people in the past with their own agendas, and those decisions are difficult to overcome.

Councilor Stone asked Zumwalt to clarify what he meant by resolutions going by the wayside in a month. Are they being adopted and not implemented?

Zumwalt clarified it was not this Council, but he has seen resolutions go by the wayside in a couple of months after adoption. One of these had to do with the school, which he did not want to discuss at this time. Councilor Lancaster brought another up during budget deliberations. For example, how many of the community goals hold true at this time?

Councilor Lancaster thought Zumwalt's point was very good. As the elder statesman of the Council, he agrees there have been resolutions adopted but not acted upon. Every activity of a City employee, in addition to those activities that are legally required, should be directed toward accomplishing the community goals. The Council's job is to make sure those goals are accurate by listening each year to the neighborhoods. Part of that is acting upon past resolutions.

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

Firestone said one option the Council has is to change the effective date of the previously adopted resolution to December 17, 2003 to allow time for additional negotiations. It would prevent the filing of the lien until that time.

It was moved by Mayor Bernard and seconded by Councilor Barnes to adopt the resolution amending Resolution 39-2003 and changing the effective date. Motion passed unanimously.

RESOLUTION NO. 48-2003:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING RESOLUTION 39-2003.

Donated Rotary Sign and Design and Landmarks Commission Review

Mayor Bernard announced the City Council voted on this item at the previous night's work work session.

Other

Swanson said one action at this meeting was to change the next regular session from November 18 to November 17 at 6:00 p.m. The change is due to an unavoidable conflict for Councilors. The second issue is consideration of the water rate and reconsideration of the sanitary sewer rates. Out of necessity, these dates have changed, and he wants to ensure the public understands that. The hearing has been advertised, so he will be at City Hall on November 18 at 6:00 p.m. to explain the situation if people come expecting a Council meeting. The rate considerations will be rescheduled for January 20, 2004. The sewer consolidation study is nearing its end, and staff would like to fold those findings into the sewer rate issue.

Councilor Loomis suggested the Mayor discuss the Council vote on the sign.

Mayor Bernard said the Rotary Club donated the design, creation and placement of a welcome sign on the Milwaukie riverfront. Council selected one design out of a series. Sharon Klein will carve this sign as well as one to be placed on the property she and her husband Gary donated to be named Klein Point. The welcome sign will be placed on the southwest corner of McLoughlin Boulevard and Harrison Street. Mrs. Klein created the chosen design.


Councilor Loomis congratulated the Milwaukie High School boys and girls soccer teams that made it to the state playoffs.

Councilor Lancaster hoped that all citizens would personally speak to a public safety employee and thank them for their contributions. It is an important, and often times dangerous job, and they would appreciate the recognition.

ADJOURNMENT

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

Mayor Bernard adjourned the regular session at 7:15 p.m.



Pat DuVal, Recorder

AGENDA

MILWAUKIE CITY COUNCIL
NOVEMBER 4, 2003

MILWAUKIE CITY HALL
10722 SE Main Street

1921st MEETING

REGULAR SESSION - 6:00 p.m.

I. CALL TO ORDER
Pledge of Allegiance

II. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Public Safety Appreciation Week – Proclamation

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 October 21, 2003

B. Public Safety Advisory Board Re-Appointments

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

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

None Scheduled

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

A. Mayor/Council Communication Agreements -- Resolution (Mike Swanson)

B. Consider Donation Agreement and Easement Agreement Between the City and Gary E. and Sharon Klein -- Resolution

C. Consider Changing the Date for Second City Council Meeting of November 2003 – Resolution (Mike Swanson)

- D. Consider Lien in Amount of City Costs for Abating the Nuisance on Certain Real Property Owned by Union Pacific Railroad (Gary Firestone)
- E. Donated Rotary Sign and Design and Landmarks Commission Review (Mike Swanson)

VII. INFORMATION

- A. Library Board Minutes, September 22, 2003
- B. Park and Recreation Board Minutes, July 22, 2003
- C. Planning Commission Minutes, September 9 & 23, 2003
- D. Riverfront Board Minutes, August 8, 2003
- E. Public Safety Advisory Board Minutes, October 23, 2003

VIII. ADJOURNMENT

Public Information

- Executive Session: The Milwaukie City Council may go into Executive Session immediately following adjournment of the regular session pursuant to ORS 192.660.

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

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



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: October 27, 2003
RE: FYI Memo for the Weeks of October 27 through November 7, 2003

NOVEMBER 3, 2003 WORK SESSION

The work session begins at 5:30 P.M. with a light dinner and the opportunity to share information with your colleagues pertaining to City business and to ask questions about November 4, 2003 agenda items.

- 1. McLoughlin Boulevard Project Improvements Project:** The City recently contracted with David Evans and Associates (DEA), a local consulting firm, to complete preliminary engineering for the McLoughlin Project. The purpose of this session is: (1) to introduce the DEA consultants; (2) to summarize the Project; (3) to provide an overview of the Project; (4) to detail the next steps; and (5) to provide Council with an opportunity to ask questions about the next phase.

NOVEMBER 4, 2003 COUNCIL MEETING

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

- 1. Public Safety Advisory Committee (PSAC) Re-Appointments:** Section 2.24.020(B), Milwaukie Municipal Code provides that PSAC "members representing the neighborhood associations shall be appointed by the council after nomination by the neighborhood association that the person will represent. The council shall have discretion whether to appoint any person nominated by a neighborhood association." These members served an initial term and have been nominated by their respective neighborhoods to serve another.
- 2. Mayor/Council Communication Agreements:** This item was held over from the October 21, 2003 Council meeting in order that the full Council might consider it. I have made one minor text change from that presented at the October 21, 2003 meeting. That change is outlined in the staff memo.

3. **Resolution Authorizing the Mayor to Sign the Donation Agreement and Grant of Easement for Ingress and Egress Between the City of Milwaukie and Gary E. Klein and Sharon L. Klein:** This resolution authorizes the Mayor to sign both the Donation and Easement Agreements that lead to the donation to the City of the undeveloped property at the mouth of Johnson Creek. The property that is being donated is landlocked, and an easement will assist in establishing value for tax purposes. If the donation is not accomplished before December 31, 2003, the easement is extinguished. The donated property has been described to me as an "essential, important addition" to the Riverfront.
4. **Consider Lien in Amount of City Costs for Abating the Nuisance on Certain Real Property Owned by Union Pacific Railroad:** At its September 16, 2003 meeting Council adopted a resolution setting the amount at \$22,513 and establishing the effective date of the resolution as November 15, 2003. It further requested that the City Attorney initiate discussions with the parties in order to seek a compromise. At last report the Railroad had agreed to contribute \$2,000. Peterson was considering a like amount, and Emmert International had not responded. The City Attorney will be reporting on the discussions as of November 4. The Council may choose to let the original resolution stand, thus creating a lien in the amount stated, or it may accept an offer of compromise and take action to adjust the original resolution.
5. **Donated Rotary Sign and Design and Landmarks Commission (DLC) Review:** At the October 20, 2003 work session additional designs addressing Council's previous concerns were briefly reviewed, and the Councilors present approved a design. However, the presentation and discussion were not previously listed as an item for consideration at the work session. Thus, I have rescheduled this for a regular meeting in order to ensure that any discussion occurs in open session and with notice. In addition, at the October 20 meeting the question was raised about whether DLC review of this sign was mandated by the City Code. The staff memo addresses that inquiry.

OTHER ITEMS OF INTEREST

1. The Human Resources Department tested 18 people for the reserve officer position on October 18 and tested another 10 on the 25th. These are not new positions but are vacancies in the reserves caused by people leaving (many to accept paid positions). The reserve program, when fully staffed, provides the City with approximately 20 volunteer officers.
2. Open recruitments are currently underway for a Civil Engineer and sign shop.
3. Training on how to identify and prevent workplace harassment was recently completed for all staff.

Proclamation

WHEREAS, those members of our communities who work daily as responders to emergencies and other public safety needs, whether in police, fire, medical response or other similar agencies, are vital to the well being of our citizens; and

WHEREAS, the health, safety and comfort of our community is enhanced by the resourcefulness and integrity of those public safety departments; and

WHEREAS, the efficiency of the qualified personnel who staff public safety departments is significantly influenced by public attitude and understanding of the importance of the work they perform; and

WHEREAS, community support and interaction is vital to the efficient operation of public safety departments and their programs; and

WHEREAS, it is fitting and proper that we recognize the ongoing contributions of the area's public safety personnel by honoring and remembering them throughout the week of November 24 – 30, 2003,

NOW, THEREFORE, BE IT RESOLVED, that the City of Milwaukie wishes to commend these individuals for their dedication and commitment to this state and hereby proclaims the week of November 24 – 30, 2003 as "Public Safety Appreciation Week."

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

MINUTES

**MILWAUKIE CITY COUNCIL
OCTOBER 21, 2003**

CALL TO ORDER

Council President Larry Lancaster called the 1920th 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 Joe Loomis

Staff present:

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

Jay Ostlund,
Civil Engineer

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Historic Moments

Councilor Barnes read quotes from "As We Remember It". Milwaukie Museum Curator Madalaine Bohl is preparing this series of historical notes in honor of the City's Centennial Year.

Announcements

Council President Lancaster, with the consensus of Council, appointed Harold "Sonny" Newson to the Park and Recreation Board.

Swanson announced the city attorney was excused from this meeting.

It was moved by Councilor Barnes and seconded by Councilor Loomis to postpone adoption of the Mayor/Council Communications agreement. Motion passed unanimously among the members present.

CONSENT AGENDA

III. A. 2

It was moved by Councilor Barnes and seconded Councilor Loomis by to approve the Consent Agenda that consisted of:

- A. City Council Minutes of October 7, 2003; and
- B. The Bid Award for Jefferson Street Improvements.

Motion passed unanimously among the members present.

AUDIENCE PARTICIPATION

Lisa Gunion-Rinker, 3012 SE Balfour Street, and **Nancy Matich**, 4144 SE Filbert Street, announced the Centennial Walking Tour of historic homes in the Ardenwald Neighborhood on October 25 and 26.

PUBLIC HEARING – None scheduled

OTHER BUSINESS

Repeal Milwaukie Municipal Code Chapter 2.44 – Sister City Relationships

City Manager Mike Swanson presented the staff report in which he requested the City Council adopt an ordinance repealing Municipal Code Chapter 2.44 relating to Sister City Relationships. This first came to his attention several weeks ago when he was contacted by John Littlehales saying he received a letter from the state attorney general regarding dissolution of the Sister City Foundation. In looking at the municipal code, Swanson found a code provision relating to the sister city relationship. Milwaukie and Iwaki have not been very active in recent years; however, the connection has remained. The City also continues to pay the \$310 annual membership fee to Sister Cities International. He discussed the code provisions relating to sister city selection and the criteria for establishing a non-profit organization. The final provision was that any such association would be advisory to council on international affairs. He felt it best to simplify the code and repeal that particular chapter. Swanson noted this action would not repeal the sister city relationship with Iwaki, Japan.

Council President Lancaster encouraged staff to look for unnecessary code provisions such as this.

It was moved by Councilor Barnes and seconded by Councilor Loomis for the first and second reading by title only and for adoption of an ordinance repealing Chapter 2.44 of the Milwaukie Municipal Code. Motion passed unanimously among the members present. The City Manager read the ordinance twice by title only.

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

ORDINANCE NO. 1927:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REPEALING CHAPTER 2.44 OF THE MILWAUKIE MUNICIPAL CODE – SISTER CITY RELATIONSHIPS.

Mayor/Council Communication Agreements -- Resolution

By Council motion, this item is delayed until all Council members are present.

Other

Councilor Loomis announced that three Milwaukie High School students were awarded National Merit Scholarships.

Councilor Barnes suggested Council establish criteria and implement a student recognition program. **Councilor Lancaster** liked that idea of looking for opportunities of recognizing youth when they achieve certain honors.

ADJOURNMENT

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

Council President Lancaster adjourned the regular session at 6:20 p.m.

Pat DuVal, Recorder



TO: Mayor and City Council

THROUGH: Mike Swanson, City Manager

FROM: Larry Kanzler, Chief of Police

DATE: October 17, 2003

SUBJECT: Public Safety Advisory Committee Members Reappointment

This memo is to request, with the concurrence of their respective Neighborhood Associations, that Karen Martin and Gene Covey be reappointed to the PSAC for an additional two-year term.

III. B. 2

<u>ACTIVITY</u>	<u>First Quarter 2003</u>	<u>2002</u>
• Calls for service	1936 incidents/month	1009 incidents/month

Of the 1936 calls 697, or 36%, were initiated by police officers discovering or intervening in traffic or criminal activity. We have no comparative numbers prior to merging our dispatch center with Lake Oswego.

- Forecast of total call activity for 2003 – 23,232 Incidents with an estimated 14,869 incidents being generated by the public.
- Total 2002 Incident Activity – 11,800 Incidents
- Total activity is forecasted to increase by over 90%.

I am reluctant to try and validate the data collected prior to transferring the dispatch responsibility to Lake Oswego. The Lake Oswego Dispatch Center operates a CAD (Computer Aided Dispatch) system that records all dispatch activity. With the CAD system it is very difficult for a call for service not to be recorded. The old system in the Milwaukie Dispatch Center was a manually operated system that lacked that level of sophistication.

During the first 12-18 months of our transition to Lake Oswego we will be testing our deployment strategies and developing ways to target and forecast the need for police services. Many of the reports that are specific to Milwaukie’s needs have to be created and then can be modified as data becomes available.

Our transition to the Portland Police Data System (PPDS) in January 2002 is just now starting to pay dividends by unlocking the capabilities of Crime Analysis and Crime profiling. We will be developing and honing our skills using this sophisticated equipment over a protracted period of time and expanding the capabilities of our officers and non-sworn members.

TRAFFIC ISSUES

Traffic safety is a very high priority in our community. In the 2001 Police Department Reorganization Plan I outlined a phased transition of activity to minimize the impact of traffic on the neighborhoods without incurring the expense and impracticability of permanent traffic calming devices (speed bumps) costing an average of \$15,000 each.

Since the fall of 2001 the Police Department has actively sought traffic safety grants to enhance our ability to mitigate the negative effects of Driving under the Influence of Intoxicants, commercial motor carriers who fail to perform proper maintenance on their trucks, vehicle drivers who ignore the safety of pedestrians trying to cross the streets at intersections and marked crosswalks, and finally those drivers who fail to use the mandated safety equipment in their vehicles to reduce injuries associated with traffic accidents.

Ending with the fiscal year September 2003 the Milwaukie Police Department sought and was awarded \$19,090 in traffic safety grants from various venues: State, local, and private. During the preceding 12-months the Police Department was able to deploy an additional 61-officer days of patrol paid for by the DUII and Seatbelt grants.

The result of those 61 extra officer days was the detection and arrest of eleven (11) drivers for Driving Under the Influence of Intoxicants; the issuance of 330 citations for failure to wear seatbelts; the issuance of 169 citations for Failure to Yield to a Pedestrian in a crosswalk; and the safety inspection of 99 commercial carrier trucks that resulted in the detection of 101 truck violations and 58 driver violations – eleven of these trucks were put “out-of-service” for major safety violations that resulted in the trucks being towed from the road. More than 650 citations were issued by officers that were on duty as the direct result of grant funding.

The Police Department recommended to the Public Safety Advisory Committee that money generated through the traffic assessment fee be used to purchase traffic monitors, a recommendation of the 2001 Police Department Reorganization Plan. I’m pleased to report that those monitors have been ordered at a cost of nearly \$9,000.

The traffic monitors will give the Police Department the capability of monitoring traffic on any street in the City to determine the time of day when speeding is a problem and then deploy traffic enforcement units (motorcycles) to mitigate the problem. The advantage of the monitoring equipment is that it is mobile and has the capability of defining specific periods of time that require supervision.

Currently, police officers are dispatched on a speed problem and are required to spend many unproductive hours monitoring routine traffic. With our limited resources we believe that the monitors will provide us with a higher level of efficiency through a more directed patrol approach. I look forward to the benefits of this leading edge approach to solving community traffic problems.



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: October 22, 2003
RE: Mayor/Council Communication Agreements

This item was held over from the October 21, 2003 Council meeting so that the whole Council could take action. Thus, with one exception, reference should be made to the original staff report dated October 8, 2003.

I have made one change in the text of the Agreements from that which was before you on October 21, 2003. That change is the addition of the phrase "with the person(s) involved" in the fifth bullet of the paragraph numbered 2. This was a clarification suggested by Councilor Stone. It is one that I thought added to and did not alter the intent of the document.



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: October 8, 2003
RE: Mayor/Council Communication Agreements

ACTION REQUESTED

Adoption of a resolution approving the Mayor/Council Communication Agreements as presented.

BACKGROUND

It has become the practice of recent past Mayors and Councils to develop and adopt behavioral guidelines—or Mayor/Council Communication Agreements—that govern relationships with each other, the staff, and the public.

These Agreements differ from the Council rules authorized by Section 20 of the Milwaukie Charter of 1975 and found in Chapter 2.04 of the Milwaukie Municipal Code in that they focus on behaviors and relationships, while the rules are procedural. In addition, the former have been reviewed by each new Council and tailored to its needs, while the latter experience fewer changes. Finally, the former are “enforced” by the active compliance of the participants. Private, timely action is the first course of action. A failure to follow the Council rules carries immediate, public consequences. For example, Section 2.04.080 of the Milwaukie Municipal Code prescribes the conditions under which a special meeting may be called. Absent an “emergency involving danger to life or property,” one simply cannot convene a special meeting without meeting certain procedural preconditions. Once having met those, only limited business may be conducted.

The Mayor/Council Communication Agreements before you retain much of the substance of the work done by past Mayors and Councils. The three biggest changes are: (1) to emphasize the contribution of these Agreements to good public information and effective public process; (2) to make very clear each

individual's responsibility to support a decision once the process had been completed; and (3) to restructure presentation of the Agreements to emphasize the varied relationships.

In the past the Agreements have been posted on the back wall of the Hearing Room. Rather than doing this, I am planning on obtaining the signature of each of you once these are approved and including a copy with each agenda.

FISCAL IMPLICATIONS

There are no fiscal implications from adoption of the proposed resolution.

ALTERNATIVES

The alternatives available are:

- You may choose not to adopt the resolution, which has the effect of not adopting the Agreements. There is no requirement in law that you adopt these Agreements.
- You may choose to alter any or all of the individual provisions of the Agreements.

MAYOR/COUNCIL COMMUNICATION AGREEMENT

Guaranteed access to clear and easily understood information is a value of the City of Milwaukie. These agreements are intended both to foster conduct that realizes that value, while ensuring a healthy debate about competing ideas. Finally, they seek closure and a community that moves forward together, secure in the knowledge that decisions were made openly and fairly.

The agreements have one common behavioral thread—mutual respect. Thus, if the list does not anticipate a situation, a response that is respectful of all concerned should suffice.

1. In all Council events, work sessions, and meetings:
 - I demonstrate respect for all who are involved;
 - I respect all thoughts and ideas;
 - I clarify facts and opinions to ensure understanding;
 - I do not personalize my comments;
 - I clearly state my own opinion as being mine;
 - I look for ways to praise efforts and accomplishments; and
 - I stay focused and participate.

2. In working with the Mayor and Councilors:
 - I provide them with reasonable notice of matters I am introducing at meetings;
 - I always represent the City's position before other jurisdictions unless none has been adopted, in which case I inform the Mayor and Council in a timely manner of the position(s) I have taken;
 - I work toward consensus;
 - Once the group has acted, I accept and respect the decision, and I do not publicly ridicule the Council, any individual member or participant, or the decision; and
 - I first address a concern about either a violation of these agreements or any other matter in a direct, appropriate, private, and timely manner with the person(s) involved.

3. In working to seek broad-based community support:
 - I communicate with the community to gather information; and
 - I engage the community in a shared dialogue.

4. In working with staff:
 - I communicate with staff to gather information; and
 - I exchange ideas with staff and give direction through the City Manager with the concurrence of the Mayor and Council.

James Bernard, Mayor

Larry Lancaster, Council President

Deborah Barnes, Councilor

Joe Loomis, Councilor

Susan Stone, Councilor

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING THE MAYOR/COUNCIL COMMUNICATION AGREEMENTS.

WHEREAS, open, direct, and positive communication among the Mayor and Councilors and between them and the staff and public is critical to ensuring clear and easily understood public information; and

WHEREAS, open, direct, and positive communication among the Mayor and Councilors and between them and the staff and public is essential to a healthy community debate on issues; and

WHEREAS, the Mayor/Council Communication Agreements as proposed are intended to ensure an open public process that leads to closure.

NOW, THEREFORE, BE IT RESOLVED, by the City Council, that the Mayor/Council Communication Agreements be adopted.

This resolution is effective immediately upon adoption.

Introduced and adopted by the City Council on _____.

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:

Ramis, Crew, Corrigan & Bachrach LLP



TO: Mayor and Council
FROM: Mike Swanson, City Manager
DATE: October 27, 2003
RE: Resolution Authorizing the Mayor to Sign the Donation Agreement and Easement Agreement Between the City and Gary E. and Sharon Klein

ACTION REQUESTED

Approval of a proposed resolution authorizing the Mayor to sign the Donation Agreement and Easement Agreement between the City of Milwaukie and Gary E. and Sharon Klein.

BACKGROUND

The City is the owner of open space (Riverfront property) along the Willamette River which it acquired for park use. The Kleins own undeveloped property (Klein property) that borders the northernmost end of the Riverfront property.

The Kleins have indicated their desire to donate the property to the City to enhance its Riverfront property. The Klein property is at the mouth of Johnson Creek and has been held in a natural, undeveloped state. The City and landscape architect that drafted the design for the Riverfront Park agree that the Klein property is a positive addition to the project.

Donation of the property requires a number of steps. The first step is execution of the Donation Agreement, which is attached. The Donation Agreement sets forth the terms of the transaction. The major points are:

- The City will grant an easement across the Riverfront property to the Klein property. At present, the Klein property is landlocked. Immediately upon execution of the Donation Agreement, the City will record the easement. If the donation is not fully accomplished by December 31, 2003, the easement will be extinguished.
- The Kleins will execute a quitclaim deed to the City conveying title to the Klein property, subject to certain restrictions.

VI. B. 2

- The restrictions focus upon continued use of the property in its natural state, together with the City's commitment to maintain it in a clean condition. If, after notice, the City does not cure a violation of the restriction, the Kleins have certain remedies, including an action to reclaim title. It should be noted that this restriction runs only to the Kleins and their successors who have an ownership interest.
- The City agrees to pay the costs incurred by the Kleins. The costs should be limited to attorney's fees, appraisal costs, and filing fees. It is estimated that the total costs will be approximately \$20,000.

FINANCIAL IMPLICATIONS

As noted above, the City will pay the costs incurred by the Kleins. Those costs are estimated to be \$20,000.

ALTERNATIVES

It appears that the alternative would be not to approve execution of the agreements. The Klein property would not then become an addition to the City's Riverfront.

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE DONATION AGREEMENT AND GRANT OF EASEMENT FOR INGRESS AND EGRESS BETWEEN THE CITY OF MILWAUKIE AND GARY E. KLEIN AND SHARON L. KLEIN.

WHEREAS, the City previously acquired open space along the Willamette River; and

WHEREAS, Gary E. Klein and Sharon L. Klein are the owners of certain undeveloped real property adjacent to the City's Riverfront; and

WHEREAS, the property owned by the Kleins is a desirable addition to the City's Riverfront property and plans; and

WHEREAS, the Kleins have indicated their desire to donate the property to the City as an addition to the Riverfront.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL, CITY OF MILWAUKIE, OREGON that the Mayor is authorized to sign the Donation Agreement and Grant of Easement for Ingress and Egress between the City of Milwaukie and Gary E. Klein and Sharon L. Klein.

Introduced and adopted by the City Council on November 4, 2003.

This resolution is effective on November 4, 2003.

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:

Ramis, Crew, Corrigan & Bachrach, LLP

After recording, mail to:

City Recorder
City of Milwaukie
10722 SE Main
Milwaukie, Oregon 97222

DEDICATION DEED

GARY E. KLEIN and SHARON L. KLIEN, husband and wife (collectively, "Grantors"), do hereby give and dedicate to THE CITY OF MILWAUKIE, an Oregon municipal corporation (the "City") for the benefit of the general public, that certain real property described in Exhibit "A" hereto (the "Property"). It is a condition of this dedication that the Property shall be maintained by the City in perpetuity as a natural open space area with improvements thereto limited to not more than two (2) total pedestrian and/or bicycle trails on the easterly portion of the Property and a plaque or memorial, with a design and content approved by Grantors, identifying the Property as "Klein's Point".

Grantors hereby covenant that they have good and legal right to convey the Property to the City. The City covenants for itself and its successors and assigns and any who take through or under it, for the benefit of Grantors and their lineal descendants who now, or in the future may, own any interest in the real property described in Exhibit "B" hereto (the "Klein Property") to maintain the Property in a natural condition and to remove on a frequent basis all litter, garbage, junk, trash, debris, and waste. This restriction and covenant are a material part of the consideration for this gift. If this restriction is violated or the covenant broken, the Grantors or their successors or assigns shall give written notice of such violation or breach to Grantee or its successors. The Grantee or its successors shall cure the violation or breach within fifteen (15) days of such notice, or if the breach is of a nature such that it is incapable of cure within the said time, the Grantee or its successors shall commence the cure within said fifteen (15) day period and prosecute the same diligently to conclusion. If Grantee or its successors fail to timely cure such a violation or breach, Grantors, and ~~their~~ the lineal descendants of Ralph and Fredericka Klein having ownership interests in the Klein Property, shall have the right to an injunction, specific performance and damages that arise from the breach and/or violation (which may include return of the Property to their ownership, without charge) as a remedy for breach. In the event the Property shall be returned to the ownership of Grantors or ~~their~~ the lineal descendants of Ralph and Fredericka Klein, the City, or its successors or assigns shall grant an easement to the Grantors or ~~their~~ the lineal descendants of Ralph and Fredericka Klein having ownership interests in the Klein Property, providing for vehicle access to and from the Property to the nearest public roadway (which at the date of this deed would be an extension of SW Jefferson Street), and the City

Page 1- DEDICATION DEED

VI. B. 5

shall take such measures as may be necessary so that the Property will have the same, or commensurate, zoning as exists at the date of this deed.

Conveyance of the Property by this deed is a donation without consideration paid by the City.

This deed may be executed in counterparts, which shall constitute but one original.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

IN WITNESS WHEREOF, I hereunto set my hand on this _____ day of _____, 2003.

Gary E. Klein

Sharon L. Klein

THIS DEED IS ACCEPTED BY THE CITY OF MILWAUKIE.

By: _____
Its: _____
Dated: _____

STATE OF OREGON)
) ss
County of _____)

This instrument was acknowledged before me on this _____ day of _____, 2003, by Gary E. Klein and Sharon L. Klein, husband and wife.

NOTARY PUBLIC for Oregon

My commission expires: _____

EXHIBIT A

Part of the Lot Whitcomb and wife D.L.C. in Section 35, Township 1 South, Range 1 East of the Willamette Meridian, in the City of Milwaukie, County of Clackamas and State of Oregon, described as follows:

Beginning at a point on the Westerly side of the Portland Electric Power Company right of way, which is North 9° 20' West 494.50 feet and South 80° 40' West 80.00 feet and South 80° 40' West 100.00 feet and South 9° 20' East 25.00 feet from the Southwest corner of Block 28 of MILWAUKIE, which beginning point is on the South line of land conveyed to W. J. Eastman by deed recorded October 13, 1943 in Book 314, Page 636, Clackamas County Records; thence from said beginning point run South 80° 40' West on the South line of said Eastman land 134.85 feet to the Southwest corner thereof on the meander line of the right bank of the Willamette River at low water mark, from which point a Ford axle driven in the ground bears North 80° 40' East 16.55 feet; thence tracing the meander line of said river down stream North 22° 20' West 110.25 feet to a point in the center of Johnson Creek; thence in the center of said creek upstream North 50° 45' East 41.26 feet; thence North 80° 40' East to the Westerly side of said Portland Electric Power Company's right of way; thence Southerly along the Westerly side of said right of way to the true point of beginning.

AFTER RECORDING, RETURN TO:

Dominic G. Colletta
Ramis Crew Corrigan & Bachrach
1727 NW Hoyt Street
Portland, OR 97209

GRANT OF EASEMENT FOR INGRESS AND EGRESS

THIS GRANT OF EASEMENT is made the _____ day of June, 2003, by the **CITY OF MILWAUKIE**, a municipal corporation of the State of Oregon ("Grantor") to **GARY E. KLEIN** and **SHARON L. KLEIN**, husband and wife (collectively, "Grantee").

Recitals

A. Grantor is the owner of that certain real property located in the City of Milwaukie, County of Clackamas and State of Oregon more particularly described in Exhibit "A" attached hereto (the "Grantor Parcel").

B. Grantee is the owner of that certain real property also located in the City of Milwaukie, County of Clackamas and State of Oregon more particularly described in Exhibit "B" attached hereto (the "Grantee Parcel").

C. Grantee is desirous of obtaining an easement across a portion of the Grantor Parcel for the purposes of ingress, egress and utilities for the benefit of the Grantee Parcel, and Grantor is willing to grant such an easement.

Grant of Easement

NOW THEREFORE, for good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, Grantor grants, conveys and warrants to Grantee an easement ("Easement") on, over and across that portion of the Grantor Parcel described in Exhibit "C" attached hereto (the "Easement Parcel"), for ingress and egress to and from the Grantee property. The Easement granted hereby is perpetual and appurtenant to the Grantee Property, and runs with the land. Both the benefits and the burdens of the Easement shall extend to the respective heirs, legal representatives, successors and assigns of the Grantor and Grantee.

VI. B. 8

IN WITNESS WHEREOF the parties have made this Easement, consisting of two pages including the page containing the signatures of the parties, effective as of the date first above written.

GRANTOR:

GRANTEE:

CITY OF MILWAUKIE,
A municipal corporation of the
State of Oregon

Gary E. Klein

By: _____

Sharon L. Klein

STATE OF OREGON)
) ss
County of _____)

This instrument was acknowledged before me on this _____ day of _____, 2003, by _____ as _____ of the City of Milwaukie, a municipal corporation of the State of Oregon.

NOTARY PUBLIC for Oregon
My commission expires: _____

STATE OF OREGON)
) ss
County of _____)

This instrument was acknowledged before me on this _____ day of _____, 2003, by Gary E. Klein and Sharon L. Klein, husband and wife.

NOTARY PUBLIC for Oregon
My commission expires: _____

EXHIBIT "A"
(Page 1 of 2)GRANTOR PROPERTY
LEGAL DESCRIPTION

PARCEL 1: Beginning at an iron pipe driven at a point North 10° West 88.93 feet distant from a point in the Westerly projection of the center line of Jefferson Street, in the City of Milwaukie, County of Clackamas and State of Oregon, South 80° West 430 feet distant from a stone monument set at the intersection of the center line of Main and Jefferson Streets in said Milwaukie, according to the duly recorded plat thereof on record in the office of the Recorder of Conveyances of said county; running thence North 10° West parallel to the Westerly line of Front Street and 110 feet distant therefrom and measured at right angles thereto, 100 feet to an iron pipe; thence South 89° West 135.88 feet to a point on the meander line of the right bank of the Willamette River at low water stage, from which an iron pipe driven in the bank bears North 89° East 46.73 feet distant; thence tracing the meanders of said river at low water stage upstream South 11° West 28.63 feet to an iron rod; thence along said meander line at low water stage South 41° West 95.23 feet to an iron pipe driven in the red rock; thence leaving said meander line North 89° East 221.19 feet to the place of beginning.

PARCEL 2: A part of the Donation Land Claim. of Lot Whitcomb and wife in Township 1 South, Range 1 East of the Willamette Meridian, in the City of Milwaukie, County of Clackamas and State of Oregon, bounded and described as follows, to-wit:

Beginning at an iron pipe driven at the Northeast corner of that certain tract of land conveyed to Lydia A. Harlow by deed recorded in Book 159, Page 367, Records of Deeds of Clackamas County, which point is 111.48 feet North and 456.07 feet West of the City Monument at the intersection of the center lines of Jefferson and Main Street in the town of Milwaukie, Oregon; running thence South 89° 00' West tracing the North line of the Lydia A. Harlow tract 135.88 feet to an iron pipe in the meander line of the right bank of the Willamette River at low water stage; thence North 11° 00' East tracing the meanders of the right bank of the Willamette River at low water stage 51.12 feet to a point; thence North 89° East parallel to the North boundary of the Lydia A. Harlow tract 50 feet distant therefrom measured at right angles thereto a distance of 117.25 feet to a point; thence South 10° 00" East 50.62 feet to the place of beginning.

PARCEL 3: Being a part of the Lot Whitcomb Donation Land Claim in Township 1 South, Range 1 East, of the Willamette Meridian, in the City of Milwaukie, County of Clackamas and State of Oregon, bounded and described as follows, to-wit:

Beginning at an iron rod driven at the Northeast corner of that certain tract of land conveyed to Inge A. and Elva Jones by deed recorded in Book 220, Page 162, Deed Records, which point is North 9° 20' West 38.10 feet distant and South 80° 40' West, 80.00 feet distant and South 89° 42' West 101.22 feet distant and North 9° 20' West 150.62 feet distant from the Southwest

EXHIBIT "A"
(Page 2 of 2)

GRANTOR PROPERTY
LEGAL DESCRIPTION

corner of Block 28, Milwaukie, Oregon, according to the duly recorded plat thereto, situated in the Lot Whitcomb Donation Land Claim No. 38, Township 1 South, Range 1 East, of the Willamette Meridian; running thence South 89° 40' West tracing the Northerly boundary of the said Jones tract 117.25 feet to a point on the meander line of the right bank of the Willamette River at low water stage; thence tracing the meander Line of the right bank of said river down stream at low water stage North 11° 40 East 66.10 feet to an iron rod; thence tracing the meander line of the right bank of said river down stream at low water stage North 22° 20' West 189.75 feet to the Southwest corner of a tract of land described in the Will of Isaac Gratton, Probate No. 28213, Multnomah County, Oregon, as set off to Paul J. Gratton, from which point a Ford Axle driven in the ground bears North 80° 40' East 16.55 feet distant; thence tracing the Southerly boundary of the Paul J. Gratton tract North 80° 40' East 139.77 feet to a point in the center of the Portland Railway Light and Power Company Easement, from which point an iron pipe driven on the Westerly side line of said easement bears South 80° 40' West 10.27 feet distant; thence Southerly tracing the center of said easement on an 11° 30' curve to the right a distance of 71.23 feet to a point of tangent; thence tracing the center of said railway easement South 14° 24' East 200.94 feet to an iron pipe; thence South 89° 40' West 34.40 feet to the place of beginning.

SAVE AND EXCEPTING from the execution of the deed to Inge A. and Elva Jones, a strip of land 10 feet wide extending along the Easterly boundary of the above described tract being a part of the easement heretofore granted to the Portland Railway, Light and Power Company.

EXHIBIT "B"

[Grantee Property]

Part of the Lot Whitcomb and wife D.L.C. in Section 35, Township 1 South, Range 1 East of the Willamette Meridian, in the City of Milwaukie, County of Clackamas and State of Oregon, described as follows:

Beginning at a point on the Westerly side of the Portland Electric Power Company right of way, which is North 9° 20' West 494.50 feet and South 80° 40' West 80.00 feet and South 80° 40' West 100.00 feet and South 9° 20' East 25.00 feet from the Southwest corner of Block 28 of MILWAUKIE, which beginning point is on the South line of land conveyed to W. J. Eastman by deed recorded October 13, 1943 in Book 314, Page 636, Clackamas County Records; thence from said beginning point run South 80° 40' West on the South line of said Eastman land 134.85 feet to the Southwest corner thereof on the meander line of the right bank of the Willamette River at low water mark, from which point a Ford axle driven in the ground bears North 80° 40' East 16.55 feet; thence tracing the meander line of said river down stream North 22° 20' West 110.25 feet to a point in the center of Johnson Creek; thence in the center of said creek upstream North 50° 45' East 41.26 feet; thence North 80° 40' East to the Westerly side of said Portland Electric Power Company's right of way; thence Southerly along the Westerly side of said right of way to the true point of beginning.

EXHIBIT "C"

[The Easement Property]

A part of the Lot Whitcomb Donation Land Claim in Section 35, Township 1 South, Range 1 East, of the Willamette Meridian, in the City of Milwaukie, County of Clackamas and State of Oregon, described as follows:

Beginning at a point which is North 9° 20' West, 38.10 feet distant and South 80° 40' West, 80.00 feet distant and South 89°42' West, 63.42 feet distant from the Southwest corner of Block 28 of MILWAUKIE, said point being at the intersection of the northerly right-of-way line SE Jefferson Street, also know as County Road No. 208, and the westerly right-of-way line of the Portland Railway, Light and Power Company; thence North 14°24' West along the westerly line of said Portland Railway, Light and Power Company tract, 354.30 feet to a point of tangent to a curve; thence northerly tracing said westerly line of Portland Railway, Light and Power Company tract, 71.23 feet to the southerly line of a tract described as Parcel III in Quitclaim Deed to Gary E. Klein and Sharon L. Klein recorded in Instrument No. 2001-030658, Clackamas County Deed Records; thence South 80° 40' West along said south line of the Klein tract, 15-feet, more or less, to a point that is 15.0 distant from the westerly line of said Portland Railway, Light and Power Company tract when measured at right angles; thence southerly parallel to and 15 feet distant from said Portland Railway, Light and Power Company tract, 425 feet, more or less, to said northerly right-of-way line of SE Jefferson Street; thence North 89° 42' East along said Jefferson Street right-of-way, 15.46 feet to the point of beginning



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: October 27, 2003
RE: Proposed Resolution Changing the Date of the November 18, 2004 Regular Council Meeting

ACTION REQUESTED

Adoption of the proposed resolution changing the date of the November 18, 2003 regular Council meeting.

BACKGROUND

Chapter VI, Section 20 of the Milwaukie Charter of 1975 provides, in part, as follows:

“The council shall hold a regular meeting at least twice each month at a time and place which it designates.”

Section 20.04.070, Milwaukie Municipal Code, gives further definition to that Charter provision as follows:

“Regular meetings shall be held on the first and third Tuesday of each month at seven p.m. in the council chambers at City Hall, 10722 SE Main. Regular meetings may be held at a different time and place by giving appropriate notice at least twenty-four hours in advance. Two regular meetings shall be held each month.”¹

It is not unusual for something to unexpectedly arise during the year that argues for a change in that regular meeting date. The change is implemented by resolution.

¹ At the first meeting of the calendar year the Council traditionally enacts a resolution formally scheduling the regular meetings for the first and third Tuesdays of each month. The resolution also notes that each meeting will be “called to order at 6:00 P.M.” In addition, one week prior to each regular meeting the City publishes an agenda that clearly sets 6:00 P.M. as the meeting time. Each of these acts constitutes “appropriate notice” for the change from the Code’s “seven p.m.” starting time.

VI. C. 2

After November 18, 2003 was set as a regular meeting date, the North Clackamas School District scheduled the dedication of the new Schellenberg Center for the same evening from 6:00 to 8:00 P.M. Council will be invited to the dedication, and a request has been made to change the date of that regularly scheduled meeting. One possibility is to move it back one night to November 17, 2003, the date of the regularly scheduled work session.²

The Council rescheduled consideration of a water rate increase originally scheduled for September 16, 2003 to November 18, 2003 and scheduled a reconsideration of a previous increase volume-based sewer rates on the same evening. Due to a delay in the wastewater "consolidation study" staff was going to request that the Council take action on the proposed water rate increase, with the understanding that the sewer rate issue would come back to Council after more financial information is available on the wastewater consolidation study in the coming weeks. Council may be able to make a more informed decision about sewer rates at that time. The reason for retaining the November 18 date is twofold: first, the date has been coordinated with the rate consultant; and second, the hearing date has been publicized. For example, the November 18 date has been given some prominence on the City's web site.

Thus, the question before Council is whether or not to change the regularly scheduled meeting, and, if so, to what date. If it is changed, staff will seek to widely publicize that change to minimize disruption to those who might have planned to attend the November 18, 2003 rate hearings.

² The only items that has been scheduled thus far are: (1) Update on Tri-Met Light Rail Working Group; (2) Centennial year Final Events; (3) North Main Update; and (4) Downtown Implementation Plan with Oregon Downtown Development Association.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DETERMINING THE SECOND REGULAR COUNCIL SESSION OF NOVEMBER 2003 WILL BE CALLED TO ORDER ON _____.

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

WHEREAS, the North Clackamas School District has invited the Milwaukie City Council to attend the dedication of the new Schellenberg Center on the same evening as the Council's regular session on November 18, 2003; and

WHEREAS the City Council wishes to mark this important by attending the Schellenberg Center dedication;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Milwaukie, Oregon, that the second regular City Council meeting of November 2003 will be called to order at _____;

Introduced and adopted by the City Council on November 4, 2003.

This resolution is effective on November 4, 2003.

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:

Ramis, Crew, Corrigan & Bachrach, LLP



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: October 27, 2003
RE: Consider Lien in Amount of City Costs for Abating the Nuisance on Certain Real Property Owned by the Union Pacific Railroad

ACTION REQUESTED

Council decision on how next to proceed on the abatement of the lien.

BACKGROUND

At its September 16, 2003 regular hearing, Council considered the question of the amount of the lien that should be set in the above matter. The decision was to set the lien in the amount of the City costs (\$22,513) and to set the effective date of the resolution adopting that amount sixty days after adoption. (See attached minutes of September 16, 2003.) Sixty days after the September 16, 2003 adoption is November 15, 2003.

The adoption date was delayed in order to give the City Attorney time to communicate with the other parties (Union Pacific Railroad, Mr. Peterson, and Emmert International) regarding a possible compromise of this claim. If a settlement was reached that was acceptable to Council, action could be taken at the November 4, 2003 regular meeting to cancel imposition of the lien or to otherwise change the final status.

The City Attorney will report that evening on discussions that he has had regarding a possible compromise of this claim.

Excerpt from the City Council Minutes of September 16, 2003

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

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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.



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: October 21, 2003
RE: Donated Rotary Sign and Design and Landmarks Commission Review

ACTION REQUESTED

The action requested is Council review of the alternatives presented and direction on a future course of action.

BACKGROUND

In spring 2003 the Milwaukie Rotary Club informed the City that it wished to undertake a project to fund a sign welcoming people to the City. Rotary desires to locate this sign on City-owned property at the southwest corner of Harrison and McLoughlin. City staff and Rotary volunteers have been working together to develop a concept(s) that would serve the interests of the City.

Over twenty design alternatives have been considered. The designs that generate the most support seem to include common elements like the Willamette River, Elk Rock Island, and the Dogwood. A local artist will carve the sign.

At the September 2, 2003 Council meeting a "finalist" design was presented for your consideration. At that time a suggestion was made to refer it to the City's Design and Landmarks Commission (DLC) for review. The suggestion seemed to generate some support, but no formal action was taken. (See attached minutes of September 2, 2003.) At the September 19, 2003 work session the issue of DLC review was again discussed. Reference was made to the September 2, 2003 meeting, but again, no formal action was taken. (See attached minutes of September 19, 2003.)

Two actions proceeded from the September 2 and September 19 meetings. First, although the minutes disclose no formal Council action assigning design review of this sign to the DLC, there was enough discussion about the urgency of moving forward and completing this task in a timely manner as well as a number of specific concerns about the "busyness" of the design that a review was

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scheduled before the DLC. That review was scheduled on its October 22, 2003 agenda together with a discussion of a draft "Evaluation Criteria for Graphic Design of Signage." Second, based on the Council's comments, two Rotary volunteers and the sign artist developed five new sign concepts and presented them to the staff on October 14, 2003. (See attached Design Alternatives 1 through 5.)

At its October 20, 2003 work session, staff provided the Council with an update on the Rotary sign project, including the pending DLC review date. Council also reviewed the five updated sign designs and indicated its approval of one of the designs presented—Design Alternative 1. The question arose as to whether the DLC still needed to review the designs presented, and I responded that the DLC actually had no role within the Milwaukie Municipal Code in conducting a review of the sign proposed by the Milwaukie Rotary.

However, I erred in one respect. The discussion that we conducted was not on the agenda. I permitted its addition when there was no justifying emergency. It could have waited for placement on a future agenda. The result was a discussion that took place out of the public spotlight. That is not the principle by which we have committed to conduct our business. Fortunately, the error can be corrected by rolling it back.

When first presented, the issue was fairly simple—namely, is the design concept as presented acceptable? To be sure, the issue is complicated by the nature of the art. A one-dimensional drawing cannot begin to accurately reflect the art that an accomplished carver will produce. But it can begin to identify the elements that the finished product will incorporate, and that was the question.

The issue became more complicated by introduction of the DLC, but it did not require a place in this process. First, this sign is exempt pursuant to Sections 14.12.010(C) and 14.12.010(I), Milwaukie Municipal Code. Subsection C exempts signs "placed for purposes of public direction and safety," which includes "municipal signs." Subsection I exempts signs "of public or legal notice."

Second, the DLC does not possess the authority to review signs of this type. City boards and commissions possess only the authority delegated to them by State law, City Charter, and the City Code. The fundamental powers of the DLC are found at Section 2.18.010, Milwaukie Municipal Code. Those powers are:

- A. Assisting the city council on historic preservation matters defined in Section 323 of the zoning ordinance, specifically those duties and responsibilities described in Sections 323.4(B) and 323.5 of the zoning ordinance;
- B. Reviewing the historic resources element of the comprehensive plan;

- C. Providing decisions and/or recommendations to the planning commission and the city council regarding compliance with applicable design guidelines for development projects subject to design review under the zoning ordinance; and
- D. Review and recommend appropriate design review processes and procedures to the city council.
- E. Any other duties assigned by the city council.

If the DLC possesses the power to review sign designs it must be found within the above language or elsewhere in the Code. Only Subsection E above creates that authority, ***but it does so only if the Council takes action.***

Finally, the Sign Code does not give the DLC the requisite authority to conduct a design review process for signs of this type. Revisions to the Sign Ordinance relating to the Downtown Plan were adopted on April 1, 2003 and do grant additional powers to the DLC, but that authority does not extend to signs of this type. Section 14.16.050(G) delegates the power to make design review decisions regarding internally illuminated signs to the DLC.¹ One final revision to the Sign Code is found at Section 14.32.010(B), Milwaukie Municipal Code, which makes the DLC the review authority for variances.

SUMMARY

The DLC, like all City boards and commissions, possesses only that authority expressly granted by State Statutes, the City Charter, or the City Code. Absent an affirmative assignment of a duty by the City Council pursuant to Section 2.18.010(E), Milwaukie Municipal Code, the DLC does not possess design review authority over the subject sign.²

Thus, the alternatives before the Council are as follows:

- Review the design(s) proposed and approve a concept;
- Review the design(s) as proposed and reject them with direction to proceed in a different manner; or
- Take specific action to assign the review function to the DLC or other appropriate person or body and, upon approval of a design, direct that a report be returned to Council of the action taken.

Once a decision has been made, the project should move forward, and, as an exempt sign, no further review should be necessary.

¹ This provision clearly requires that the DLC "shall use the downtown design guidelines as approval criteria" in making the decision on internally illuminated signs. In other words, the review criteria that must be applied in making a decision are restricted to those found in the Code.

² As a general rule the policy that was chosen was not to subject every sign to an independent design review process, for to follow a different process could result in an administrative nightmare. Rather, the Code sets forth design criteria that. (The subject sign may not even be viewed in this context as an exempt sign.)

Excerpt from Approved September 2, 2003 Regular Session Minutes

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 the suggested area to place the proposed sign is a totally vacant lot on Harrison St. and HWY.99. 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 and come back to Council for final approval. 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.

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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.

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.

Excerpt from Approved September 19, 2003 Work Session Minutes

Councilor Loomis said e-mail comments were traded about the "Welcome to Milwaukie" sign. He showed the drawing to several people, and, although there are no problems with the carver, people asked, "Are those the colors?" He felt it would be best to change the colors or put the artist's concept before someone rather than going ahead with the project and then having people send letters to the newspaper.

Mayor Bernard said he would ask Mrs. Klein on a redraft of the drawing.

Councilor Barnes suggested a computer printout of what she actually has in mind.

Rouyer understands the Rotary Club used a graphic designer, pro bono, from the Clackamas County Education Service District (ESD). This person developed numerous concepts that Rotary Club members reviewed and refined to this one design. It was sent to Mrs. Klein, and the drawing before Council is her interpretation. This could be amended. She asked if it were Council's consensus to send the design to the Design and Landmarks Commission (DLC).

Mayor Bernard and **Councilor Barnes** thought it should stay with Council since this body will make the final decision. In adopting the downtown design guidelines, the Council knows what the DLC wants to see downtown and on the riverfront. Mayor Bernard asked Councilor Barnes if Scott Webb could prepare a design, and Councilor Barnes replied he probably could if the rest of Council did not object.

Councilor Stone thought the Council decided at its last meeting that it is appropriate to follow the process in place with a Commission that has done a lot of work in terms of standardizing signs and building fronts in the downtown area. This sign is going to be quite a marquee type of sign and markets the downtown area. The DLC has architects and graphic arts designers who are in the profession. She thought at the last Council meeting that the DLC would take a look at it and ultimately come back to the Council for the final decision.

Mayor Bernard said that was discussed. He would like to speed up the process because the Rotary has spent 1-1/2 years on this project and are about to say, "Forget it."

Councilor Stone said, when the Ardenwald Neighborhood did its sign, it took a good year to get it all together. It takes some time to come up with the best design and shows the City at its best. Hundreds of thousands of people are going to see this sign on what is a major highway. She feels it is appropriate to have the DLC review the design. Part of the process, in terms of helping the City

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Council, is for these boards and commissions to support and be advisory to the Council.

Rouyer added the DLC meets the last Wednesday of September.

Mayor Bernard asked if any members of Council objected to Scott's doing a quick design and giving both to the DLC.

Swanson discussed separating the art from the function. An artist who is a carver whose tools are knives and not pens prepared the sketch. He has seen Mrs. Klein's work, and it is incredible. It is difficult or impossible to capture her art on paper. He believed the sketch was done more to give everyone an idea of what the sign will look like. He would characterize the person doing the work as an artist on a different level. Personally, he was not that concerned about the colors, for example, because there will be an entirely different perspective when the sign is completed. This is what Mrs. Klein compiled from the 28 ideas she got.

Rouyer said the graphic artist suggested the font. Mrs. Klein took the graphic artist's ideas and came up with this interpretation.

Swanson believed the final product would be an artistic piece rather than a copy of a lot of ideas.

Councilor Loomis thought there was a whale with a hat on in the sketch.

Mayor Bernard was in favor of telling the Rotary to go ahead with the project.

Councilor Stone felt uncomfortable because the sign will be so visible. She has shown the sketch to graphic arts people, and they have some comments. She thinks the design people on the Commission need to look at it first. It never hurts to have some input. It has already been a year. The Commission is meeting in a couple of weeks, and then it will come back to the City Council. It is not making the process that much lengthier. She wants to make sure the sign shows the City of Milwaukie in the best light.

Councilor Loomis asked if this is something the DLC would normally consider.

Rouyer did not have a precise answer, but she did respond there are adopted design guidelines for signs. The size of the sign may trigger its going to DLC.

Councilor Loomis said if the sign did fall under those guidelines, he would like the DLC to make a review. Board and commission members sometimes are discouraged when they are not asked for their opinions.

Councilor Stone said, though not an art expert, she looks at people on these boards and commissions as having some background and expertise. It seems they are in their positions to be advisory to the Council and help it make the best decisions. This Commission is in place, so she recommended utilizing it.

Councilor Barnes said the difference for her is that this sign is a gift. She was concerned about placing a lot of conditions on people wishing to give the City a gift, which ultimately may or may not be accepted. She suggested a compromise in this case of the Council's coming up with more detailed ideas and working with the Rotary on them. She does not think the City Council wants to spend an additional month sending it to a Commission, since approved guidelines are already in place. The Council's saying to this group that its gift may not be good enough and sending it to a Commission for a recommendation is not a direction she would like to see taken.

Councilor Stone said this is a rare gift. Not everyone is going to offer a gift that will be on public display.

Councilor Barnes said that makes it even more imperative that someone's feelings are not hurt.

Councilor Stone said that makes it more imperative that the City has the most beautiful sign it can get. The goal of having a really nice sign would probably be the goal of the artist and the Rotary. She did not know if the sign dimensions were appropriate for all the detail. She is not the expert. There is a Commission in place, and no one objected at the last Council meeting to having the DLC make a recommendation. She thought it was going to happen.

Councilor Lancaster had no strong feeling one way or another. Everyone has good points. Any gift needs to be considered on a case-by-case basis. It seems like it would be a natural process for this to go before the DLC, but it should be done on an expedited basis.



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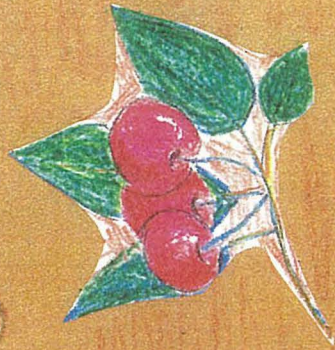
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September 22, 2003 Ledding Library Board Meeting

Present: Tom Hogan, Ed Zumwalt, Mark Docken, Michael Welling, Sue Trotter, Pat Lent, Pat Healy

Staff: Joe Sandfort

Attending: Joanna Rood, Mayor Jim Bernard, Councilor Deborah Barnes, Jane Hogan, Dorie Crooks, Joann Risley, Sharon Bradshaw, Carol Kay, Dennis McCarthy, Diane Saulsbury and David Aschenbrenner.

Tom Hogan called the meeting to order at 6:30PM. The group went around the table and introduced themselves. Tom then introduced new Library Board member Pat Lent and welcomed her to the Board. Tom then explained the purpose of the meeting – to bring the community up to date on the issues that are facing the Ledding Library.

Tom then asked for approval of the previous meeting's minutes. Mark Docken moved that the minutes be accepted and Pat Healy seconded the motion. The minutes were approved unanimously by the Library Board. Tom then introduced the main speaker of the evening, Joanna Rood of the Library Network.

Joanna began her speech with a brief history of library funding and governance in Clackamas County. Before 1977, independent city libraries in Clackamas County coexisted with a small county library. There was not much cooperation between the libraries. In most cases, for example, library users had to buy a library card when they used a library other than their own. The first countywide serial tax levy was passed in 1977. This levy allowed better funding of the county library and permitted free use of the city libraries within the county. Throughout the 1980's serial levies were passed every two or three years. A computer was purchased in the early 1980's and libraries began entering their holdings into a shared database. In 1989, the County Library and the Network were split into two components. The Library Information Network of Clackamas County (LINCC) was born. LINCC was given the job of taking care of all library activities that could be done more efficiently and cheaply by a central agency. The Library Information Network Board (LNIB) was also formed in 1989. Each city and the county have a representative on this board. The LNIB was formed primarily to deal with library funding issues – how the money that is collected by the levy should be distributed among the libraries.

Joanna described the 1990's as "golden years" when there was enough money to be distributed among the libraries. This situation was due to rising property values. Measure 5, which was passed in 1992, would have negative effects later in the decade. Measures 47 and 50, which limited budget growth and required a double majority at elections, went into effect in 1997. Another effect of Measure 50 was to put levies into an agency's general fund. The countywide serial tax levy, therefore, was placed into the County's general fund in 1997. Since it was a five-year levy, the Board of County Commissioners (BCC) promised LINCC that libraries would be given 14% of the County's general fund for the next five years. (When it was rolled into the general fund, the levy comprised 14% of the general fund.) For FY 2002-2003, the BCC allotted \$7.6 million to libraries – a 25% rollback from the 14% figure. It became clear at that point that funding libraries from the County's general fund could result in unstable revenues. Discussions then began concerning the best ways to fund libraries on a countywide basis. It was decided that a levy, not a district, would be the most practical method. It was also decided that a levy should be placed on the ballot in November 2004 since by law, a double majority would not be required at that election.

LINCC visited each library in the network, asking staffs for their projections of future costs. Through this survey, it was determined that \$16.5 million would be needed to maintain services in network libraries. This figure will be presented to the BCC at the October 16 LNIB meeting. The rate of the levy will be dependant on how much county general fund money the libraries are allowed to keep. Joanna feels that the BCC is supportive of libraries. The BCC has said that there will be no other county money measures on the ballot at that election.

Joanna then explained how the money that is received from the county is divided among the libraries. Over the years, there have been several formulas that have been developed to divide the money. One of the first formulas took the levy money that was collected within a city and gave it back to the city. Added to this amount was a reimbursement to the city libraries based on how many "out of city" borrowers used their libraries. Another formula was based entirely on how many circulations a library was credited with. This formula tended to reward large libraries with large circulations – at the expense of the smaller libraries in the network. Later formulas have added a population component, which tends to help the smaller libraries.

Joe Sandfort then gave an overview of the Ledding Library's collections and services.

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Pat Healy talked about the facilities planning process, starting with a description of the work done by Dallas Shafer. Pat then described the drawings and concepts of architect Rob Dortignacq, particularly being impressed by Rob's latest design that would move the building closer to SE 21st and SE Harrison. Rob's vision of angle parking on SE 21st received enthusiastic approval from the group. Pat brought the group up to date on the Facility Committee's activities – creating by-laws and a mission statement; creating a foundation and pursuing informational outreach sessions with the neighborhood associations and other community groups.

A brief update was given on the activities of We Love Libraries (WELL).

Tom Hogan then asked for additional comments.

Ed Zumwalt stressed the importance of the Ledding Library being involved in the development of the North Main area.

Tom Hogan adjourned the meeting at 8:26PM.



Park & Recreation Board

PARB

Tuesday, July 22, 2003
 7:00 PM to 9:00 PM
 Conference Room – City Hall

MINUTES

Attendees: Mart Hughes, Kathy Buss, Kate McCreedy, Ray Harris, Rob Gabrish, Sherri Dow
Staff: JoAnn Herrigel
Absent: Joan Young ,

Meeting called to order by Chair Hughes at 7:00 PM

Open Period: No audience comments.

Minutes:

Minutes of the June meeting were approved as written.

Staff Updates:

Herrigel announced that Rob Gabrish had been appointed by City Council to the PARB.

Herrigel reminded the group of the July 26 Riverfront event.

She also noted that the final design for Homewood Park had been completed and that she would work with the NDA to submit an application to Planning Commission for a Community Service Overlay in the fall. She said a public meeting regarding a Spring Park Master Plan had been held in early July and that a Pre-Application meeting with Planning was planned for early August and a master plan submittal in the fall or winter of 2003.

Trolley Trail Presentation:

Jane Hart from Metro Parks and Greenspaces Program presented a summary of the Master Plan for the Trolley Trail, a six mile bike and pedestrian trail running from the Jefferson Street Boat to Gladstone.

- Alta Planning and Design was the consultant that worked with Metro and the project partners to develop the master plan.
- A 19 person working group provided input to the consultant and the project team (Mart Hughes and JoAnn Herrigel were both members)
- The proposed path width is 12 feet with 2 foot shoulders
- The path would be multi-use with some sections developed for equestrian use as well
- Two members of the working group have expressed concerns about the 12 foot width (they prefer 8 to 10 feet) Project Team research found that 8-10 foot width might jeopardize the federal funds they have recently been awarded. An 8 foot asphalt path with grass paver strips along either side has been suggested as an alternative. Project Team research shows this alternative is more costly and potentially less safe. The Project Team has suggested changing the color of the asphalt, increasing

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landscaping in certain areas and potentially increasing the meandering nature of the path as ways to mitigate the perceived aesthetic issue arising from the 12 foot width.

- Proposed Trail heads are: Jefferson Street Boat Ramp
Oak Grove Elementary
Risley Park
Concord, near Amazing Grace Church
Naef Rd property recently acquired by NCPRD
- A vegetative buffer or fencing is suggested for adjacent neighbors concerned about privacy and security
- One member of the working group was from the Sheriff's office and he conducted a safety audit
- The project will be built in phases. The first phase, including the engineering design for the whole trail and the construction of the first three segments of the trail, has been awarded MTIP funds. Money will be available in 2 ½ years (2006).
- August 18 is the end of the comment period for this project.

PARB Questions:

- **Can you walk the whole trail?**
Some, but not all. Some areas are overgrown and because of neighbor's wishes will remain so.
- **Will it stay that way until funding is available?**
Yes.
- **Is it possible to do early opening for interim use. Can we do maintenance in the interim?**
Probably – Metro will talk to NCPRD and get back to us.
- **How wide is the Esplanade?**
14 feet? Springwater is 12feet. I-205 “feels like” 12
Hughes noted that there is not as much “social conscience” on bike/ped paths as there is on roads. 16 feet would probably be more reasonable. With 12 feet we need to educate people as to safe use.
- **Page 56 – On Arista there will be no parking – is that a problem?**
Design Team will work with residents to be sure the best design is selected.
- **Could you build the path on one side only at Arista?**
Yes, there is a 60 foot ROW and enough room for bike lanes and sidewalks on both sides.
- **Page 52 – cantilevered design looks neat but wouldn't it be very costly?**
Yes, this area will be more expensive to construct due to physical constraints of r-o-w.
- **Use of Oak Grove Elementary as trail head – have you spoken to them yet?**
Yes, and the school principal is very interested in providing amenities that will add value to the project, including use of the parking lot as a trailhead.
- **Curving the path to keep speed down on path seems dangerous. Not sure of location in plan.**
– Hughes noted that it probably meant to put a curve in prior to the intersection to slow bicyclists as they approach intersection, but that the trail would cross streets at a 90% angle. Metro will look into it.
- **Why is Clematis listed as invasive?**
Hughes noted that particular species of Clematis will actually take trees down. He said Wisteria can also be very vigorous and destructive.
- **Why did Metro even look at the alternate alignment?**
Project Team was trying to find the safest alignment and physical constraints such as topography and existing utility poles.
- **Naef at Roethe – is culverting a priority?**
It is a priority for Oak Lodge Sanitary District, but don't think there is any money for this yet.
- **Who's responsible for fencing?**

Neighbors are responsible. The plan provides recommendation for appropriate landscape and fence types.

- **What surface types are considered?**

Asphalt with gravel base (not chip seal)

- **The plan says there are buried creeks along the path ROW. Does the team anticipate any problems there?**

This is an issue that will be addressed as part of the final engineering plan.

Audience Questions

- **Terry Bruce: Lives 3 inches from the trail. She will need a ten foot fence. She suggested that the public input sessions only occurred when people were working and she could never attend. She's concerned about drainage problems arising from additional asphalt in the area. She asked if an environmental Impact study had been done. She noted that there ARE NO drainage ditches in her area.**
- **Someone asked why concrete had not been proposed as a path surface.**
Hart responded that it was too costly.
- **A question was raised regarding signal at River Road and McLoughlin**
ODOT is aware of the problem with that signal. Hart said the master plan recommends improvements to 22nd Ave and McLoughlin to make it safer for crossing and funding for these improvements were incorporated into the MTIP application.
- **Will there be flashing beacons at cross walks?**
The final design review will look at options. Typically push buttons at cross walks are used.
- **A representative of the Oak Lodge CPO and Chamber of Commerce noted that the Sherriff's department is in favor of a 12-foot path. She also noted that the swales at Oak Grove Elementary are part of the old Broetje Pond. There were Broetje Redwoods here brought in by John Muir.**
- **Thelma Hagenmiller: She prefers an 8 foot path in some residential sections of the trail Putnam high school wants to use path for track practicing and 12-foot width would preclude another surface. She proposes 8 feet of ADA compliant surface and 8 feet of softer surface. This alternative, she noted would reduce the heat from the asphalt, be more aesthetic, be more appropriate for neighborhood areas and provide space for "kids in clumps" to get out of the way of other traffic. She said she prefers grass pavers as the alternative surface. She noted that the path in back of Kellogg Treatment Plant is less than 12 feet and it seems adequate.**
- **Does path have to be ADA compliant?**
Yes. Thelma H. said it has to be at least 8 feet wide. A retired coach from Putnam suggested contacting NIKE about the rubber asphalt they use on basketball courts – they might even donate it.
- **Have you spoken to schools?**
PSU students did a focus group with school principals and details of those conversations are in their report. (Thelma H noted that that info about track teams needs was NOT in the report the students did Equestrians want additional unpaved surfaces)
- **The Friends of the Trolley Trail have asked Thom Kaffun about setting up an Adopt-a-Trail program.**
- **The Friends have also reached an agreement with Metro re: maintaining some parts of the trail**
- **It was noted that there are five high schools in the trail area: Milwaukie High, Gladstone, LaSalle and Putnum (and one I missed)**
- **Off road vehicle problems were raised**
NCPRD and Metro are working on this

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- Metro is placing piles of gravel where there are water problems as a temporary fix for the drainage issues along the trail. While under construction, signage is also being installed.
- **Hughes asked if it was appropriate for the PARB to send a letter to the NCPRD regarding maintenance projects to be completed in conjunction with the Friends. He said he'd be supportive of encouraging the District to work together with the Friends on these projects.**
- **It was noted that there have been transients hanging out in the laurel hedges near the trail. Thelma said the Milwaukie Rotary has volunteered to work on the laurel hedges in Milwaukie.**

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, SEPTEMBER 9, 2003

COMMISSIONERS PRESENT

Donald Hammang, Chair
Judith Borden, Vice Chair
Teresa Bresaw
Brent Carter
Rosemary Crites
Mike Miller

STAFF PRESENT

John Gessner,
Planning Dir.
Lindsey Nesbitt,
Associate Planner
Gary Firestone,
Legal Counsel
Shirley Richardson,
Hearings Recorder

COMMISSIONERS ABSENT

Howard Steward

1.0 CALL TO ORDER

The meeting was called to order at 6:35 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA

Teresa Bresaw moved to approve the July 22, 2003, Planning Commission minutes as corrected. Commissioner Miller seconded the motion. MOTION CARRIED 6-0.
Ayes: Borden, Bresaw, Carter, Crites, Hammang; Abstentions: Miller; Nays: None.

Judith Borden moved to approve the August 12, 2003, Planning Commission minutes as corrected. Commissioner Crites seconded the motion. MOTION CARRIED 5-0. Mike Miller abstained. He was not present at that meeting.
Ayes: Borden, Bresaw, Crites, Hammang; Abstentions: Miller; Nays: None.

4.0 INFORMATION ITEMS -- City Council Minutes
City Council minutes can be found on the City web site at www.cityofmilwaukie.org

5.0 PUBLIC COMMENT -- None.

6.0 PUBLIC HEARINGS

- 6.1 Applicant: Dieringer Properties
Owner: Dieringer properties
Location: 4350 SE King Road
Proposal: Applicant has applied for a Minor Land Partition, Transition Area Review, Transportation Plan Review, and Variance to redevelop the King Road grocery and retail center. The existing site buildings (aside from the gas station) will ultimately be demolished and replaced with a 49,003 sq.ft. grocery store; a 2,000 sq.ft. fast-food restaurant; and retail pads of 8,400, 8,832, and 10,856 sq.ft.
File Numbers: MLP-03-02; TAR-03-02; TPR-03-02; and VR-03-02
NDA: Hector Campbell

Chair Hammang opened the minor quasi-judicial hearing for Minor Land Partition MLP-03-02; Transition Area Review TAR-03-02, Transportation Planning Review TPR03-02 and Variance Request VR03-02 to consider the redevelopment of the King Road grocery and retail center. The criteria to be addressed can be found in the Milwaukie Zoning Ordinance Section 19.313 - General Commercial Zone, 19.416 - Transition Area Review, 19.500 - Off-street Parking and Loading, 19.700 - Variances, Exceptions and Home Improvement Exceptions, 19.1011.3 - Minor Quasi Judicial Review, and 19.1400 -Transportation Planning Design Standards and Procedures; and the Milwaukie Subdivision Ordinance Title 17.

Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare. **Brent Carter** reported that he was a member of the firm representing the applicant and would not be voting on this issue. He left the dais. There were no other conflicts of interest or ex-parte contacts declared. **Chair Hammang** asked if any member of the Planning Commission visited the site; 6 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

CORRESPONDENCE -- None.

STAFF REPORT

Lindsey Nesbitt introduced Brion Barnett, Civil Engineer; Paul Shirey, Director of Engineering; and Tom Larsen, Building Official. She reviewed the staff report with the Commission. The applicant is proposing to redevelop the King Road Grocery and Retail Center. The proposal will be phased. Phase-one will consist of the construction of a new fast-food restaurant for Super Burrito Express. The existing building will be demolished. In the second phase, a new retail/commercial building will be constructed with a mixed use of business and commercial retail use. The third phase will include the demolition of

the existing grocery store and the construction of a Safeway Store. In the future Kentucky Fried Chicken will be replaced with a fourth building.

Site improvements will include 15 percent landscaping, landscaping to provide screening to the retaining wall, trees and shrubs along the Harrison Street property line, new sidewalks, curbs and planters, pedestrian pathways, a traffic signal at 43rd Avenue and King Road, a pedestrian island on 42nd near Llewellyn and a 4-way stop at Harrison and 44th Avenue.

The site is surrounded by lower density residential which is zoned R-3 and R-5. Transition areas are required by code to reduce the impacts associated with the proposed development. The applicant proposes landscape screening on each of the road frontages to soften the building elements. Parking lot landscaping will create a buffer for properties along 44th Avenue.

Staff supports the applicants calculation of 1 parking space per 250-sq.ft. of floor area. However, this figure may preclude some uses in the future based on the inability to meet the parking requirements of the code.

A variance has been requested for the rear lot line of parcel three. In this case, the location of the property line and the jog in the property line does not affect where the building can be placed because it is a commercial zone. In a residential zone, the property line affects the location of the building. Staff believes the variance is appropriate.

Brion Barnett introduced Randy McCort of DKS Associates, the city's traffic consultant on this project. The city has reviewed the applicant's proposal and has found that with mitigation the city's transportation facilities are adequate to serve the proposed use. The mitigation recommended is a traffic signal at 43rd and King Road and the restriping of the intersection of 42nd and Harrison.

A signal at 43rd and King would do a better job than an all-way stop control, and metering green time for the number of cars that come through, to balance traffic flows at the intersection. As a front door step to the development, the signal is needed to insure the safety of vehicle and pedestrian movement there. It provides mitigation for cut-through traffic to the north of the project.

The intersection of 42nd and Harrison has a Level of Service 'E'. The primary arterial streets are King Road, 42nd between King and Harrison, and Harrison Street. The roadway carries in excess of 12,000 vehicles a day. This intersection is currently stripped with a dedicated right-turn lane and a combination left-turn and through lane on both sides of the street. The city requests that the applicant restripe it so that the primary left turn has a dedicated lane and the other lane is stripped through and right-turn.

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CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of September 9, 2002

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There is an existing sidewalk gap on two residential lots that are not a part of the application. The applicant has proposed to provide for an asphalt concrete pedestrian pathway to make a complete loop for connectivity around the site. Additionally the applicant proposes a 4-way stop at 44th and Harrison. The four-way stop lets people know of the changes, allows control stops, and allows pedestrians to cross more safely at that location.

There currently exists a bus shelter at Llewellyn and 42nd Avenue, across from the 7-11 store. Staff suggests the installation of a pedestrian refuge is necessary because of the high-volume of traffic. Pedestrians need a place to wait half-way across the intersection if they get trapped crossing the street. On the east side of the development, the first 90 feet of sidewalk will be made curb tight. Staff has also asked that a pad be placed at this location in anticipation of a future shelter.

The applicant has proposed different widths of sidewalks and planter strips. The Engineering Director has reviewed these widths and will allow the applicant to adjust the arterial 10-foot requirement to an 8-foot sidewalk on King Road and on 42nd Avenue. This will allow for adequate pedestrian movement with a 4-foot planter strip at both locations. Six-foot sidewalks are required on 44th Avenue and 5-foot on Harrison Street.

The signal at 43rd and King is shown in the Transportation System Plan. Also planned is a placeholder for a signal at 42nd and Harrison and 42nd and King. DKS Associates reviewed this intersection to determine if a signal is warranted at any of the other locations. It was found that a signal at 43rd and King is the only signal warranted at this time. To accommodate for the future signal at 42nd and Harrison (which will be warranted soon), the curve at transition from King to 42nd Avenue a sweeping radius for future through movement. When the signal is placed at this location, the stop control will be removed to allow for flow between the two signals.

The proposed truck circulation route is to bring trucks in on Harrison Street and exit on 44th Avenue. Alternative routes were considered, however, staff feels that the alternatives are less desirable for safety reasons.

While a signal at 42nd & Harrison is not planned at this time, during construction the City will approach the contractor for an estimate of what it would be for a signal there including realignment of the sweeping curve at this location to see if there is a savings in doing the project at this time rather than in the future. The city will pay 49% of the cost of the signal at 42nd and King and applicant 51%. The signal at 42nd and Harrison will be totally borne by the city from the Systems Development Charge account.

Lindsey Nesbitt handed out revised proposed conditions of approval. Staff recommends that the Planning Commission makes a finding approving applications MPL-03-04, VR-03-04, TAR-03-02, and TPR-03-02, and adopt the findings and revised conditions in support of approval.

QUESTIONS FROM THE COMMISSIONERS

Mike Miller asked why staff feels it is not practical to do the light at 42nd Avenue and Harrison now rather than spend the money on a four-way stop and then turn around and do the light later? **Brion Barnett** stated that even though a signal may be warranted, it is not necessarily installed. The 43rd and King location was chosen because it is the front doorstep of the site and the vehicle and pedestrian safety factor is more important than 42nd and Harrison. It could be a year or more before the future light is warranted. The decision will be made at the time the other signal is being constructed if there is a good price for installation at this time.

Mike Miller noted that everyone that comes off Highway 224 will have to access Harrison at that intersection. It seems more important that a light be placed there at the same time this development is being put in rather than later.

Mike Miller asked what measures will be taken to prevent truck traffic on Harrison east and 44th south to Monroe Street? **Mr. Barnett** stated that currently as the actual driveway exit on 44th and Harrison is configured a truck would have to swing across into on-coming traffic to head south to King Road. No-truck signage can be installed at this exit location stating that truck cannot exit right. A commitment could be made from Safeway to remind the truckers (vendors) about the appropriate exits.

Mike Miller asked for clarification of the parking for building B. **Lindsey Nesbitt** pointed out the parking on the site map.

Teresa Bresaw asked for clarification of the buffer along the retaining wall. **Lindsey Nesbitt** stated that there is a 16-foot buffer along the 8-foot masonry retaining wall.

CORRESPONDENCE

Lindsay Nesbitt stated that she passed out a letter received in the office on September 3rd and a letter received today from Carl Jacob, a Milwaukie resident.

APPLICANT PRESENTATION:

Speaking: Gene and Pat Dieringer, 4350 SE King Road, Suite A, Milwaukie

Mr. Dieringer stated that Dieringer Properties is the owner of this site the was originally developed in 1959/60 and they have had an independent grocery operating on this site for over 40 years. Several years ago this grocery closed and the neighborhood and community was disappointed. They have negotiated a successful agreement with Safeway to occupy the site. The center is out of date and out of design; it is time to redevelop the site and make it new and vital again.

They have worked hard to come up with a plan for the site that works for everyone and believe that most of the neighbors have enthusiastically supported their plan. The site reflects a balance of building square footage, landscaping, and parking requirements. The plan keeps several of the existing tenants in business to continue to serve the community. The plan works for them, Safeway, the city and the community as it will bring a much-desired grocery store back into the neighborhood.

Read Stapleton, Land Use Planner, WRG Design

Mr. Stapleton stated that the transition plan addresses buffering from residential uses on the south, east, and north sides. There is a two-tiered buffering landscaping of deciduous street trees between the sidewalk and street. There is a mixture of evergreen and deciduous shrubs along the south side of Safeway. There is a 16-foot wide screening between the loading area and two houses, along with an 8-foot wall. There is a fairly large area with trees and lawn to screen diagonally across 44th Street from the loading area. To the northeast corner there is a landscape strip along the road between the sidewalk and street with shrubs and trees planted between the sidewalk and parking area. There is a significant grade differential between the western and eastern sides. A concrete masonry wall will be constructed that varies a foot on the northwest corner to about 10 feet in the northeast corner. There will be shrubs to provide screening along wall. A picket fence will be placed on top of the wall. Building A is a pedestrian oriented building with access directly to the street and the sidewalk along Llewellyn.

Mr. Stapleton showed an elevation plan of the retaining wall.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN FAVOR

Speaking: Dave Ashenbrenner, 11505 SE Home Avenue, Milwaukie

Mr. Ashenbrenner stated that he is representing the Hector Campbell Neighborhood Association and speaking on behalf of the Llewellyn Neighborhood Association. Both neighborhoods are excited about this project; they want to see this property redeveloped. There have been open houses with the community where residents have been invited to look at the plans and submit comments. Hector Campbell and Lewelling Neighborhood Associations are in favor of this application with the following conditions.

1. A four-way stop at 43rd and King and the realignment of the 42nd and King Road intersections in Phase-2 as soon as possible. This provides for a transition for the neighborhood to realize that something is happening here and gives a change to see how well the four-way stop would work before the store opens. It is an issue now to get out onto King Road from 43rd Avenue and they feel the 42nd and King realignment needs to be now to alleviate traffic problems.

2. Installation of no-truck signs at 44th and King, 44th south of the driveway, and a no right-turn sign for trucks leaving the site on 44th Avenue.
3. The four-way stop at 44th and Harrison as soon as possible.
4. There need to be city ordinances in place so police can enforce no-truck signs.
5. Some of the back streets need to be improved (Harrison to the east beyond 44th, 44th south towards Monroe). The neighborhood would like to make sure that just neighborhood traffic is using these streets. Traffic counts should be taken after the store is open to see if there are concerns that need to be mitigated.
6. In the Llewelling Neighborhood, the street north of King Road and 43rd has cut-through traffic now and there needs to be consideration for mitigation on this area too.

Mr. Ashenbrenner noted that Safeway needs to work with the city and neighborhoods and its delivery drivers to provide a safe access and exit for the site and keeping the trucks out of the neighborhoods. Both neighborhoods agree with this plan. Some of the things they would like to see sooner than later are the four-way stop at 43rd and King, the realignment of 42nd and King, and the four-way stop at 44th and Harrison. There is concern about 42nd and Harrison and how this will be set up to encourage the left turn and limit traffic from going straight-through down Harrison Street.

QUESTIONS FROM THE COMMISSIONERS -- None.

Speaking: Gertrude Anderson, 4501 SE Harrison Street, Milwaukie

Ms. Anderson voiced concern about the increased foot traffic to the store on Harrison between 44th and Home. The cars will be using side streets to get to the store along with delivery trucks and vans. With no sidewalks or street improvements, the city may be held liable for any injuries caused by preventable accidents. Without the street improvements, there will be a loss of property values with the increase of traffic flow. It would be good for the city and Safeway to improve this community. This would result in increased tax revenues for the city and Safeway would enjoy an increase in the property value of the store site.

Speaking: Kathleen Foster, 4214 SE Harrison Street, Milwaukie

Ms. Foster stated that her residence faces the Safeway Store. She has lived here since 1962 and Dieringers Grocery Store was her family's grocery store. Even with all the names the store has gone through, she still calls it Dieringers. She is very excited about having the Safeway Store at this site. With the store being placed right next to the property line, there will not be the skateboarders at night making noise nor the parking lot fireworks on the Fourth of July. She is all for it and wants them to hurry and get it done.

QUESTIONS FROM THE COMMISSIONERS -- None.

QUESTIONS OR COMMENTS

Anthony Stevens, 4603 SE Harrison, Milwaukie

Mr. Anthony Stevens stated that the design of Building A has very little street appeal. Proposed building B does not have access from 42nd Avenue. The trees will screen the large cinderblock wall. He drives by this site every day and it will be a major focal point of the entire neighborhood.

Living east on Harrison Street, he is concerned and will be following what happens with the traffic mitigation. There is a lot of speeding on Harrison now and he would like to see how the traffic will impact the neighborhood.

QUESTIONS FROM THE COMMISSIONERS -- None.

Speaking: Dave Brown, 3706 SE Harrison, Milwaukie

Mr. Brown stated that he is in favor of the project; however, his concerns are about the traffic mitigation further away from Safeway with the transit of freight. The 37th and Harrison route is an easier route for the trucks from Highway 224 traffic heading west towards the Safeway store. The left turn onto Harrison is a nightmare, there is no designated light. With increased trucks, the left lane will be tied up. With the increased speed of the railroad and a blind corner heading southbound, there could be a major safety factor. He sees a big problem on Highway 224 heading west on Harrison taking a left turn.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN OPPOSITON

Speaking: Carl Jacob, 10500 SE 44th Avenue, Milwaukie

Mr. Jacob stated that he lives diagonally across the truck exit on 44th Street. He disagrees with the site plan layout and the truck delivery route. He would like to see Safeway reposition the store and insist on heavy vehicle access on to 44th Avenue. He wonders if this is a plan to build for a possible transit center in case of failure. The truck delivery route is 40 years old and for a rural time. Sending the heavy vehicle access onto 44th Avenue will not eliminate the increased danger on 42nd Avenue. This will increase the danger where danger was a minimum before. He asked if there have been any monitored test runs for heavy vehicle access onto 44th and/or on Harrison and are there any requirements protecting the electrical transmission poles that are on the corner of 44th and Lewellyn?

There is a need for a traffic signal at 43rd and King. This could be documented by the Police incident reports. Safeway should be required to provide the light. The light could be seen as a come-into-my-store sign. He feels that 44th Avenue between Llewellyn and King will soon be in need of major repair. Closing off this small street would give the store enough room to reposition the store for truck access near 42nd Street.

Safeway says they want to be a good neighbor. They could use shorter trucks and hire more drivers. If this plan fails, the neighborhood is left with a site that with four busy streets could very well become a transit center. The layout is too intrusive to the neighborhood; there is going to be increased traffic running down Monroe.

Mr. Jacob presented a petition signed by 150 residents of Milwaukie asking the city to ban big-rig trucks from the little streets. He submitted the petition into the record.

QUESTIONS FROM THE COMMISSISONERS -- None.

COMMENTS FROM STAFF

In regards to the comment about street appeal, **Lindsey Nesbitt** stated that other than the requirement for the transportation and traffic study and the transition area review, this development is permitted outright because it is in the commercial zone. The transition area section is limited on what can be required of the applicant. The two criteria listed are that roadways and open spaces are provided separating the development from residential uses. There is nothing in the code to ask the applicant to provide more street appeal.

Chair Hammang asked how the calculations were done for trip generation in the area where traffic comes up Harrison and Home Avenue. Harrison is not a good street. Is Harrison sufficient to handle this traffic? **Randy McCort** stated that at one time there was a successful center was on this site. It has become a non-performing center over time. The overall square footage of the site is roughly the same as the current site in its configuration. Trip generation is based on the square footage of the site. When this site was successful, the numbers were successful. Since the last five/ten years, the site has continuously degraded in terms of performance. The study provided by the applicant provided data that was requested by the city. The assessment was done of the fully-performing site as it is rebuilt today. Data has been looked at in that context. The applicant used more current information based on the distribution of traffic. The applicant has determined that 10% of the site traffic was assumed to utilize 44th south, and 5% of the site traffic was assumed to use Harrison east of the site. **Brion Barnett** stated that this corresponds to roughly 7 new trips on Harrison Street east of site and 14 trips on Harrison Street to the south of the site during peak hours. The proposed development will add little to the existing traffic.

Staff must figure the proportionate share of Safeway's impact; what this development is adding to the street infrastructure regardless of the state of the site. People will use the

site regardless of what improvements are placed on the site. The primary arterial movement would be most beneficial on 42nd and Harrison. People are going to find the routes that benefit them the most. The 42nd and Harrison signal can be phased to move the volume of traffic. There will be more traffic from the north than from the south. It is estimated that 50 inbound trips coming in from King as compared to 5 coming in from Harrison and 44th.

Chair Hammang noted that the roadbed is bad from Harrison Street to Home Avenue. **John Gessner** asked for clarification of the concept of pass-by traffic (vehicle trips already on the road that will be using the site) and for staff to address the applicant's neighborhood through traffic impact study (impacts of site generated traffic at some distance from the site). The neighborhoods are going to be using the site and causing impact.

Randy McCort stated that about 30% assumptions of the traffic on King or Harrison are consistent with other shopping center data. This assumes that a pass-by trip is someone coming in from work, and who stops in and grab groceries and goes home as compared to someone sitting at home and leaves to go get chips. Relative to the p.m. peak hour, 30-40% of the activity would be the pass-by character and 60-70% of the trips will come from residential areas.

The applicant was requested to provide information on 44th and Harrison. On a daily basis you can factor these numbers by ten to get a sense of how many vehicles it adds over the course of a day.

Brion Barnett stated the applicant is required to review the impact of proposed development for traffic in excess of 25 additional trips per day on a local street from a proposed development. The only local streets that are impacted from this development are to the north: Logus Road, Howe Street, and Harvey Street. Based on existing configuration, cars are backed up on 43rd in the southbound direction and people cut through on side streets. The applicant's traffic study shows 28 new trips on 43rd Avenue, a 20% increase. It was determined that Logus, Howe, and 42nd and Harvey are not local.

There is a 5% increase to the section to the south (east on Harrison and on 44th Avenue), 7-14 trips in the peak hour. There will be about 100-150 new trips per day during the week and 30-50% additional (200 trips per day) potential on Saturdays.

The four-way stop control lets people know that there is new development and increases the time for someone to get from 42nd and Harrison to make the cut-through route. The city considers this a proportionate share of the impact to mitigate against additional traffic on those streets.

Gary Firestone stated that no-truck signs are enforceable if directed under the city manager or designee. The city has the authority to regulate trucks for safety purposes.

Rosemary Crites asked where the trucks loaded in the previous operation? **Mr. Dieringer** stated that the loading area was the same site as the current location for loading facing 44th Avenue.

Mr. Barnett stated that the city is willing to provide truck signage coming out of the exit on 44th and Lewellyn. No-truck signage for trucks existing on 44th was proposed. There are existing no-truck signs on Harrison east of 42nd.

Staff advocates for having the 4-way stop as a transitional feature and retain the requirement to have a signal installed prior to occupancy. Staff supports having the realignment occur along with the signal prior to full occupancy. At the time the stop control is removed, and the pedestrian refuge is placed, it must be realigned to give the best position and orientation to see traffic.

There have been requests for stop signs on side streets. There is a stop sign proposed at 45th and White Lake and a proposed 4-way stop at 43rd and King. Staff supports the 4-way stop at 43rd & King as a transitional feature prior to the signal. The city has a separate process for evaluating traffic control devices; this one should be considered separate from this application.

Teresa Bresaw asked about the truck traffic on 37th from the expressway. **Mr. Barnett** stated that the Milwaukie Police have the authority to ticket those who cross into incoming traffic.

CLOSING COMMENTS:

Speaking: Gene and Pat Dieringer, 4350 SE King Road, Suite A, Milwaukie

They are willing to place a pad on their site adjacent to the Tri-met Bus Stop. He questions the 90-foot curb tight sidewalk. There is 12-foot sidewalk in that area. If the bus shelter is only 41-feet deep, it can be located in the required 90-feet.

It is up to the city planner to determine whether there is a signal or a 4-way stop. They know that traffic control is needed at this spot.

Mr. Dieringer stated that their plans have taken into consideration the use of architectural design to improve street appeal. There will be awnings and several colors are used to tie in to give a uniform feel.

Truck traffic turning movement on the site plan was scaled to a 55-foot truck turning radius. The trucks proposed can make all the turning radius without turning into on-coming traffic.

Consideration was given to the store facing 42nd and King Road as the main arterial. Because of the site grade, it was determined that facing 42nd was an adequate choice. The

42nd and King Road access was most feasible. The city has supported the plan on this issue.

The volume of truck traffic will be similar to previous traffic. Their daily truck traffic will not change much; the volume of foods may increase and must be delivered every day. There may be a few more grocery hard-goods deliveries.

QUESTIONS FROM THE COMMISSIONERS

Teresa Bresaw asked if there is a set delivery schedule? **Mr. Dieringer** stated that the drivers are obligated to follow the city codes regarding noise and delivery times.

Judith Borden asked if the square footage of the Safeway would be bigger than what was previously there? **Mr. Dieringer** stated that the square footage will be bigger than the existing grocery store but the footprint will be much smaller than the existing.

Judith Borden asked about the frequency of big trucks. **Mr. Dieringer** stated that previously they received 3 big trucks a week for hard grocery and 3 trucks a week for frozen foods.

Speaking: Jeff Parker, Real Estate Manager for Safeway, 16300 SE Evelyn Street, Clackamas, OR 97005.

Mr. Parker stated that he can't speak for distribution guys; however, it is his understanding that produce is delivered daily and frozen foods 4-5 times a week. This requires one semi truck each delivery. Smaller delivery trucks (Coca-cola, bread, etc.) or vender trucks may come more often.

He does not feel there will be an increase in big trucks; no more than what has existed in the past. He and Mr. Dieringer have been working on the project for a year now. The loading dock is in the same location as Derringers. The truck travel would be coming off Harrison and this is how Dieringers operated. This will be a huge investment and they intend to be here for years and years and to be the best neighbors they can be.

QUESTIONS FROM THE COMMISSION

Mike Miller asked about store hours. **Mr. Parker** stated that he did not believe this will be a 24-hour store. The majority of stores in this area generally operate in 6 a.m. to midnight range. He doubts in this particular neighborhood situation it would be a 24-hour store.

Teresa Bresaw asked what colors are on the back of the Safeway building?

Speaking: Roger Stange, Benner, Stange Associates Architects

Mr. Stange stated that the back of the store will have split-face masonry - three types of masonry. There is a split face, precision cut with center score (8x8 module), and smooth block with no scoring. There is a fluted block with five scores (deep texture). The elevation shows the fluted block at the base, up 10-12 feet another type, smoother level, corner piece(cap of building-stucco). The shape completes the building. The pilaster gives the building some scale. The columns have tile accents. In the corner of building there is an element with the Safeway logo that projects out from the building. Harrison and 42nd have the same appearance.

Mr. Dieringer stated that their group has tried to be an open book with the neighborhood and thanked them for their support. Thanks were given to city staff that consulted with them, shared their ideas, and supported them in developing the plan.

DELIBERATION AMONG THE COMMISISONERS

Howard Steward stated that he drives this area several times daily. Johnson Creek Fred Meyer and Winco have offset any growth in population that would use this type of store. He is concerned about Tri-met refusing to pull over onto the shoulder to load their passengers.

Teresa Bresaw stated that she likes the landscaping and the design of smaller buildings.

Mike Miller stated that this is project that has been a long-time coming. He is confident that his concerns about the generation of additional traffic in the neighborhoods will be taken care of.

Mike Miller moved to approve TAR-03-02; TPR-03-03; MLP-03-04 and VR-03-04 with the revised conditions handed out this evening and adopt the recommended findings in support of approval. **Howard Steward** seconded the motion. MOTION CARRIED 6-0. Ayes: Borden, Bresaw, Crites, Miller, Steward, Hammang; Nays: None

Recess was taken at 8:41 p.m. and the meeting reconvened at 8:53 p.m.

- 6.2 Applicant: Oregon Department of Transportation (ODOT)
- Owner: City of Milwaukie
- Location: The property is located at the confluence of Kellogg Creek and the Willamette River
- Proposal: Applicant has applied for a Water Quality Review to perform maintenance and improvements, fix leaks in fish ladder, and retrofit the existing ladder to improve fish passage.
- File Numbers: WQR-03-01
- NDA: Island Station/Historic Milwaukie

Chair Hammang opened the minor quasi-judicial hearing for Water Quality Review WQR-03-02 to consider modification and repair the existing Kellogg Creek fish ladder for improved fish passage. The criteria to be addressed can be found in the Milwaukie Zoning Ordinance Section 322 - Water Quality Resource Regulations and Section 1011.3 - Minor Quasi Judicial Review.

Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. He asked if any member of the Planning Commission visited the site; 4 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

STAFF REPORT

Keith Jones reviewed the staff report with the Commission. The applicant is requesting to upgrade the Kellogg Creek Fish Ladder which was built in 1934. These upgrades are being proposed by ODOT as a required mitigation for negative impacts to the creek upstream. The ladder is out of date and in need of repair. The National Marine Fishery Service is requiring that this work be done in a tight timeframe. The Oregon Department of Fish and Wildlife has an in-water work period from July 1st to September 30th. The deadline is September 30.

The applicant has requested an extension of that period until October 15, 2003 to allow time to finish the project this year. The proposed improvements will include:

- Extending the existing walls by 2 feet on both sides of the existing fish ladder.
- Extending the ladder by reorienting it 180 degrees.
- Installation of a debris deflecting device for logs and other debris.

The applicant is proposing to break up the work into two categories. The maintenance work will include patch holes at the bottom of the existing ladder. A new finding and condition has been added to address the implementation of the temporary water management plan.

Staff finds that the applicant meets the approval criteria and recommends approval with the revised conditions.

QUESTIONS FROM THE COMMISSIONERS - None.

CORRESPONDENCE - None.

APPLICANT PRESENTATION:

Speaking: June Carlson, Oregon Department of Transportation (ODOT), 123 NW Flanders, Portland OR 97209

Ms. Carlson introduced Steve Coxen, ODOT Assistant District Maintenance Manager; Margie Willis, ODOT Biologist and Tom Mertaw, Biologist for the Oregon Department of Fish and Wildlife

Ms. Carlson thanked the staff for their help with this application. They are requesting approval of a water quality permit to make improvements for fish passage to the existing Kellogg Creek Fish Ladder.

Improving the fish passage was required by the National Oceanic and Atmospheric Administration (NOAA) fisheries division, NIMPS related to the construction of ODOT Sunnybrook interchange on I-205 and Clackamas County Sunnybrook east extension project. These projects were addressed jointly in the Environmental Impact Statement. Both projects had negative impacts to Mt. Scott Creek as the culvert was being extended and temporary negative impacts to Deen Creek because the culvert was being removed and replaced with an open stream bed. Extensive riparian habitat was impacted because of the construction of Sunnybrook east extension.

To mitigate these impacts, many conditions of approval of getting approval to build the two improvements, one of which is to increase fish passage to Kellogg Creek. Before the Commission is a Water Quality Review permit application and amendment to allow maintenance of the needed work. This will allow time to complete work in the in-water work period.

Ms. Carlson stated that they are in agreement with the city staff in their definition of the maintenance work to patch leak holes at the bottom of the ladder and implementing the temporary water management plan to provide dry ladder to patch the leaks, sediment trap, temporary dam to divert water around the work area, diversion pipe, and other federal and state improvement methods for protecting fish and the resources from harm during construction.

The project total work will take about five weeks. Getting the amendment approved will allow ODOT to work on the maintenance only related items in advance of starting the work that is required. This will allow spawning Salmon to be able to move upstream in the Kellogg and Mt. Scott watershed.

The water in the streambed has eroded since it was built in 1934. The improved design will allow for fish passage year around during periods when the adult Salmon are moving upstream. Improvements have been put in upstream to improve fish passage. The long-term component is that the US Corps of Engineers is doing a feasibility study to completely remove Kellogg Dam. These improvements will not be made before 2007.

Patching the holes in the existing fish ladder will require implementation of the temporary water management plan. A sediment trap is required to enable any contaminated water to be pumped from the work area and filtered. All construction impacts are short-term and a 2-week extension has been requested for the in-water work period.

The grassy staging area will be reseeded, the sediment pond filled, and no existing trees or shrubs will be removed. The Fire District requires clearance for passage throughout the project life. They are in full agreement with staff recommendations.

QUESTIONS FROM THE COMMISSIONERS

Mike Miller asked how much material will be removed so the fish can get to this ladder? **Ms. Carlson** stated that they will not be removing any material; they are adding steps to the bottom of the fish ladder. **Steve Cox, ODOT**, stated that they will be removing about 2 yards of rock to the south of the existing ladder.

Chair Hammang asked if there were any fish counted in this Creek? **Tom Mertow**, Fish and Wildlife Biologist, stated that he has worked with fish and wildlife resources in this area for several years. His understanding that there is winter steelhead and Coho that use this system annually and intermittently. Spawning ground surveys and other surveys have been conducted documenting Coho in Kellogg Creek above the fish ladder and some young Steelhead has been found.

Teresa Bresaw asked if the south bank of Kellogg Creek would be remediated? **Ms. Carlson** stated that there will be some blackberry bushes removed in the project action area. **Margie Willis**, ODOT Biologist, stated that they will be removing purple loosestrife and blackberry from the work area. **Gary Firestone** stated that a condition could be included that requires these plantings be removed if permitted under their state and federal permit.

TESTIMONY IN FAVOR - None.

QUESTIONS OR COMMENTS - None.

TESTIMONY IN OPPOSITON - None.

COMMENTS FROM STAFF - None.

CLOSING COMMENTS:

Speaking: June Carlson, Oregon Department of Transportation (ODOT), 123 NW Flanders, Portland OR 97209

Ms. Carlson stated that she would volunteer within some limits of the amount of square footage to remove vegetations. She requests that it not be required to be completed within the in-water work period.

Brent Carter asked why the State does not use the Corps of Engineer and ODOT together for these improvements? The landscaping along the area is heavily eroded and armored with riprap and other materials. He would like to see a better solution with the situation. **Ms. Carlson** stated that this is only one piece of the mitigation for the overall Sunnybrook exchange and extension to improve fish passage. This improvement has been limited to \$2,000 and the projects must be addressed separately. Kellogg Creek improvements are a continuing project. There is a Clackamas County organization that is a watchdog for improving watersheds in the County who are active with the Corps of Engineer's projects.

Brent Carter asked if there were any vandalism enforcement components with this project? An ODOT representative indicated that they recognize that fish ladders are bottleneck points for fish. Signs are placed to alert the public that these are areas where they are not allowed to fish or trespass. They are willing to work with ODOT to get a sign developed to address these issues.

DELIBERATION AMONG THE COMMISISONERS

Teresa Bresaw moved to approve Water Quality Review WQR-03-01 and adopt the recommended findings and conditions in support of approval with the additional findings submitted tonight. **Mike Miller** seconded the motion. MOTION CARRIED 7-0.
Ayes: Borden, Bresaw, Carter, Crites, Miller, Steward, Hammang; Nays: None.

- 6.3 Applicant: David Foster
- Owner: Julie Olson
- Location: 3125 and 3135 SE VanWater
- Proposal: Applicant has applied for a Conditional Use Permit, Minor Land Partition, Transportation Plan Review, and Variance to partition one parcel into two lots. Two residences are currently on the subject property which is zoned for commercial use. The applicant is also requesting a lot size and lot width variance for one of the parcels being created.
- File Numbers: CU-03-01/ MLP-03-05/TPR-03-05/VR-03-05
- NDA: Ardenwald

Chair Hammang opened the minor quasi-judicial hearing for Minor Land Partition MLP-03-05, Variance Request VR-03-05, Transportation Planning Review TPR-03-05 and Conditional Use CU-03-01 to consider divide the lot located at the northwest corner of 32nd Avenue and Van Water Street. The criteria to be addressed can be found in the

Milwaukie Zoning Ordinance Section 311 -Limited Commercial Zone; Section 700 - Variances, Exceptions and Home Improvement Exceptions; Section 1011.3 - Minor Quasi Judicial Review and Section 1400 - Transportation Planning Design Standards and Procedures.

Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. He asked if any member of the Planning Commission visited the site; 4 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

STAFF REPORT

Keith Jones reviewed the staff report with the Commission. This is an application to partition an existing site that contains one residence and a church. The applicant is asking to divide this through a minor land partition and requesting a variance to the lot width from 50-foot minimum to 40.71 feet, and requesting reduce the minimum lot size from 5,000 to 4,142 square feet. This will allow the two residents to be on individual lots. All of the surrounding properties are single-family residences. An overhead was shown of the subject site and surrounding area.

The only condition that staff is asking is that separate water meters be installed for the two properties prior to recording the plat and dedicate the right-of-way as part of the petition plat.

The church was rezoned in 1973 from R-5 to apartment/residential. At that time there was an artist studio that was allowed as a conditional use. The lot with the church on it will remain in the CL Zone.

John Gessner reported that the church has been used for the last several years for single-family residence purposes. It has been used both for commercial and residential uses. It is now only residential use.

QUESTIONS FROM THE COMMISSIONERS

Mike Miller noted that calculation of the two lot sizes does not add up to the total square footage. **Keith Jones** stated that the roadway dedication is subtracted from the property as it will be part of the city.

Brent Carter asked why the zoning is not being changed to residential for the church lot so that both lots would be the same? **Keith Jones** stated that single-family residential is conditional in the CL Zone. Part of the application is to get the conditional use. The church is under the local Historic Registry. **John Gessner** stated that the commercial use was requested by a prior owner and it was approved. The church property has been used

intermittently over many years for commercial purposes. The use of the building is up to the owner. The applicant and/or the city has the authority to request a rezoning. The only request being made tonight is for a partitioning and variance on the property. The city historic preservation regulations affect only the structure and not the lot upon which it is sited.

Mike Miller asked if the structure could be demolished and the lot made commercial in the future? **John Gessner** stated that the owner would have to provide parking for the commercial use which would only allow a very small building. It probably wouldn't work. **Gary Firestone** noted that if there was no partition, the church could be used for commercial.

CORRESPONDENCE - None.

APPLICANT PRESENTATION:

Speaking: David Foster, 708 NE 238th Place in Wood Village

Mr. Foster stated that he is the surveyor for Julie Olson, the owner of the property. He is here tonight to answer any questions from the Commission.

QUESTIONS FROM THE COMMISSIONERS

Teresa Bresaw asked if the owner plans on keeping the tall fence on 32nd Avenue? **Mr. Foster** stated that the owner has indicated that she plans on leaving the fence the way it is. The owner lives in the church building and the other building is used for an office and residence.

TESTIMONY IN FAVOR - None.

QUESTIONS OR COMMENTS - None.

TESTIMONY IN OPPOSITON - None.

CLOSING COMMENTS - None.

DELIBERATION AMONG THE COMMISISONERS

Chair Hammang closed the public testimony portion of the hearing and opened the meeting to discussion among the Commissioners.

Howard Steward moved to approve Minor Land Partition MLP-03-05, Variance Request VR-03-05, Transportation Planning Review TPR-03-05 and Conditional Use CU-03-01 and adopt the recommended findings and conditions in support of approval. **Mike Miller** seconded the motion. MOTION CARRIED 7-0.

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Ayes: Borden, Bresaw, Carter, Crites, Miller, Steward, Hammang; Nays: None.

7.0 WORKSESSION ITEMS

8.0 DISCUSSION ITEMS -- None.

9.0 OLD BUSINESS -- None.

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director

John Gessner passed out information on the Oregon Downtown Association Grant. This issue may be on the agenda at the September 23rd Commission meeting.

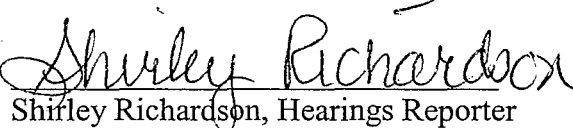
11.0 NEXT MEETING -- September 23, 2003

11.1 Continuation of Discussion on Code Amendments

Teresa Bresaw moved to adjourn the meeting of September 9, 2003. **Rosemary Crites** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 10:02 p.m.


Donald Hammang, Chair


Shirley Richardson, Hearings Reporter

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, SEPTEMBER 23, 2003

COMMISSIONERS PRESENT

Donald Hammang, Chair
Judith Borden, Vice Chair
Brent Carter
Mike Miller
Howard Steward

STAFF PRESENT

John Gessner,
Planning Dir.
Keith Jones,
Associate Planner

COMMISSIONERS ABSENT

Teresa Bresaw
Rosemary Crites

1.0 CALL TO ORDER

The meeting was called to order at 6:30 p.m.

2.0 PROCEDURAL QUESTIONS - None.

3.0 CONSENT AGENDA - None.

4.0 INFORMATION ITEMS - City Council Minutes
City Council minutes can be found on the City web site at www.cityofmilwaukie.org

5.0 PUBLIC COMMENT

John Gessner introduced Jeff King who wrote the memo passed out at the last meeting regarding a grant project.

Speaking: Jeff King, Project Manager, Community Development Department.

Mr. King gave the Commissioners a handout (Proposal to Re-locate The Bus Transit Center and Transit Oriented Development Map) and stated that the City is planning to take the regional downtown and riverfront land use planning framework from a couple of years ago and try to identify specific projects for prioritization and implementation. Some of the projects are underway: McLoughlin Blvd, Riverfront Plan Phase I, Safeway Redevelopment Project, etc.

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CITY OF MILWAUKIE PLANNING COMMISSION

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With the grant received, they contracted with Oregon Downtown Development Association to look at the priorities to see if it is still on track (what the community wants to do) and define specific projects that can be implemented by priority.

There are six focus groups (stakeholders with interest in downtown): the business community, Waldorf School, Riverfront Board, Historic Milwaukie Neighborhood Association. The fifth group will be the City staff and elected leaders and the sixth group being the Planning Commission and Design Landmarks Commission together.

A grant for \$15,000, matched with \$5,000 City cash in-kind funds, was received from Oregon Housing and Community Services. The money was provided directly to Oregon Downtown Development Association, designed to assist downtowns from various types, sizes, and issues. They in turn sub-contract to architects.

The final product will take the focus groups and come back to City Council for a final meeting. A final report will identify specific projects, looking at specific tools that could fund the projects, look at potential timelines and what additional information might be needed and direction of priorities (implementation plan).

He is asking the Commission to select a few members to participate in a meeting next Monday, September 29th at 6:15 p.m.

Donald Hammang, Brent Carter, and Mike Miller volunteered to attend the planning meeting. Rosemary Crites and Teresa Bresaw will be informed of the meeting and invited to attend.

6.0 PUBLIC HEARINGS -- None.

7.0 WORKSESSION ITEMS

7.1 Remedial Code Changes

John Gessner stated that tonight he would like to discuss Home Improvement Exceptions and Conditional Use Regulations and desired outcomes. Are these code changes what the Commission expected or should they be changed to better reflect the intent?

Home Improvement Exceptions: There have been three home improvement exceptions applications that have been processed since the adoption of the regulations. The intent of these regulations is to allow exceptions to yard and building coverage standards in residential projects.

The three examples of projects processed under this application type are:

- Corner lot on 55th Avenue - Existing 1920's house on a large lot which houses some commercial. The home did not have an attached garage and the front yard setback limited the addition of a garage. Two exceptions were requested to yard setbacks. The Home Improvement Exceptions allow a 50% reduction in a required yard provided that there are no more than 150 feet in the yard. Building coverage may also be exceeded.
- Risinger on Mason Lane - Most of Mason Lane was developed in the 70's and 80's. The building was originally constructed right to the minimum setbacks. There was a lot of rear yard and the applicant added a 180 square foot addition. By the Home Improvement regulations, this applicant was able to complete the addition and bump up the building coverage.
- Corner Lot on Home Avenue and Hunter Court - This application was made and withdrawn by the builder.

People are going to try to find the easiest and least expensive way of increasing their living space. There are instances where residents want more than what zoning provides for them. Home Improvement regulations are good for exceptions, and allows for compromise thus allowing people to do more. Does the City give requirements for landscape areas, building coverage or setbacks? Staff finds difficulty in applying some standards:

- 50% yard encroachment and no closer than 5-feet to the property line – is it appropriate to allow yards to be encroached upon; are all yards equal?
- Standards so that the project sustains the integrity or enhances an existing design concept or neighborhood character.
- Proving that the project will not be detrimental to the property or improvements in the area will not be detrimental to the public health, safety or general welfare or convenience.

Discussion followed on the home improvement regulations and ways of improving the language to better reflect the intent:

- Having an organized, contiguous streetscape is important.
- The language is unclear under Paragraph 1, Purpose and Paragraphs 1 and 2, Circumstances for Granting Exceptions. He suggests deleting these paragraphs and come up with language that is clearer. The exemption cannot be detrimental to the appearance of the neighborhood or the enjoyment of the residents in the neighborhood.
- Large buildings on small lots result in kids playing in the streets.
- Banks loan on square footage of residence, not yard space.
- Allow exceptions for ownership changes of 1,100 sq.ft. residences.
- Encourage rejuvenation of housing stock.

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CITY OF MILWAUKIE PLANNING COMMISSION

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Howard Steward cautioned the City on their taxing policy for corporations. In Portland corporations are moving to Washington in order to avoid taxes. He would not like to see this happen in Milwaukie. **John Gessner** stated that Milwaukie is seeing younger families coming in to buy houses, and a lot more renovations. There is a lot of housing stock that is obsolete and this improves the value of the housing stock and improves the value of the tax base. This takes the tax burden off the home-owner over time. This is a good way to help Milwaukie help itself through natural market changes.

Conditional Use Regulations: There has been an explosion of conditional uses. These uses have advantages of being allowed in certain locations, but because of their impacts warrant some controls. Section 600 is the result of 30 years of amendments. Consideration has to be given to the relationship between the zone and the use itself.

- How do you condition a single family home to minimize the adverse impacts for occupying commercial space?
- How do you protect a single-family home from impacts of having commercial neighbors?
- There is no land left in the City that would be suitable for agriculture or horticulture in the CL and CG Zones. It may be time to take these out.
- Should the definition of family be changed in the code?

There are twenty plus conditional uses and there are not a lot of standards to govern these uses. Housekeeping is needed to update the standards. The decision-making process can be simplified by specific standards. The code should include considerations and applications of those considerations.

Staff will draft standards/policy that apply to the listed conditional uses and bring it back to the Commission for review and comment. Type II approvals can be used so that residents can question an issue before it comes before the Commission. It was suggested that non-residential uses be mapped in residential zones to see if there is an economic core.

8.0 DISCUSSION ITEMS -- None.

9.0 OLD BUSINESS -- None.

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director

Information Items:

- Staff is presently working on strengthening the house move regulations. The Design and Landmarks Commission will discuss the Morino House and lesson learned from that situation.
- Staff is involved with a code compliance problem with Centex. A large fir tree was removed from the right-of-way and they were previously given a warning to not remove the tree.
- Schedule a worksession with an engineering and building official to discuss what the Commission needs from all staff, what could be done better to support decision-making, how to perform in public hearings and general comments and suggestions to improve staff communication with the Commission.
- Tri-Met working group is in full swing. There is a work group (city staff, neighborhood leaders, north industrial business owners, Metro, Tri-Met and others) and a technical group (Staff from various agencies). There has been background work done on problem solving that City Council is asking for by adopting the Planning Commission recommendation. The next meeting the groups will be working on City Council's adopted findings and considerations for mitigation of design. An update will be given to the Commission at its next meeting.

Public Hearings are scheduled October 28th and November 25th.

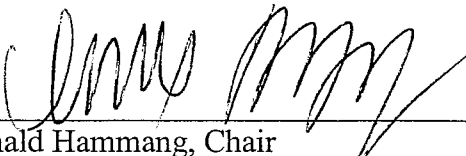
- October 14th – Mixon Application
- October 14th – Rowe Middle School

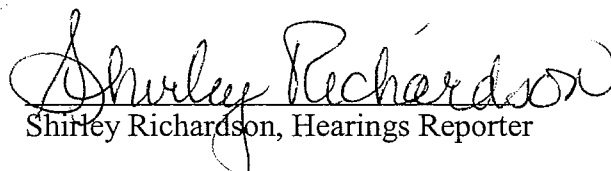
Keith Jones reported that there is a new house being built on Cambridge Lane that creates an extra lot. There are some issues with this application that require it to come back before the Commission.

- 11.0 NEXT MEETING -- October 14, 2003
- 11.1 Mixon Application
- 11.2 Rowe Middle School

Mike Miller moved to adjourn the meeting of September 23, 2003. **Judith Borden** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 8:34 p.m.


Donald Hammang, Chair


Shirley Richardson, Hearings Reporter

Members present: Verbout, Green, Klein, Stacey, Wall

Members absent: Martin, Loaiza

Staff: Herrigel

Minutes

Stacey moved to approve June 16 meeting minutes. Verbout seconded. Motion passed 4-1.

Trolley Trail

Herrigel introduced Jane Hart and Mel Huie from Metro who were there to present the Master Plan for the Trolley Trail, a six mile bike and pedestrian trail running from the Jefferson Street Boat Ramp to Gladstone.

- Alta Planning and Design was the consultant that worked with Metro and the project partners to develop the master plan.
- A 19 person working group provided input to the consultant and the project team (Mart Hughes and JoAnn Herrigel were both members)
- The proposed path width is 12 feet with 2 foot shoulders
- The path would be multi-use with some sections developed for equestrian use as well
- Two members of the working group have expressed concerns about the 12 foot width (they prefer 8 to 10 feet) Project Team research found that 8-10 foot width might jeopardize the federal funds they have recently been awarded. An 8 foot asphalt path with grass paver strips along either side has been suggested as an alternative. Project Team research shows this alternative is more costly and potentially less safe. The Project Team has suggested changing the color of the asphalt, increasing landscaping in certain areas and potentially increasing the meandering nature of the path as ways to mitigate the perceived aesthetic issue arising from the 12 foot width.
- Proposed Trail heads are:
 - Jefferson Street Boat Ramp
 - Oak Grove Elementary
 - Risley Park
 - Concord, near Amazing Grace Church
 - Naef Rd property recently acquired by NCPRD
- A vegetative buffer or fencing is suggested for adjacent neighbors concerned about privacy and security
- One member of the working group was from the Sheriff's office and he conducted a safety audit
- The project will be built in phases. The first phase, including the engineering design for the whole trail and the construction of the first three segments of the trail, has been awarded MTIP funds. Money will be available in 2 ½ years (2006).
- August 18 is the end of the comment period for this project.

Group Questions:

Is this trying to be a natural trail?

Where it is in a natural setting, yes.

Surface will be asphalt?

VII. D. 2

Yes

Are you installing lighting?

As needed.

Couldn't you modify lighting where there is ambient light already?

So noted.

Could trail through wetland areas be something other than asphalt?

Probably not. We could look at permeable asphalt or build boardwalks.

Who will maintain it?

North Clackamas Parks and Recreation District.

Prefer path to on-street bike lane.

So noted.

When path goes in and there are nice flat smooth trail lengths – will you have trouble with motorcycles?

Metro doesn't think so. Further, Clackamas County Sherriff's office is committed to developing a trail watch program.

Would be nice to get bikes off of McLoughlin but don't want to have to cross too much asphalt to get to the Riverfront.

Metro staff acknowledged it would be important to balance the goals of all the related trail projects proposed for McLoughlin Blvd. between the boat ramp and River Road. These projects include McLoughlin Blvd. improvements (based on Metro Green Streets Program), the Trolley Trail, and ODOT's sidewalk project. . Metro will be represented on the City's final design advisory group for the McLoughlin project and will advocate for eliminating duplication of trails.

Trailhead at the boat ramp does conflict with the idea of decreasing parking at this site. Also, during January –April fishing season the lot is packed.

So noted.

Have you spoken with ODS Health Plans Inc. about potential parking?

No.

How long will Trolley Trail take?

Metro has funds for the engineering design for the whole trail and construction of the first three segments down to Courtney . Funds will be available in 2005-2006.

Mel Huie noted that he understood that the Board really wanted less asphalt between downtown and the Riverfront. He said he understood their intent to connect the downtown to the Riverfront.

The Board voted 4-0 in favor of the following motion (made by Verbout and seconded by Stacey):

The Riverfront Board recommends that Metro and ODOT work together to minimize the number of trails, bike lanes and sidewalks separating Milwaukie's downtown and its Riverfront.

The group set their next meeting for September 8.

A motion was made by Stacey to adjourn, seconded by Wall. Motion passed 4-0.

PUBLIC SAFETY ADVISORY BOARD MEETING NOTES

October 23, 2003

Present:

Karen Martin - Campbell Neighborhood Association
Larry Kanzler – Chief of Police
Dolly Macken-Hambright – Linwood Neighborhood Association
Ray Bryan – Historic Milwaukie Neighborhood Association
Rick Bantz – Lake Road Neighborhood Association

The meeting was called to order at 6:05 p.m.
Paul Shirey and Brion Barnett were not able to attend the meeting.

Larry showed a pin map that one of the traffic officers has been working on which shows where the traffic accidents have occurred so far this year.

Larry handed out information regarding a survey that was done of high school seniors and their drug/alcohol use. The statistics show that there is a consistent drug/alcohol use of approximately 4% each year. There is a significant increase in the number of teens being treated for drug overdoses from designer drugs.

Larry handed out information regarding the relationship between drug use and crime. With Crystal Meth there is a 95% predictability that the user will become addicted after a single use. The drug labs are very dangerous and costly to clean up. Our police department does not have a drug task force because our resources are so limited. We no longer participate in the Clackamas County task force. There is an organization that includes the Multnomah County DA's office, the Medical Examiner's Office and Legacy Hospitals – they take students through the morgue and demonstrate what happens to drug & alcohol users, car accidents, etc. It's difficult to tell if the D.A.R.E. program has any affect.

Larry handed out some statistical information on crimes in the City. Ray commented that his neighborhood has experienced several arson fires lately. Larry said that he would invite someone from the Fire District to attend a meeting soon. There was discussion regarding the amount of time that is spent on investigating certain crimes. Our detectives are on the Major Crimes Team for Clackamas County.

Larry said that the department has received several portable defibrillators through a grant. The officers will be trained on their use soon. The "AED" units will be in place in each City building and in several of the patrol cars.

The new Mobile Data Terminals in the patrol cars have helped identify stolen vehicles.

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Larry said that our department does not have a discretionary fund for emergencies such as money for boards to cover a broken window, etc. The Fire District will has funds for these situations that we can use also. We also have boxes of food from the Sunshine Division that are available for emergency use.

Dolly said that the City will be installing the requested No Parking Signs soon in her neighborhood.

There have been some complaints of increased crime activity around Furnberg Park. The fence behind the park is broken. The property behind the fence is in the County and we can't respond because the calls go through CCOM. Larry asked the Sheriff if we could work together and have our department respond on the calls in that area – he hasn't received a response as of yet.

Rick asked what the status of the annexation plan was. Larry said it's still in the works. He has been asked by PSU to do a statewide training presentation on the concept. It would reduce the taxes of City residents.

The next meeting will combine November and December's meetings – scheduled for December 4th.
