

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
OCTOBER 15, 2002**

4402

**CALL TO ORDER**

The 1896<sup>th</sup> meeting of the Milwaukie City Council was called to order by Mayor Bernard at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Mary King  
Larry Lancaster

Brian Newman  
Jeff Marshall

Staff present:

Mike Swanson,  
City Manager

Steve Crew,  
City Attorney

Gary Firestone,  
City Attorney

John Gessner,  
Planning Director

Alice Rouyer,  
Director of Community  
Development and Public Works

**PLEDGE OF ALLEGIANCE**

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

**Recognize Citizens for Service to the Community as Advisory Board Members**

The City Council recognized citizens for their community service on appointed advisory boards: Julie Wisner, Traffic Safety Board, 1993 – 2002; Barb Cartmill, Planning Commission, 1998 – 2002; and Linda Montgomery, Traffic Safety Board, 2000 – 2002.

**Sheriff's Levy**

Clackamas County Sheriff Pat Detloff urged support for the upcoming Sheriff's Levy on the November 2002 ballot.

**League of Oregon Cities Recognition of State Representative Carolyn Tomei**

State Representative Carolyn Tomei was given the "Rookie of the Year" award by League of Oregon Cities Executive Director Ken Strobeck and Legislative Director David Barenberg. The award is given to a legislator who, during the first year in office, takes care to look after the interests of local government.

**Award for Downtown Plan**

**Rouyer** presented a plaque to the Mayor and City Council from the Oregon Chapter of the American Planning Association recognizing Milwaukie for its "Professional Achievement in Planning Small Community – City of Milwaukie Downtown and Riverfront Plan".

**CONSENT AGENDA**

It was moved by Councilor King and seconded by Councilor Marshall to adopt the consent agenda that included:

- A. City Council Minutes of October 1, 2002; and
- B. Resolution 25-2002: A Resolution of the City of Milwaukie, Oregon, Adopting Fiscal Year 2002/2003 (Year Thirteen) Annual Waste Reduction Plan and Authorizing the City Manager to Sign an IGA with Metro.

The motion to adopt the consent agenda passed unanimously.

**AUDIENCE PARTICIPATION**

None.

**PUBLIC HEARING**

None scheduled.

**OTHER BUSINESS****Litigation Authorization**

**Crew** updated the City Council and public on the facts of the groundwater contamination issues and asked for authorization to proceed to file an action in Clackamas County Circuit Court against Stanley Works, Ingersoll-Rand, and Providence Hospital Systems.

**It was moved by Councilor Marshall and seconded by Councilor King to authorize the City Attorney to proceed to file an action against the main defendants.**

**Councilor Newman** supports the litigation and is conscious of protecting citizens' interests. It is fundamental that citizens have clean and healthy water.

**Councilor King** is pleased Milwaukie is taking this action as part of its governmental responsibility to citizens and is confident the facts have been gathered carefully.

**Councilor Lancaster** feels this action sends the message that a fundamental expectation of companies doing business in Milwaukie is taking responsibility for their actions.

**Motion passed unanimously.**

**Mayor Bernard** added that if the City prevails the money would go to the water department and utility customers.

**Swanson** explained recouping money spent on damages would not solve the current general fund problems outlined in Measure 3-77.

**Crew** intends to file on October 16 and is fairly confident the maximum time to resolve the issue will be one year.

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Crew intends to file on October 16 and is fairly confident the maximum time to resolve the issue will be one year.

**Title 3 Vegetated Corridors Update**

**Gessner** briefly updated City Council on Planning Commission activities related to Title 3 and vegetated corridors.

**Councilor Marshall** felt he had sufficient information and asked staff to proceed.

**Councilor Lancaster** is concerned about potential Measure 7 impacts despite its recent overturn.

**Gessner** said the Planning Commission hearing is scheduled for November 26 and the City Council hearing for December 17. Staff is working with the city attorney to ensure protection on takings issues. Notices will go out to potentially affected property owners pursuant to Measure 56 requirements, and maps of vegetated corridors are available from the Planning Department.

**Traffic Safety Board**

**Councilor Marshall** moved to direct the current Traffic Safety Board to have one more meeting to finalize old business then dissolve to allow formation of the Public Safety Advisory Committee.

**Councilor Lancaster** concurred with a friendly amendment that all old business would be resolved in 2 more meetings.

**Councilor King** seconded the motion with the friendly amendment. Motion passed unanimously.

**Other**

**Councilor King** asked staff to prepare a timeline on the Milwaukie Downtown Development Association's rollover to a citywide development association.

**Councilor Newman** announced that November General Election ballots would be mailed October 18 and urged people to vote.

**Councilor Marshall** added this is an important election because over the past 5 years there has been a significant change in the City's direction. City Council has worked hard to provide the community with what it has asked for: changing the City's 2040 Plan designation from Regional Center to Town Center with a reduction in density demands; keeping light rail out of the neighborhoods and working to make it a livable part of the community in the future; reaching a ratio of 1.5 police officers per thousand residents; supporting and strengthening the neighborhood program; and hiring a new city manager who is open and sharing and has facilitated a these transitions. This work could be easily erased in the upcoming election.

**EXECUTIVE SESSION**

**Mayor Bernard** announced the City Council would meet in executive session pursuant to ORS 192.660 immediately following adjournment to discuss the performance evaluation of a public officer and real property transaction.

**ADJOURNMENT**

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

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

*Pat DuVal*

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Pat DuVal, Recorder



TO: Mayor and City Council  
FROM: Mike Swanson, City Manager  
DATE: October 7, 2002  
RE: FYI Memo for the Weeks of October 7 through October 18, 2002

There will be no regular work session on October 14, 2002 as a number of the Neighborhood Associations have scheduled a candidate/issues forum that evening. It will begin at 7:00 p.m. at Milwaukie Elementary School, 11250 SE 27<sup>th</sup> Avenue.

## OCTOBER 15, 2002 COUNCIL MEETING

**(1) Intergovernmental Agreement (IGA) with Metro for Waste Reduction Grant:** Council is asked to review the annual Waste Reduction Work Plan and to consider authorizing the City Manager to sign an IGA with Metro granting the City \$8,761 in challenge grant funds for implementation of the Plan.

**(2) Litigation Authorization:** Steve Crew of Ramis, Crew, *et al* will briefly present in open session the facts of the groundwater contamination issues we have been discussing in executive session and will seek authorization from Council to proceed to file an action against the main defendant.

**(3) Title 3 Update:** This matter was held over from a work session a few weeks ago. The Planning Commission provided preliminary direction regarding Code revisions to meet regional water resource protection standards. The City's existing natural resource standards are being revised to include protection for vegetated corridors. About twenty citizens attended the Planning Commission's August 27, 2002 work session to express concerns about future regulations. Many were concerned that they would be forced to restore vegetation along stream corridors or be required to make other environmental improvements. The Commission clarified that existing property owners would not be affected and that the proposed regulations would apply only to new development. Staff is seeking Council direction on the regulatory approach that was recommended by the Planning Commission.

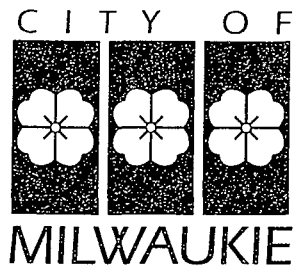
## ADDITIONAL ITEMS OF INTEREST

(1) Three finalists for the Project Manager position (Roosevelt Carter's position) are being considered by Alice.

(2) The Riverfront Board received an anonymous donation in the form of a check in the amount of \$2,500 toward Riverfront planning efforts. It was delivered by Ed Zumwalt. The donors did stress that they wished to remain anonymous. Steve Loaiza, Riverfront Board Chair, then reached in his wallet and handed a "wad" of cash to Ed for the "Celebrate Milwaukie, Inc" effort. Whew!

(3) The MIS implementation continues. Utility billing culminated in new bills being sent out last week. The new hand-held parking citation equipment will be in use shortly. Code compliance and risk management will be brought up later this month, with business licenses and accounts receivable in November, and payroll in December. All seems to be going well. Of course, no one will let me get into anything—probably a wise decision.

(4) For future note, I will be taking a vacation day October 25 and 28 to attend the Vancouver, BC Irish Feis. No, that's not a misspelling (even though Microsoft Word doesn't get it). Rachel is into Irish dance competitions, having this weekend taken a 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> in the Portland Feis. It's our version of soccer. So it's off to Vancouver for a lovely weekend of crowded hotel exhibit rooms, thousands of little girls dancing for 20 seconds in front of judges who have spent the evening before drinking Guinness, and dreams of a spot in Riverdance. (We saw Darlene Hooley this weekend and now have to go to Washington, DC as one of her aides danced in Riverdance and with Michael Flatley. So now Rachel wants to go to DC to take Darlene up on her invitation to meet this lady.)



## **NOTICE**

There will be no regular work session on October 14, 2002 as a number of the Neighborhood Associations have scheduled a candidate/issues forum that evening. It will begin at 7:00 p.m. at Milwaukie Elementary School, 11250 SE 27<sup>th</sup> Avenue.

MILWAUKIE CITY HALL  
10722 SE MAIN STREET  
MILWAUKIE, OREGON 97222  
PHONE: (503) 786-7555 • FAX: (503) 652-4433

**CITY OF MILWAUKIE  
CITY COUNCIL AGENDA  
OCTOBER 15, 2002**

**MILWAUKIE CITY HALL**  
10722 SE Main Street

**1896<sup>TH</sup> MEETING**

**REGULAR SESSION - 6:00 p.m.**

- I. **CALL TO ORDER**  
**Pledge of Allegiance**
  
- II. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
  - A. **Recognize Citizens for Service to the Community as Advisory Board Members (Mayor Bernard)**
  - B. **League of Oregon Cities Recognition of State Representative Carolyn Tomei**
  - C. **Report on Clackamas County Sheriff's Levy (Pat Detloff)**
  
- 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 1, 2002**
  - B. **Intergovernmental Agreement with Metro for Waste Reduction Grant – Resolution (Herrigel)**
  
- 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. **Litigation Authorization (Steve Crew)**
  - B. **Title 3 Vegetated Corridors Update (Gessner)**

**VII. INFORMATION**

- A. Center/Community Advisory Board Minutes, August 9, 2002
- B. Ledding Library Board Minutes, August 26, 2002

**VIII. ADJOURNMENT**

**EXECUTIVE SESSION** -- *At the end of the regular meeting, the Council may hold an Executive Session under the authority of Oregon Revised Statutes 192.660 as needed.*

*For assistance/service per the Americans with Disabilities Act (ADA), dial TDD 786-7555.*

***The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.***

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OCTOBER 1, 2002

**CALL TO ORDER**

The 1895<sup>th</sup> meeting of the Milwaukie City Council was called to order by Mayor Bernard at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Mary King  
Larry Lancaster

Brian Newman

Staff present:

Mike Swanson,  
City Manager

Larry Kanzler,  
Police Chief

**PLEDGE OF ALLEGIANCE**

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

**Mayor Bernard** read a proclamation announcing *Walk a Child to School Day* on October 2, 2002.

**Mayor Bernard** presented **Chief Kanzler** and **Officer Kevin Krebs** a certificate of recognition and appreciation from the Housing Authority of Clackamas County for "unwavering support to community policing, and commitment to safety in our neighborhoods."

**Pat DuVal** was recognized for receiving the 2002 Recorder of the Year Award from the Oregon Association of Municipal Recorders.

**CONSENT AGENDA**

It was moved by Councilor King and seconded by Councilor Newman to adopt the consent agenda that included:

- A. City Council Minutes of September 16 & 17, 2002;
- B. City of Portland Metered Water Intertie Project Acceptance; and
- C. Amended Intergovernmental Agreement with Happy Valley for Engineering and Building Official Services.

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

**AUDIENCE PARTICIPATION**

**George Van Bergen**, 12366 SE Guilford Drive, Milwaukie, urged the City Council to move expeditiously to remove the vacant house stored on railroad property at 21<sup>st</sup> Avenue and Lake Road. He owned the structure and operated his law firm in that location until the School District purchased it to expand the Milwaukie High School parking area. The new owner who moved the house to its present location has had a

### III. A. 2

year to find a permanent location but has failed to do so. He urged the City Council to exercise its authority and abate the property.

**Swanson** read a letter dated September 24, 2002, from Planning Director John Gessner to Rich Peterson, current owner of the house, regarding the temporary storage agreement. Peterson was advised the structure must be removed from its present location no later than October 8, 2002, and may not be relocated it within the City without prior approval. He discussed the appeal process. Another avenue is to proceed as Van Bergen outlined by pursuing a civil penalty in municipal court.

**Van Bergen** added the railroad would be defendant along with mover whose timbers are under the building

**Patty Wisner**, 4325 SE Wister Street, Milwaukie, took issue with Van Bergen's comments. She feels the house is a classic craftsman-style building and should be preserved.

**Richard Cayo**, 4203 SE Johnson Creek Boulevard, Milwaukie, provided 4 suggestions for City improvements: (1) include addresses of City facilities in the blue pages of the phone book; (2) post a sign letting people know the City Hall front doors unlock automatically 15 minutes prior to public meetings; (3) repair the concrete around the base of the steel railing on the north side of City Hall; and (4) lock the Pioneer Cemetery gate to foot traffic to prevent vandalism. If one takes care of the little things, the bigger ones take care of themselves.

#### **PUBLIC HEARING**

None scheduled.

#### **OTHER BUSINESS**

**Mayor Bernard** discussed several points relating to the City of Portland's purchase of PGE and recommended the Milwaukie City Council express its opposition.

**Councilor King** and **Councilor Newman** did not feel they had sufficient information to support or oppose the proposal at this time. They suggested a work session with Portland and a hearing to gather public input.

**Councilor Lancaster** agreed with Mayor Bernard in his opposition to Portland's proposal. He feels government has proven itself incapable of operating this type of business. He is concerned Portland is moving forward without input from the users.

**Mayor Bernard** said Portland is making a bid to purchase PGE on October 12 and, to date, has not contacted Milwaukie or other jurisdictions served by PGE for their opinions. He suggested Milwaukie send a letter to Portland requesting a work session.

**EXECUTIVE SESSION**

**Mayor Bernard** announced the City Council would meet in executive session pursuant to ORS 192.660 immediately following adjournment to discuss the performance evaluation of a public officer.

**ADJOURNMENT**

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

**Mayor Bernard** adjourned the meeting at 6:50 p.m.

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Pat DuVal, Recorder



To: Mayor and City Council  
Through: Mike Swanson, City Manager Pro Tem  
From: JoAnn Herrigel, Program Administrator  
Subject: Annual Waste Reduction Work Plan (Year 13)  
Date: September 23, 2002

**Action Requested**

Adopt a resolution approving the activities in the 2002-2003 Annual Waste Reduction Plan and authorizing the City Manager to sign the attached Intergovernmental Agreement (IGA) with Metro. The IGA will grant the City \$8,761 in Metro Challenge funds to assist with implementation of the tasks in this year's Waste Reduction Plan.

**Background**

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

**Concurrence**

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

**Fiscal Impact**

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

### III. B. 2

#### Work Load Impacts

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

#### Alternatives

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

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

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

**A RESOLUTION OF THE CITY OF MILWAUKIE, OREGON, ADOPTING FISCAL YEAR 2002/2003 (YEAR THIRTEEN) ANNUAL WASTE REDUCTION PLAN AND AUTHORIZING THE CITY MANAGER TO SIGN AN IGA WITH METRO.**

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

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

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

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE** to adopt the attached Fiscal Year 2002-2003 Annual Waste Reduction Plan and to authorize the City Manager to sign an IGA with Metro granting the city \$8,761 in Metro Challenge Funds for implementation of this year's waste reduction plan.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon, on October 15, 2002.

This resolution is effective on October 15, 2002.

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

ATTEST:

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

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

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



TO: Mayor and City Council  
FROM: Mike Swanson, City Manager  
SUBJECT: Litigation Authorization  
DATE: October 2, 2002

**ACTION REQUESTED**

That the City Council authorize the City Attorney to file an action on behalf of the City of Milwaukie to recover damages.

**BACKGROUND**

Steve Crew of the City Attorney's Office will appear before Council to explain the facts that give rise to the cause of action that is being contemplated and to request authorization to proceed.

**CONCURRENCE**

The City Manager concurs with the recommendation of the City Attorney to proceed with the filing.

**FISCAL IMPACT**

Funds have been budgeted to carry forward with this litigation. In addition, the proposed litigation seeks to recover damages that have imposed financial requirements on the City and its taxpayers.

**WORK LOAD IMPACTS**

To date staff has done quite a bit of the work necessary to produce required records. As the litigation proceeds, it is anticipated that there will be requests from the defendants for additional information.

**ALTERNATIVES**

There are no reasonable alternatives available.



**To:** Mayor and City Council

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

**From:** John Gessner, Planning Director

**Date:** October 15, 2002

**Subject:** Title 3 Vegetated Corridors

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### **Action Requested**

Review the draft code that adopts vegetated corridor requirements and provide direction to staff.

### **Background**

This project has been undertaken to meet Metro Urban Growth Management Functional Plan Title 3, which includes long-term protections for the City's water resources. Key questions about the project are presented below. (*See Exhibit 2 for draft code.*)

General background on the proposal follows. Discussion of the Planning Commission's August 27, 2002 work session is included at the end of this section.

#### **What has been the policy direction on Title 3?**

Over the last two years the City Council and Planning Commission have supported the goals of Title 3. The Council has previously directed staff to proceed with code amendments to adopt vegetated corridor protections.

#### **What are "vegetated corridors"?**

Under the proposed regulations, a vegetated setback (corridor) is required along protected water resources including streams, seasonal drainages, and wetlands. The regulations would limit the removal of vegetation where existing vegetation is

## VI. B. 2

in-place. The width of the corridor can range from 15 feet to 50 feet along adjoining lands with shallow slopes. For slopes steeper than 25%, the setback would increase depending on the length of the slope.

### How are areas along resources affected that have already been developed?

Under the proposal, existing lawns and gardens within the setback area would be allowed to remain. The Planning Commission has asked staff to explore ways to help restore native vegetation along water resources where it has been removed for past development.

### How does the Natural Resource Overlay Zone compare to the proposed regulations?

In the spring of this year Metro Council granted Milwaukie an extension of time in which to adopt water resource protection regulations as required by the Urban Growth Management Functional Plan. To qualify for the extension, Milwaukie conducted a review of the last ten years of Natural Resource applications to gauge how well the City's resource regulations have been performing. It was found that decisions made under city code were in almost all cases consistent with Title 3 standards. This is explained by the following:

1. The existing natural resource regulations applied to most of the lands that developed through the 1990s.
2. In a number of cases, the 100-year floodplain boundary protected against development in the flood boundary and also protected the resource area.
3. Lands along resource areas designated by the City were mostly already developed by the time city resource protection regulations were adopted.
4. The City's development standards closely match Title 3 development standards.

*(See Exhibit 1- Report to Metro on Natural Resource Overlay Zone performance.)*

### To what properties does Title 3 apply, that the Natural Resource Overlay Zone does not?

Many properties that contain natural resources were not designated by the City as natural resource sites at the time the Natural Resource Overlay Zone was adopted in the early 1990s. City records are inconclusive as to why this happened. Under Title 3 all resources that meet the definition of protected water features including wetlands, stream courses, and drainages are protected. These resources are shown on Title 3 maps. Resources that are protected under Title 3 but not city Natural Resource regulations include the following:

1. Wetlands located on Rockvorst, Furnberg, and Willow Streets, Stanley Avenue, and Lake Road.
2. Open drainages and streams in the Milwaukie Market Place and Business Industrial Zone.

What activities are regulated and what are not?

Regulated activities are described by application-type as follows:

(See Exhibit 2, Section 322.4 and 322.5.)

1. Activities that are "permitted outright" do not require a permit or other approval.

*Activities that will not have an adverse impact on protected water features include resource enhancement, change of use, normal maintenance and repair, activities that are not located within the floodplain or vegetated area.*

2. Activities that may be approved by staff.

*This includes activities that do not disturb the vegetated corridor, removal of non-native vegetation, removal of dangerous trees, and placement of stormwater facilities that are designed in accordance with city standards, partitions, and modification to non-conforming structures.*

3. Activities that require Planning Commission approval.

*Activities that may have an impact on protected water features including all activities not covered above, new roads and accessways, new public facility construction, any increase in the footprint of structures located in vegetated corridor, subdivisions, and variance requests.*

4. Prohibited activities include new development in resource areas.

Outstanding Title 3 Compliance Issues

Title 3 includes a prohibition against "areas of uncontained storage of hazardous materials" below the elevation of the base flood. The purpose of the provision is to help minimize contamination of waters due to an extreme flood event. Staff is concerned about the City's ability to enforce this provision as follows:

1. There are few opportunities for applying regulations that govern building occupancy and use through the zoning code.
2. Once occupancy for a building is approved, the building may be used for several years before additional improvements are made. However, internal uses that do not require permits may change at any time.
3. Staff believes the Fire District is more adequately suited to implement this prohibition since the Fire Marshall conducts biannual inspections for fire safety compliance. In addition, the Fire Marshal has greater competency in identifying and managing hazardous materials.

Staff has discussed this matter with the District Chief, who has also spoken with the Portland Fire District on the matter. Staff and the Fire Chief have not yet resolved the best way to address the Title 3 requirement. Notwithstanding, staff suggests that the matter may not have an easy solution. Additional discussion will be forthcoming.

## VI. B. 4

### Outstanding Issues

At the July 23, 2002 Commission work session the Commission recommended staff explore options for creating a mitigation fund to assist restoration of degraded sites and incentives for restoration of disturbed buffers. Additional work is needed on these items. The Commission also expressed concern about the use of density transfers and clustering as tools to minimize the economic impact of protecting water features. Additional work is needed on this item as well. Lastly, additional staff analysis is required prior to making recommendations for variance procedures. These matters will be addressed in future work sessions.

### August 27, 2002 Planning Commission Review

The Planning Commission reviewed the proposal at its August 27, 2002, work session. The Commission supported the approach but recommended the following changes based on citizen testimony at the work session:

1. The requested changes have been incorporated into the draft code.  
A number of persons who testified expressed concern that they would be required to restore their properties to natural conditions or make other improvements. The Commission directed staff to clarify that the proposed regulations do not require property owners to change existing site conditions. This has been done by including new language in the purpose section and by revising Section 322.4(A)(6).  
In addition, staff was directed to ensure that decisions made under the Type I application procedure can be appealed.
2. The Commission gave preliminary approval on the following key elements of the code.
  - The proposed application requirements for activities in and around resource areas are acceptable. The Commission has previously advised staff that the application process should be proportionate to the likelihood of actual impacts. Under this approach, the Commission would review activities that may have an impact to resources. Staff would review activities with little chance of affecting the resource area. No permits would be required for activities that will not affect the resource area.
  - The proposed development standards are acceptable: the standards guide how work within the vegetated buffer will be conducted. This includes avoidance of impacts, minimizing the impacts, and providing mitigation.

What process will be used for public information and outreach?

The outreach and involvement process includes the following:

1. Mailings of staff reports to persons and organizations who have asked to be kept informed.
2. Planning Commission and City Council work sessions.
3. Articles in the City's newsletter, *The Pilot*.
4. Individual mailed notice to affected property owners.
5. Legal advertisements.
6. Discussion at the September 4, 2002, NDA leadership meeting.

Next Steps

September 23, 2002, Legal notice to affected property owners.

October 8, 2002, Planning Commission Work Session.

October 14, 2002 City Council Work Session.

October 22, 2002, Commission Adoption Hearing.

November 4, 2002, City Council Work Session.

November 19, 2002, Council Adoption Hearing.

**Concurrence**

The City Attorney will review the final draft for legal issues prior to adoption. Metro will review the final code for consistency with Title 3.

**Fiscal Impact**

No fiscal impacts are expected since application fees cover the cost of application review.

**Work Load Impacts**

The following changes to work load are expected, however, staff believes there will be an overall decrease in workload:

1. Likely decrease in the number applications reviewed due to proposed changes in application requirements.
2. Possible increase in applications due to new areas being subject to resource regulation that are not presently regulated. An increase in activity would largely be related to additional development in the Business Industrial Zone where the majority of resources subject to regulation are being added.

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### Alternatives

The Council may accept, reject, or modify, the draft proposal.

### Exhibits

1. Proposed Code
2. NR Zone Performance, Letter to Metro, October 24,

**WORKING DRAFT**  
**8/20/02**  
**WATER QUALITY RESOURCE OVERLAY ZONE**  
**REPLACES SEC. 322 NATURAL RESOURCE OVERLAY ZONE**

***Note to Readers***

***This documents a work in progress. It may change for editing purposes or to meet requests of the Planning Commission and City Council.***

**322.1 Purpose, General Policies, and Declarations.**

- A. Many of the City's original wetland and riparian resources have been adversely affected by historical development. These regulations seek to minimize additional adverse impacts and achieve resource restoration and improvement where possible while balancing property rights and development needs of the City.
- B. It is the intent of this chapter to ensure protection of the functions and values of Water Quality Resource Areas at the time of development.
- C. It is not the intent of this chapter to:
  - 1. Impose any obligation on property owners for the restoration of existing developed sites to pre-development or other natural condition.
  - 2. Impose any hardship or limitation against the continued maintenance of existing legal site conditions.
- D. This Chapter provides protection for natural resources that have been identified for the purposes of implementing Statewide Planning Goal 5. *{Note: Amend Comprehensive Plan As necessary.}*
- E. This Chapter establishes the Water Quality Resource Area Overlay Zone, which is delineated on the Water Quality and Flood Management Area map incorporated by reference as part of this Chapter.
- F. The Water Quality Resource Area Overlay zone allows development in situations where adverse impacts from the development can be avoided or mitigated and where the strict application of these rules would deny reasonable economic use of property.
- G. Implementation of this Chapter is in addition to and shall be coordinated with Milwaukie Municipal Code Title 19 Zoning Ordinance, Title 18 Flood Hazard Regulations and Chapter 16.28 Erosion Control.
- H. Conditions legally existing as of {date of adoption} that are inconsistent with this Chapter are declared legal non-conforming situations.
- I. Evidence of physical conditions for sites existing at the time this Chapter was adopted shall consist of city, county, and Metro records, aerial photography, and other information that may be available.

**322.2 Coordination with the Willamette Greenway Overlay**

- A. For properties along the Willamette River, nothing in this chapter shall prohibit the maintenance of view windows authorized under the Milwaukie Zoning Ordinance 320 Willamette Greenway Zone.

- B. Except as provided for in section 322.2(A), provisions of this chapter shall apply where the Planning Commission Staff Report y are more restrictive than Chapter 19.320 Willamette Greenway Zone.

**322.3 Applicability**

The Water Quality Resource Area Overlay Zone applies to all properties that contain Flood Management Areas and Water Quality Resource Areas as shown on the adopted Water Quality and Flood Management Areas map. Application for development activity for shall be made in accordance with this Title 19, this Chapter and Sections 322.6 Application Requirements and 322.7 Development Standards.

**322. 4 (A) Activities Permitted Outright**

The following activities are permitted outright and therefore do not require approval under the provisions of this Chapter.

1. Stream, wetland, riparian and upland enhancement or restoration projects and development in compliance with an approved natural resource management plan or mitigation plan.
2. Farming practices as defined in ORS 30.930 and farm uses, excluding buildings and structures, as defined in ORS 215.203.
3. Change of use where there are no exterior alterations to buildings or structures, or increases in floor area, impervious surfaces or storage areas.
4. The normal maintenance and repair of existing structures, utilities, access, streets, driveways, and parking improvements including asphalt overlays.
5. Temporary emergency procedures necessary for the safety or protection of property.
6. The normal maintenance of yard conditions in existence *{at the time of adoption.}*
7. Placement of a structure not located within the Water Quality Resource Area that does not require a building permit or flood hazard permit.
8. Maintenance of public and private storm drainage facilities in accordance with a management plan approved by the Planning Commission;
9. New construction, and modification of existing structures and other site improvements when not located within the Flood Management Area or Water Quality Resource Area.
10. Other activities similar to the above that are determined by the Planning Director to be consistent with the purpose and policies of this Chapter and which have also been found to have no appreciable impact to the water quality resource area.
11. Removal of invasive or non-native plant species specified in the Milwaukie Native Plant List.

**322. 4(B) Activities Permitted Under Type I Application Review**

The following activities are allowed under 19.1011.1 Type I application review subject to the conditions specified below.

1. Replacement or improvement of existing public and private utility facilities where:

- a. The disturbed portion of the Water Quality Resource Area is restored; and
- b. Non-native vegetation is removed from the Water Quality Resource Area and replaced with vegetation from the Milwaukie Native Plant List.
2. Measures to remove or abate nuisances, or any other violation of State statute, administrative agency rule or city or county ordinance subject to a mitigation plan to be approved by the Planning Director prior to the abatement activity.
3. Tree removal as necessary to eliminate an imminent hazard to person or property when sufficient evidence of the hazard is provided to the satisfaction of the Planning Director.
4. Stormwater discharges that are consistent with city adopted stormwater quality and control standards.

#### **322. 4(C) Activities Permitted Under Type II Review**

The following activities are allowed in the Water Quality Resource Area Overlay Zone subject to approval by the Planning Commission under section 19.1011.2 Type II review and compliance with Section 322.7 Development Standards.

1. Any activity allowed under 322.4 (A) that increases direct stormwater discharges to the Water Quality Resource Area when not consistent with adopted stormwater quality and control standards.
2. Modification to any nonconforming structure or feature subject to Type II review under Section 19.800 Nonconforming Situations.

#### **322. 4(D) Activities Permitted Under Type III Review**

The following activities are allowed in the Water Quality Resource Area Overlay Zone subject to approval by the Planning Commission under section 19.1011.3 Type III review and compliance with Section 322.7 Development Standards

1. Any activity allowed in the base zone, other than those listed in Sections 322.4 (A) through 322.4 (C).
2. Roads to provide access to Protected Water Features or necessary ingress and egress across Water Quality Resource Areas.
3. New public or private utility facility construction.
4. Walkways and bike paths
5. New stormwater detention, retention, or pre-treatment facilities.
6. Widening an existing road adjacent to or running parallel to a Water Quality Resource Area.
7. Additions, alterations, rehabilitation or replacement of existing structures, roadways, accessory uses and development that increase the structural footprint within the Water Quality Resource Area.
8. Natural Resource Management Plans and Stormwater Quality and Control Management Plans.
9. A request for a variance of any provision of this Chapter.
10. Partitions and subdivisions that contains any area located within the Water Quality Resource Area Overlay Zone.

**322.5 Prohibited Uses**

Following {date of adoption}, new structures, development, or activity other than those listed in subsection 322.4 are prohibited in the Water Quality Resource Area.

**322.6 Application Requirements**

Applications for Conditional Uses in the Water Quality Resource Area Overlay Zone must provide the following information in addition to the information required for the base zone:

- A. A topographic map of the site at contour intervals of five feet or less showing a delineation of the Water Quality Resource Area, which includes areas shown on the Water Quality and Flood Management Area map, and that meets the definition of Water Quality Resource Areas in Table 1.
- B. The location of all existing natural features including, but not limit to, all trees of a caliper greater than six (6) inches diameter at breast height (DBH), natural drainages on the site, springs, seeps and outcroppings of rocks, or boulders within the Water Quality Resource Area.
- C. Location of Title 3 wetlands. Where Title 3 wetlands are identified, the applicant shall follow the Division of State Lands recommended wetlands delineation process. The delineation shall be prepared by a professional wetlands specialist.
- D. An inventory and location of existing debris and noxious materials.
- E. An assessment of the existing condition of the Water Quality Resource Area in accordance with Table 2.
- F. An inventory of vegetation, including percentage ground and canopy coverage.
- G. Alternatives analysis demonstrating that:
  - 1. No practicable alternatives to the requested development exist that will not disturb the Water Quality Resource Area; and
  - 2. Development in the Water Quality Resource Area has been limited to the area necessary to allow for the proposed use; and
  - 3. The Water Quality Resource Area can be restored to an equal or better condition in accordance with Table 2; and
  - 4. It will be consistent with a Water Quality Resource Area Mitigation Plan.
- 5. An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to resource areas will be avoided and/or minimized.
- H. For applications seeking an alteration, addition, rehabilitation or replacement of existing structures located within the Water Quality Resource Area:
  - 1. Demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the Water Quality Resource Area than the one proposed; and
  - 2. If no such reasonably practicable alternative design or method of development exists, the project should be conditioned to limit its disturbance and impact on the Water Quality Resource to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement or rehabilitation; and

3. Provide mitigation to ensure that impacts to the functions and values of the Water Quality Resource Area will be mitigated or restored to the extent practicable.
- I. A Water Quality Resource Area Mitigation Plan shall contain the following information:
  1. A description of adverse impacts that will be caused as a result of development.
  2. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not limited to, Table 2.
  3. A list of all responsible parties including, but not limited to, the owner, applicant, contractor or other persons responsible for work on the development site.
  4. A map showing where the specific mitigation activities will occur.
  5. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.
- J. All information contained the application submission requirements and site plan checklist forms prescribed by the Planning Director.
- K. The application fee as adopted by the City Council.

### **322.7 Development Standards**

Applications for activity in the Water Quality Resource Area Overlay Zone shall satisfy the following standards:

- A. The Water Quality Resource Area shall be restored and maintained in accordance with the mitigation plan and the specifications in Table 2.
- B. To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the Water Quality Resource Area.
- C. Where existing vegetation has been removed, the site shall be revegetated as soon as practicable.
- D. Prior to construction, the Water Quality Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as may be allowed by this chapter. Such markings shall be maintained until construction is complete.
- E. Stormwater pre-treatment facilities:
  1. The stormwater pre-treatment facility may encroach a maximum of 25 feet into the outside boundary of the Water Quality Resource Area of a primary water feature; and
  2. The area of encroachment must be replaced by adding an equal area to the Water Quality Resource Area on the property.
- F. Additions, alterations, rehabilitation and replacement of lawful structures.
  1. For existing structures, roadways, driveways, accessory uses and development which are nonconforming, this ordinance shall apply in addition to the nonconforming use regulations of the city.
  2. Additions, alterations, rehabilitation or replacement of existing structures, roadways, driveways, accessory uses and development shall not encroach closer to the Protected

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Water Feature than the existing structures, roadways, driveways, accessory uses and development

G. Off-site Mitigation.

Offsite mitigation is prohibited under this Chapter.

H. Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution or sedimentation to the adjacent water quality resource area.

I. Where practicable, the types, sizes and intensities of lights must be placed so that they do not shine directly into the natural resource locations.

J. Where proposed, development of trails, rest points, viewpoints, and other facilities for the enjoyment of the resource must be done in such a manner so as to reduce impacts on the natural resource while allowing for the enjoyment of the resource.

K. Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drainage courses, except where mitigation is approved, so as to provide a transition between the proposed development and the natural resource, provide opportunity for food, water and cover for animals located within the water quality resource overlay.

L. Storm water flows as a result of proposed development within and to natural drainage courses shall not exceed pre-development flows.

M. Road crossings of major natural drainage courses will be minimized as much as possible.

N. The construction phase of the development must be done in such a manner to safeguard the portions of the site within the water quality resource overlay zone that have not been approved for development.

### 322.8 Variances

A. The purpose of this Section is to ensure that compliance with this ordinance does not cause unreasonable hardship. To avoid such instances, the requirements of this ordinance may be varied. Variances are also allowed when strict application of this ordinance would unreasonably deprive an owner of economically viable use of land.

B. This Section applies in addition to the standards governing proposals to vary the requirements of the base zone.

D. Development may occur on lots located completely within the Water Quality Resource Overlay Zone that are recorded with the county assessor's office on or before {adoption date}. In the case of lots of record being entirely within the Water Quality Resource Overlay Zone, development shall not disturb more than \_\_\_\_\_ square feet of the vegetated corridor, including access roads and driveways.

E. Lots Completely Within the Water Quality Resource Area

Variances to avoid unreasonable hardship caused by the strict application of this ordinance are permitted subject to the criteria set forth in this section. To vary from the requirements of this ordinance, the applicant must demonstrate the following:

1. The variance is the minimum necessary to allow the proposed use or activity;

2. The variance does not increase danger to life and property due to flooding;
3. The proposed use complies with the standards of the base zone.

F. Buildable Lot Variance

A variance to avoid the unreasonable loss of economically viable use of a lot that is partially inside the Water Quality Resource Overlay Zone is permitted. Development on such lots shall not disturb more than \_\_\_\_\_ square feet of the vegetated corridor, including access roads and driveways. Applicants must demonstrate the following:

1. Without the proposed variance, the applicant would be denied reasonable economic use of the subject property. To meet this criterion, the applicant must show that:
  - a. The proposed use cannot meet the standards in Section 322.8(E).
    - b. No other application could result in permission for an economically viable use of the property.
2. The proposed variance is the minimum necessary to allow for the requested use;
3. The proposed use complies with the standards of the base zone.

G. Variance Conditions

The Planning Commission may impose such conditions as are deemed necessary to limit any adverse impacts that may result from granting relief. If a variance is granted, it shall be subject to the following conditions:

1. The minimum width of the vegetated corridor shall be 15 feet on each side of a Primary Protected Water Feature.
2. No more than 25 percent of the length of the Water Quality Resource Area for a Primary Protected Water Feature within a development site can be less than 30 feet in width on each side of the water feature; and
3. In either case, the average width of the Water Quality Resource Area shall be a minimum of 15 feet on each side for Secondary Protected Water Features, a minimum of 50 feet on each side for Primary Protected Water Features; or up to 200 feet on each side in areas with slopes greater than 25 percent. In no case shall outer boundary of the Water Quality Resource Area be less than 10 feet from the protected water feature.

**322.9 Map Administration**

- A. The purpose of this section is to provide a process for:
  1. Amending the Water Quality and Flood Management Areas map to add wetlands;
  2. Correct the location of Protected Water Features and the Water Quality Resource Areas.
- B. Map Corrections
  1. Within 90 days of receiving information establishing a possible error in the existence or location of a Protected Water Feature, or Water Quality Resource Area Overlay Zone, the city shall provide notice to interested parties of a public hearing at which the city will review the information.
  2. The city shall amend the Water Quality Area map if the information demonstrates:

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- a. That a Primary or Secondary Protected Water Feature no longer exists because the area has been legally filled, culverted, or developed prior to the adoption of this Chapter; or
- b. The boundaries of the Water Quality Resource Area Overlay Zone or Flood Management Area Overlay Zone have changed since adoption of the Water Quality and Flood Management Areas map.
- c. The Water Quality Resource Area includes both the vegetated corridor and the Protected Water Feature. The width of the vegetated corridor is specified in the Table One. At least three slope measurements along the water feature, at no more than 100-foot increments, shall be made for each property for which development is proposed. Depending on the width of the property, the width of the vegetated corridor will vary.
- D. Modification of the Water Quality Resource Area  
To modify the Water Quality Resource Area Overlay Zone, the applicant shall demonstrate that the modification will offer the same or better protection of the Protected Water Feature, Water Quality Resource Area and Flood Management Area by:
  1. Preserving a vegetated corridor that will separate the Protected Water Feature from proposed development; and
  2. Preserving existing vegetated cover or enhancing the Water Quality Resource Area sufficient to assist in maintaining or reducing water temperatures in the adjacent Protected Water Feature; and
  3. Enhancing the Water Quality Resource Area sufficient to minimize erosion, nutrient and pollutant loading into the adjacent Protected Water Feature; and
  4. Protecting the vegetated corridor sufficient to provide filtration, infiltration and natural water purification for the adjacent Protected Water Feature; and
  5. Stabilizing slopes adjacent to the Protected Water Feature.
- E. Adding Title 3 Wetlands
  1. Within 90 days of receiving evidence that wetland meets any of one of the criteria in D.2., the city shall provide notice to interested parties of a public hearing at which the city will review the evidence.
  2. A wetland shall be protected by the standards set forth in this ordinance if the wetland meets any one of the following criteria:
    - a. The wetland is fed by surface flows, sheet flows or precipitation, and has evidence of flooding during the growing season, and has 60 percent or greater vegetated cover, and is over one-half acre in size; or the wetland qualifies as having "intact water quality function" under the 1996 Oregon Freshwater Wetland Assessment Methodology; or
    - b. The wetland is in the Flood Management Area, and has evidence of flooding during the growing season, and is five acres or more in size, and has a restricted outlet or no outlet; or the wetland qualifies as having "intact hydrologic control function" under the 1996 Oregon Freshwater Wetland Assessment Methodology; or

- c. The wetland or a portion of the wetland is within a horizontal distance of less than one-fourth mile from a water body which meets the Department of Environmental Quality definition of "water quality limited water body" in OAR Chapter 340, Division 41 (1996).

Table 1

Protected Water Feature Type (see definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor
Primary Protected Water Features <sup>1</sup>	< 25%	<ul style="list-style-type: none"> <li>• Edge of bank full flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	50 feet
Primary Protected Water Features <sup>1</sup>	> 25% for 150 feet or more <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankfull flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	200 feet
Primary Protected Water Features <sup>1</sup>	> 25% for less than 150 feet <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankfull flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	Distance from starting point of measurement to top of ravine (break in >25% slope) <sup>3</sup> , plus 50 feet. <sup>4</sup>
Secondary Protected Water Features <sup>2</sup>	< 25%	<ul style="list-style-type: none"> <li>• Edge of bankfull flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	15 feet
Secondary Protected Water Features <sup>2</sup>	> 25% <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankfull flow or 2-year storm level;</li> <li>• Delineated</li> </ul>	50 feet

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		edge of Title 3 wetland	
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<sup>1</sup>**Primary Protected Water Features** include: all perennial streams and streams draining greater than 100 acres, Title 3 wetlands, natural lakes and springs

<sup>2</sup>**Secondary Protected Water Features** include intermittent streams draining 50-100 acres.

<sup>3</sup>Where the Protected Water Feature is confined by a ravine or gully, the top of ravine is the break in the > 25% slope (see slope measurement in Appendix).

<sup>4</sup>A maximum reduction of 25 feet may be permitted in the width of vegetated corridor beyond the slope break if a geotechnical report demonstrates that slope is stable. To establish the width of the vegetated corridor, slope should be measured in 25-foot increments away from the water feature until slope is less than 25% (top of ravine).

<sup>5</sup>Vegetated corridors in excess of 50-feet for primary protected features, or in excess of 15-feet for secondary protected features, apply on steep slopes only in the *uphill* direction from the protected water feature.

Table 2

**WATER QUALITY RESOURCE AREA REQUIREMENTS**

EXISTING CONDITION OF WATER QUALITY RESOURCE AREA	REQUIREMENTS IF WATER QUALITY RESOURCE AREA REMAINS UNDISTURBED DURING CONSTRUCTION	REQUIREMENTS IF WATER QUALITY RESOURCE AREA IS DISTURBED DURING CONSTRUCTION
<p>Good Existing Corridor: Combination of trees, shrubs and groundcover are 80% present, and there is more than 50% tree canopy coverage in the vegetated corridor.</p>	<p><i>Provide certification by registered professional engineer, landscape architect, or biologist or other person trained or certified in riparian or wetland delineation that vegetated corridor meets the standards of this ordinance.</i></p> <p><i>Inventory and remove debris and noxious materials.</i></p>	<p>Prior to construction, a biologist or landscape architect shall prepare and submit an inventory of vegetation in areas proposed to be disturbed and a plan for mitigating water quality impacts related to the development, including:                      sediments, temperature and nutrients                      sediment control                      temperature control                      or addressing any other condition that may have caused the Protected Water Feature to be listed on DEQ's 303 (d) list.</p> <p>Inventory and remove debris and noxious materials.</p>

**Note:** The middle column, being italicized, indicates that it is an option for consideration in the development review process.

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EXISTING CONDITION OF WATER QUALITY RESOURCE AREA	REQUIREMENTS IF WATER QUALITY RESOURCE AREA REMAINS UNDISTURBED DURING CONSTRUCTION	REQUIREMENTS IF WATER QUALITY RESOURCE AREA IS DISTURBED DURING CONSTRUCTION
<p>Marginal Existing Vegetated Corridor: Combination of trees, shrubs and groundcover are 80% present, and 25-50 percent canopy coverage in the vegetated corridor.</p>	<p><i>Provide certification by registered professional engineer, landscape architect, or biologist or other person trained or certified in riparian or wetland delineation that vegetated corridor meets the standards of this ordinance.</i></p> <p><i>Inventory and remove debris and noxious materials.</i></p>	<p>Vegetate disturbed and bare areas with, non- nuisance plantings from Native Plants List.</p> <p>Inventory and remove debris and noxious materials.</p> <p>Revegetate with native species using a city approved plan developed to represent the vegetative composition that would naturally occur on the site. Seeding may be required prior to establishing plants for site stabilization.</p> <p>Revegetation must occur during the next planting season following site disturbance. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site.</p> <p>Restore and mitigate according to approved plan using non- nuisance plantings from Native Plants List.</p> <p>Inventory and remove debris and noxious materials.</p>

**Note:** The middle column, being italicized, indicates that it is an option for consideration in the development review process.

EXISTING CONDITION OF WATER QUALITY RESOURCE AREA	REQUIREMENTS IF WATER QUALITY RESOURCE AREA REMAINS UNDISTURBED DURING CONSTRUCTION	REQUIREMENTS IF WATER QUALITY RESOURCE AREA IS DISTURBED DURING CONSTRUCTION
<p>Degraded Existing Vegetated Corridor: Less vegetation and canopy coverage than Marginal Vegetated Corridors, and/or greater than 10% surface coverage of any non-native species.</p>	<p><i>Vegetate bare areas with plantings from approved Native Plant List.</i></p> <p><i>Remove non-native species and revegetate with plantings from approved Native Plants List.</i></p> <p><i>Inventory and remove debris and noxious materials.</i></p>	<p>Vegetate disturbed and bare areas with appropriate plants from Native Plants List.</p> <p>Remove non-native species and revegetate with non- nuisance plantings from Native Plants List.</p> <p>Plant and seed to provide 100 percent surface coverage.</p> <p>Restore and mitigate according to approved plan using non- nuisance plantings from Native Plants List.</p> <p>Inventory and remove debris and noxious materials.</p>

**Note:** The middle column, being italicized, indicates that it is an option for consideration in the development review process.

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### Definitions

Beneficial water uses]

Routine Repair and Maintenance

Milwaukie Native Plant List

economically viable use

**Definitions.** Unless specifically defined below, words or phrases used in this section shall be interpreted to give them the same meaning as they have in common usage and to give this classification its most reasonable application.

**Bankful Stage** - Defined in OAR 141-85-010 (definitions for Removal/Fill Permits) as the stage or elevation at which water overflows the natural banks of a stream or other waters of the state and begin to inundate upland areas. In the absence of physical evidence, the two-year recurrent flood elevation may be used to approximate the bankful stage.

**Created Wetlands** - Those wetlands developed in an area previously identified as a non-wetland to replace, or mitigate wetland destruction or displacement. A created wetland shall be regulated and managed the same as an existing wetland.

**Constructed Wetlands** - Those wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and/or separated from naturally occurring or created wetlands.

**Debris** - discarded man-made objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic or styrofoam. Debris does not include objects necessary to a use allowed by this ordinance, or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials which are left after flooding, downed or standing dead trees or trees which have fallen into protected water features.

**Department of Environmental Quality (DEQ) Water Quality Standards** - The numerical criteria or narrative condition needed in order to protect an identified beneficial use.

**Development** - any man-made change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than 10 percent of the vegetation in the Water Quality Resource Area on the lot is defined as development, for the purpose of Title 3 except that more than 10 percent removal of vegetation on a lot must comply with Section 4C - Erosion and Sediment Control. Development does not include the following: a) Stream enhancement or restoration projects approved by cities and counties; b) Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Title 3; and c) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2) (1995).

**Disturb** - man-made changes to the existing physical status of the land, which are made in connection with development. The following uses are excluded from the definition:

- enhancement or restoration of the Water Quality Resource Area;
- planting native cover identified in the Milwaukie Native Plant List.

**Division of State Lands Wetland Determinations** - As defined in OAR 141-86-200 (1997) (definitions for Local Wetland Inventory Standards and Guidelines), "wetland determination" means identifying an area as wetland or non-wetland.

**Emergency** - any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

**Enhancement** - the process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate processes and features that occur naturally.

**Flood Management Areas** - all lands contained within the 100-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and the area of inundation for the February 1996 flood. In addition, all lands which have documented evidence of flooding.

**Invasive Non-native or Noxious Vegetation** - plant species that have been introduced and due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread rapidly into native plant communities, or which are not listed on the Milwaukie Native Plant List as adopted by Metro Council resolution.

**Mitigation** - the reduction of adverse effects of a proposed project by considering, in the order: a) avoiding the impact all together by not taking a certain action or parts of an action; b) minimizing impacts by limiting the degree or magnitude of the action and its implementation; c) rectifying the impact by repairing, rehabilitating or restoring the effected environment; d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and e) compensating for the impact by replacing or providing comparable substitute water quality resource areas.

**Native Vegetation** - any vegetation native to the Portland metropolitan area or listed on the Milwaukie Native Plant list.

**ODFW Construction Standards** - Oregon Department of Fish and Wildlife construction guidelines for building roads, bridges and culverts or any transportation structure within a waterway.

**Open Space** - Land that is undeveloped and that is planned to remain so indefinitely. The term encompasses parks, forests and farm land. It may also refer only to land zoned as being available to the public, including playgrounds, watershed preserves and parks.

**Ordinary Mean High Water Line** - As defined in OAR 141-82-005 as the line on the bank or shore to which water ordinarily rises in season; synonymous with Mean High Water (ORS 274.005).

**Ordinary Mean Low Water Line** - As defined in OAR 141-82-005 as the line on the on the bank or shore to which water ordinarily recedes in season; synonymous with Mean Low Water (ORS 274.005).

**Owner or Property Owner** - The person who is the legal record owner of the land, or where there is a recorded land sale contract, the purchaser thereunder.

## VI. B. 22

**Parcel** - Parcel means a single unit of land that is created by a partitioning of land. (ORS 92.010(7)).

**Perennial Streams** - means all primary and secondary perennial water ways mapped by the U.S. Geological Survey.

**Plans** - The drawings and designs that specify construction details as prepared by the Engineer.

**Post-Construction Erosion Control** - Consists of re-establishing groundcover or landscaping prior to the removal of temporary erosion control measures.

**Practicable** - means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose.

### **Protected Water Features**

*Primary Protected Water Features* shall include:

- a. Title 3 wetlands; and
- b. rivers, streams, and drainages downstream from the point at which 100 acres or more are drained to that water feature (regardless of whether it carries year-round flow); and
- c. streams carrying year-round flow; and
- d. springs which feed streams and wetlands and have year-round flow and
- e. natural lakes.

*Secondary Protected Water Features* shall include intermittent streams and seeps downstream of the point at which 50 acres are drained and upstream of the point at which 100 acres are drained to that water feature.

**Restoration** - the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function, and/or diversity to that which occurred prior to impacts caused by human activity.

**“Resource” versus “Facility”** - The distinction being made is between a “resource,” a functioning natural system such as a wetland or stream; and a “facility” which refers to a created or constructed structure or drainage way that is designed, constructed and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement.

**Riparian** - Those areas associated with streams, lakes and wetlands where vegetation communities are predominately influenced by their association with water.

**Routine Repair and Maintenance** - activities directed at preserving an existing allowed use or facility, without expanding the development footprint or site use.

**Set-back Adjustment** - The placement of a building a specified distance away from a road, property line or protected resource.

**Significant Negative Impact** - an impact that affects the natural environment, considered individually or cumulatively with other impacts on the Water Quality Resource Area, to the point where existing water quality functions and values are degraded.

**Steep slopes** - Steep slopes are those slopes that are equal to or greater than 25%.

**Stormwater Pre-treatment Facility** – any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement.

**Stream** - a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams.

**Structure** - A building or other major improvement that is built, constructed or installed, not including minor improvements, such as fences, utility poles, flagpoles or irrigation system components.

**Title 3 Wetlands** - wetlands as shown on the Water Quality and Flood Management Area Map and other wetlands added to city or county adopted Water Quality and Flood Management Area maps consistent with the criteria in Title 3, Section 7.C. Title 3 wetlands do not include artificially constructed and managed stormwater and water quality treatment facilities.

**Top of Bank** - The same as "bankful stage" defined in OAR 141-85-010(2).

**Utility Facilities** - buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater pre-treatment facilities.

**Vegetated Corridor** – the area of setback between the top of bank of a Protected Water Feature and the delineated edge of the Water Quality Resource Area as defined in Table 1.

**Water Quality Resource Areas** - vegetated corridors and the adjacent water feature as established in Title 3.

**Water Quality and Floodplain Management Area** - The area that identifies where the Water Quality Resource Area and Floodplain Management Area Overlay Zone is applied.

**Water Quality Facility** - Any structure or drainage way that is designed, constructed and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as constructed wetlands, water quality swales, and ponds that are maintained as stormwater quality control facilities.

**Watershed** - A watershed is a geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake or wetland.

**Wetlands** - Wetlands are those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.

**Milwaukie Center  
Center/Community Advisory Board  
Minutes of August 9, 2002**

**VII. A. 1**

**Members Present:** Eleanor Johnson, Alice Neely, Sharon Phillips, Joan Staley, Molly Hanthorn, Ben Tabler, Janet Witter, Jim McCready

**Members Excused:** Joan Newman, Carol Storment

**Members Absent:** Marc Burnham, Kim Buchholz

**Staff Present:** Joan Young, Cheryl Nally, Jakob Litman

**Call to Order:** The meeting was called to order at 10:02 am by Chair Eleanor Johnson. The minutes were approved as printed.

**Correspondence:** Joan Young shared a newsletter from Providence which featured Marc Burnham.

**Board/Committee Reports:**

North Clackamas Parks & Recreation District – no meeting.

Budget – no meeting.

Program Services Committee – Molly reported that the fall list of classes will offer Saturday classes and a number of art activities in addition to the usual array of classes. Travel continues to offer smaller, shorter trips using our buses. Plans for next Quilt Show are coming along. October will be Health Month with many offerings for our clients. The Board gave some guidance on what types of medical vendors and services the Center should provide.

Nutrition/Transportation Committee – no meeting but Joan Young reported a grant from the City of Milwaukie of \$900 to help defray the cost of transporting Milwaukie residents to the Center or other necessary travel. The Center started receiving Senior and Disabled Transportation vehicle maintenance on July 1, 2002.

Building Review Committee – Alice Neely reported that the new chairs have been ordered at a good price and should be here by the end of the month. A local business may donate parking lot striping. The new “All Abilities” garden is looking good. Some of the older outdoor benches and chairs need attention.

History Committee – no meeting.

Centennial Committee – Joan and Sharon reported on a meeting of the committee they attended. They will continue to attend and report as we decide how the Center can be involved.

Friends of Milwaukie Center – Eleanor reported that the Friends have been busy serving and selling refreshments at the Ardenwald concerts and the Park District Moves in the

## VII. A. 2

Park. Quilt raffle is going on. Invitations have gone out for the August 25<sup>th</sup> dedication of the Rose Garden gazebo. Willamette Falls Symphony will play. Commissioner Larry Sowa will speak and light refreshments will be served. Donations will be accepted for continued development of the garden.

Director's Report - Joan reported that the decision to put a Park District levy on the ballot will be made on Tuesday, August 13. There will be a forum for Legislative candidates and representatives at the Center on Monday, September 30, from 1:30-3:30 pm. The focus will be on senior issues. The Center will be closed the first week of September for maintenance. David Van Loo has taken another job and we are recruiting for a respite program coordinator.

Social Services Department: Cheryl Nally and Jakob Litman gave the Board an overview of the services that are provided through the Center for clients within our service area. The Board members asked questions and learned a lot about the way in which we provide for a wide range of social services needs.

Agenda for next meeting – Joan will schedule staff from another area for the September meeting. Head Start will be on the agenda for the October meeting.

Adjourn – The meeting was adjourned at 11 am.

***Programs and Services:***

Volunteer nurses provided 97 blood pressure checks at no cost to the participant this month at the Milwaukie Center. Twice a month blood pressure clinics are available -- an excellent monitoring tool for good health.

Interest and Activity groups are booming at the Milwaukie Center, where we now have 24 different groups that bring people with similar interests together to share and learn. The groups range from wood carving to pinochle, bridge, singing, pool and billiards, Spanish language, quilting and much more.

On August 9<sup>th</sup>, a hot summer day, the Nutrition Program hosted its annual Banana Split extravaganza on "Beach Party" day, where participants and staff dressed in beach-wear for the fun day. Over 100 banana splits were served by Milwaukie Center staff and volunteers. YUM!

The Health Equipment Loan Program at the Center provided 5 wheel-chairs, 2 walkers and one quad-cane to 8 different individuals during August, alone. This equipment is available on short-term loan for a variety of reasons, i.e. to assist people with recovery from surgery or to attend special events. The health equipment available for loan has been donated to the Center by community members.

The M.C. Transportation program has recently been working more closely with the Center's 39ers Travel Group providing transportation for recreational outings. This cooperative arrangement allows the group to schedule small, affordable trips with our 20 passenger bus. Some examples of recent trips are: a winery tour, a Portland Beavers baseball game, and a trip to the Portland art museum

Students and teachers of Clackamas High School have been nominated by Milwaukie Center for an Annual SOLV Award for the environmental planning, fund raising and construction that has created the Center's new All Abilities Garden. Each year SOLV recognizes a half dozen organizations and individuals whose service have made a significant contribution to Oregon's quality of life. Winners will be announced in late September.

***Fund-raising:***

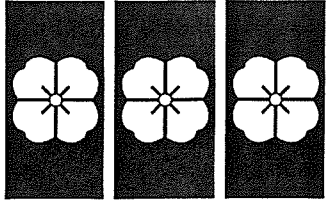
August was all about gardens and parks for the Friends of the Milwaukie Center! The Sara Hite Memorial Rose Garden gazebo was built during August, with a dedication on August 25<sup>th</sup> where the The Willamette Falls Symphony performed to a crowd of 150 people. The beautiful "American Beauty Bouquet" Quilt made by the Friend's Quilting group was raffled off at this event following six weeks of ticket sales.

The Friends have been providing refreshments and snack for sale at the Concerts in the Park and Movies in the Park sponsored by the Parks and Recreation District.

***Staff:***

We bid farewell to David Van Loo, Care Manager Aide and Respite Program Coordinator, who took a full time job with the Alzheimer's Association as the Education and Support Group Coordinator.

CITY OF



MILWAUKIE

# Ledding Library Board

## August minutes

August 26, 2002 6:30 PM  
Ledding Library

**Meeting called by:** Pat Healy

**Attendees:** Attendees: Mark Docken, Pat Healy, Tom Hogan, Sue Trotter, and Ed Zumwalt.  
Absent: Anna O'Guinn and Sue Trotter  
Staff: Cynthia Sturgis

### Agenda topics

Approval of minutes

Approved as written.

### Librarian's report

Cynthia reported that July was the busiest month in the history of the library. In addition to circulation, the number of children joining the summer reading program has increased by 40% to over 700. And the percent of children reaching their reading goal for the summer is over 50% -- the average in past years has been 30%.

The library network is currently working on a Libraries for the Future report for the County Commissioners. The charge given to the group is to make a recommendation for future funding for the network and member libraries. Cynthia gave out a copy of the first executive summary from Joanna Rood and a workplan for the next several month. The final report will be presented to the Commissioners in March, 2003.

Facility Planning updates

Pat Healy reported that he, Molly Hanthorn, and Cynthia met with Kelly Somers and architect Rob Dortignacq about doing the cost estimate for Ledding Library's proposed expansion. Mr. Dortignacq has responded with his proposal, and he will do the cost estimate for the amount that is budgeted. Pat and Cynthia will discuss this at the Facility Planning meeting on Wednesday August 28.

Ed Zumwalt reported that Mike Davis from the Milwaukie Masons has asked his group to donate \$500 to the seed money needed for hiring a fund raiser. In September, Ed will meet the Chairs. of the Milwaukie Neighborhood Associations to ask for donations from each group.

Free materials policy reconsideration forms

Cynthia reviewed the two forms and the procedure for reconsideration of free materials for distribution and for removal. The City Manager and the City Attorney have reviewed them, also.

Board members approved using the forms.

Board meetings in November and December

The November meeting will be held on the usual 4<sup>th</sup> Monday – November 25. And the December meeting is scheduled for Monday, December 16<sup>th</sup>.