

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
NOVEMBER 5, 2013**

CALL TO ORDER

Mayor Ferguson called the 2,161st meeting of the Milwaukie City Council to order at 7:10 p.m. in the City Hall Council Chambers.

Present: Council President Dave Hedges and Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff present: City Manager Bill Monahan, Assistant to the City Manager Teri Bankhead, City Attorney Tim Ramis, City Recorder Pat DuVal, Community Development Director Steve Butler, Public Works Director Gary Parkin, Associate Planner Brett Kever

Media: Michael Barnesberger, *The Oregonian*

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Outstanding Student Achievement Award to Jacki Ammons for October 2013

Mark Pinder, Milwaukie High School Principal, and the Mayor and City Council recognized **Jacki Ammons** with the Outstanding Student Achievement Award for October 2013.

B. Vietnam 50th Anniversary Proclamation

Ms. Bankhead provided background information and noted this was the official kickoff of the joint effort between American Legion Post 180 and the City of Milwaukie.

Mayor Ferguson read a proclamation naming the years 2012 – 2025 in commemoration of the 50th Anniversary of the Vietnam War and commended its observance to all citizens of the "Dogwood City of the West."

CONSENT AGENDA

Council President Hedges asked if Mayor Ferguson could attest that the minutes of September 28, 2010, were accurate. Mayor Ferguson did so.

It was moved by Council President Hedges and seconded by Councilor Gamba to approve the consent agenda as presented.

A. City Council Meeting Minutes:

1. September 28, 2010, Special Session;
2. September 17, 2013, Work Session;
3. September 17, 2013, Regular Session; and
4. October 1, 2013, Work Session;

B. Resolution No. 79-2013: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Lynn Sharp to the Park and Recreation Board;

C. Resolution No. 80-2013: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Kathi Schroeder to the Milwaukie Library Board.

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APPROVED MINUTES

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Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting "aye." [5:0]

AUDIENCE PARTICIPATION

Mayor Ferguson said the items from the previous audience participation were the City Council's to address. JoAnne Bird suggested a management study be done, and Council would address that matter in the upcoming work session. Mr. Parecki had asked about the City Manager's residency requirement, and **Mayor Ferguson** apologized for having forgotten his notes.

Jean Baker, Chair of Historic Milwaukie Neighborhood District Association (NDA) requested that the Transportation System Plan (TSP) hearing be reopened to accept comments on the proposal to include a Neighborhood Traffic Management Plan. Being able to conduct a study to address traffic needs would be of great service to the City. Residents could take a serious look at bikeways, street and curb conditions, and trucks and have the information ready when the City needed it. Money could be spent in a more focused way that considered safety and livability issues. She reviewed the language proposed for the Neighborhood Transportation Plan which the Planning Department assisted her in drafting. It had been discussed at the NDA but was not picked up.

Ed Parecki, Milwaukie property owner, was concerned he had not gotten answers to two remaining issues: the Charter and City Manager residency requirements and who owned the street trees particularly in downtown Milwaukie.

Councilor Gamba addressed the Charter question and said he understood the City Council was allowed to set the length of time before the City Manager moved into the City.

Mr. Parecki suggested it might be beneficial if a suit were brought against the City.

Mayor Ferguson said the matter was addressed in the City Manager's contract, and he did not wish to discuss it without having a copy before and after consulting with the City Attorney.

Councilor Churchill understood there was no title associated with trees. He discussed tree purchase and asked if there were a gifting process.

PUBLIC HEARING

Consider City Initiated Vacation of Street Right of Way South of Monroe Street between 4378 SE Monroe Street (Tax Lot 07802) and 4404 SE Monroe Street (Tax Lot 09300) (Tax Map 12E31BB) – Resolution

Opening: **Mayor Ferguson** called the public hearing to order at 7:39 p.m.

Purpose and procedures: The purpose of the hearing was to consider public comment on the proposed street vacation.

Correspondence: None.

Staff Presentation: **Mr. Parkin** asked the City Council to approve by resolution the street vacation of the subject property. As the options were considered, it became evident that a community garden or park was not appropriate. He discussed the vacation process as outlined in Oregon Revised Statutes (ORS) Chapter 271. None of the property owners who were notified of the proposed vacation objected in writing; however, one did call for information. The vacation did not unduly burden either of the two abutting property owners, and the property tax increase was not significant.

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Testimony in Support: **Shirley Brown**, Milwaukie resident and one of the abutting property owners spoke in support of the proposed vacation.

Neutral Testimony: None

Staff Response: None.

Questions from Council to Staff: None.

Close Public Hearing: It was moved by Council President Hedges and seconded by Councilor Gamba to close the public testimony portion of the hearing. Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting "aye". Mayor Ferguson closed the hearing at 7:45 p.m.

Decision by Council: It was moved by Councilor Gamba and seconded by Councilor Churchill to adopt the resolution authorizing the City initiated vacation of a portion of the street right-of-way for 44th Avenue south of Monroe Street. Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting "aye". [5:0]

RESOLUTION NO. 81-2013:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE VACATION OF A PORTION OF THE STREET RIGHT-OF-WAY FOR 44TH AVENUE SOUTH OF MONROE STREET.

OTHER BUSINESS

A. Second Reading and Adoption of the Proposed Transportation System Plan Amendments – Ordinance

Mr. Ramis discussed the options before the City Council.

Council President Hedges said the City Council had already made a motion, and he was opposed to reopening the hearing.

Councilor Churchill said if the hearing were opened, then sufficient time for comment would need to be allowed. It seems this was language done on a worksheet that did not get tucked in.

Mr. Kelter received comments and suggestions from individuals and NDAs including this from the Historic Milwaukie NDA. He felt neighborhood involvement had been adequately addressed to allow for a neighborhood plan.

Council President Hedges asked if there was an advantage or disadvantage to including this language.

Mr. Kelter replied there was no harm in introducing the proposed language.

Councilor Gamba said the language seemed like an invitation, and he saw no real downside for anyone.

Councilor Miller supported including the language to encourage citizen buy-in.

Councilor Churchill supported clarification of intent.

It was moved by Councilor Churchill and seconded by Councilor Gamba to continue the second reading of the ordinance to the next regularly schedule Council meeting and direct staff to prepare an amended ordinance including the new language included in the packet (File #CPA-13-03). Motion passed with the CITY COUNCIL REGULAR SESSION – NOVEMBER 5, 2013

APPROVED MINUTES

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following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting "aye". [5:0]

The second reading and adoption was scheduled for November 19, 2013.

B. Council Reports

Councilor Miller attended the Moving Forward Milwaukie meeting where future uses of the Murphy and McFarland sites were discussed. He felt it would be some time before consensus was reached.

Councilor Churchill attended JoAnn Herrigel's farewell party at Riverfront Park and expressed appreciation for her years of service.

Councilor Gamba attended the Oregon Passenger Rail meeting and the Clackamas County TSP Planning Commission hearing where he voiced concerns on behalf of the Milwaukie neighborhoods. He attended the Rail~Volution Conference in Seattle and a Greenpeace event on the Rainbow Warrior regarding Northwest coal export terminals.

Council President Hedges sent his thoughts to the family of Reserve Officer Robert Libke and others in the Oregon City Police Department.

Mayor Ferguson announced the City Council regular session would adjourn to go into work session. The City Council would meet in Executive Session immediately following adjournment of the work session pursuant to ORS 192.660(2)(h) to consult with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

ADJOURNMENT

Mayor Ferguson moved to adjourn the regular session at 8:05 p.m.

Respectfully submitted,



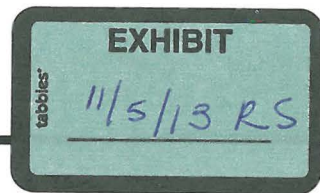
 Pat DuVal, Recorder



Regular Session

RS

Milwaukie City Council



DuVal, Pat

From: jean baker <jeanbaker.milw@gmail.com>
Sent: Friday, November 01, 2013 2:19 PM
To: DuVal, Pat
Subject: For Council, Tues, Nov 5, 2013

To the Mayor and Members of the Council

From Historic Milwaukie Neighborhood Association

Re: Request for inclusion of authorization for a Neighborhood Transportation Plan in TSP

We have spoken at length with city planners and found a point of workability between us. We now ask you to include the following language to the draft Transportation System Plan.

Needs: Page 11-2 The last sentence added would be "In addition, the various NDAs can choose to develop neighborhood traffic plans that identify more specific issues to be addressed."

Implementation: Page 11-11. "The neighborhood traffic management program relies on citizens to identify neighborhood traffic concerns.

This identification process, by its very nature is reactive. However, funding level and evaluation processes will be deliberate and methodical to allow for equitable and efficient use of funds."

"Any Neighborhood District Association can develop a traffic management plan that identifies specific issues or needs. The City will endeavor to allocate money each year to under take selected neighborhood traffic management measures."

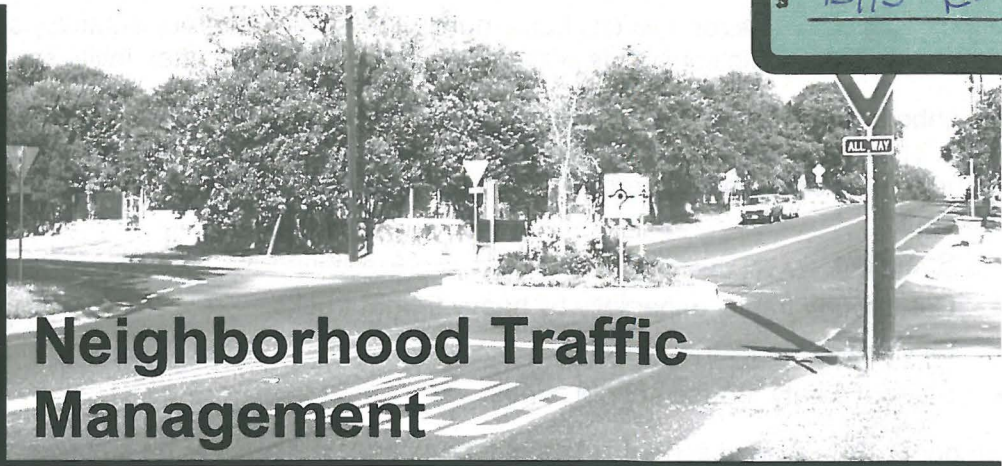
We understand that acceptance of this proposal for inclusion in the TSP will take an additional two weeks to reach the final adoption date.

We are advised that the time limit set by the city can still be met.

Jean Baker, Chair
Milwaukie Historic Neighborhood

11

Neighborhood Traffic Management



Neighborhood traffic management is a term used to describe the many and varied traffic management approaches used to reduce the impacts of traffic volumes and speeds on residential neighborhoods and improve safety for pedestrians and bicyclists. This chapter describes the need for neighborhood traffic management, identifies tools that the City can use to slow and/or divert traffic, and outlines a process for implementing neighborhood traffic management measures. It is not the purpose of this chapter to identify streets in need of traffic management or to propose projects at specific locations.

GOALS AND POLICIES

Milwaukie has developed a set of goals to guide the development of its transportation system (see Chapter 2). Listed below are the specific TSP Goals that guide the City's policies on neighborhood traffic management:

- **Goal 1 Livability** guides the City to protect residential neighborhoods from excessive through traffic and travel speeds while providing reasonable access to and from residential areas.
- **Goal 2 Safety** guides the City to maintain a safe transportation system.
- **Goal 4 Quality Design** guides the City to design streets to support their intended users and respond to the surrounding natural and built environments.

The main benefits of effective neighborhood traffic management are improved livability and safety. Reduced vehicle speeds are a safety benefit for all modes of travel. Reduced cut-through traffic improves livability through the reduction of vehicular noise, pollutants, and traffic volumes. Additionally, streets that are used in ways for which they weren't designed lead to congestion and safety hazards.

NEEDS

Most of the land within Milwaukie consists of residential neighborhoods. The city, with just over 20,000 citizens, has a relatively small population compared to the surrounding Portland metropolitan area. Because of Milwaukie's proximity to the city of Portland, its employment centers, and the two major regional routes through the city (Hwys 99E and 224), cut-through traffic and speeding is an ongoing concern for citizens. Cut-through traffic most often occurs when congestion occurs on regional routes and major streets and nonlocal traffic goes in search of less congested or more direct routes. Speeding can occur under many different

circumstances; however, the city has a number of streets that are relatively straight with few intersections or traffic control devices. These types of streets often invite speeding violations.

Neighborhood traffic management is a means to address the negative impacts of unchecked traffic speed and volume on neighborhood streets. Effective use of neighborhood traffic management can address neighborhood needs and concerns, including, but not limited to, the following:

- Speeding.
- Cut-through traffic, especially by heavy freight trucks.
- Bicycle and pedestrian safety.
- Student safety around school zones.

Student safety around school zones has been and continues to be a concern in Milwaukie neighborhoods. In 1995, the Milwaukie Traffic Safety Commission was charged with identifying and implementing school trip safety improvements in collaboration with schools, parent teacher organizations, neighborhood district associations, residents, and staff. The now defunct commission enacted many safety improvements, but not all recommended projects were pursued or implemented. This chapter does not recommend specific traffic management measures at specific locations, such as schools; however, Chapter 5 Pedestrian Element and Chapter 6 Bicycle Element recommend projects that directly address student safety. In addition, the various Neighborhood District Associations can choose to develop neighborhood traffic management plans that identify more specific issues to be addressed.

TOOLS

There are many different measures available in the neighborhood traffic management "tool box," but not all of these measures are appropriate for all streets or in all situations. As with street design, traffic management measures need to take street functional classification, surrounding land uses, existing street design, emergency service provider access needs, and neighborhood preferences into account.

Table 11-1 groups neighborhood traffic management measures into four categories and shows the recommended application based on street functional classification. The four categories are as follows:

- Horizontal deflection (reduces traffic speeds).
- Vertical deflection (reduces traffic speeds).
- Volume control measures (reduces or diverts traffic volumes).
- Other measures.

Most of the measures in the first three categories require physical changes to the street; whereas, most of the measures in the last category involve nonphysical changes such as signage, education, enforcement, speed monitoring trailers, and signal timing.

Additionally, State law provides the City with the authority to lower the speed limit of a residential street to 5 miles per hour below the the statutory speed required by the Oregon Department of Transportation.¹ The statutory speed for local streets is 25 miles per hour; therefore, the City can lower the speed limit on local streets to 20 miles per hour. Three criteria must be met to establish the ordinance, in addition to posting new speed limit signs:

¹ ORS 810.180(10)

IMPLEMENTATION

Successful neighborhood traffic management requires the following:

- A process that identifies, evaluates, and prioritizes traffic management needs.
- Citizen involvement in traffic management measure selection.
- Professional design that considers the safety of all users.
- Funding and implementation of prioritized needs.

The Milwaukie Public Safety Advisory Committee is responsible for administering the City's neighborhood traffic management program. This committee meets once a month and has addressed the enforcement and education aspects of neighborhood traffic management through both the Traffic Safety Program and the Walk Safely Milwaukie Program. Engineering staff assist this committee to improve neighborhood traffic management program coordination and to provide the technical expertise needed for evaluation and implementation of deflection and volume control traffic management measures.

The neighborhood traffic management program relies on citizens to identify neighborhood traffic concerns. This identification process, by its very nature, is reactive. However, the funding level and evaluation process will be deliberate and methodical to allow for equitable and efficient use of limited funds. Any Neighborhood District Association can develop a traffic management plan that identifies more specific issues or needs. The City will endeavor to allocate money each year to undertake selected neighborhood traffic management measures (see Table 11-2).

RECOMMENDATIONS

Figure 11-1 outlines the proposed neighborhood traffic management process for the City of Milwaukie. As shown in this figure, there are multiple points in the process for public input and involvement and a feedback loop at the end to monitor the success of neighborhood traffic management measures that have been implemented.

It is recommended that the City annually fund the neighborhood traffic management program so that prioritized needs are implemented over time. The Neighborhood Traffic Management Action Plan (see Table 11-2) does not identify specific projects, but it does show the level of funding the City aspires to commit to the neighborhood traffic management program for the duration of this plan. With regard to this funding, it is recommended that the City develop a process that ensures neighborhood traffic management funding is equitably distributed throughout the city.

Many of the policy recommendations contained in the Street Design chapter are applicable to neighborhood traffic management as well, the most relevant of which are summarized below.

- **Variety:** Allow for a wide variety of traffic management measures, as identified in this chapter's neighborhood traffic management "tool box."
- **Effectiveness:** Ensure that the chosen measure addresses the identified problem.
- **Landscaping:** Provide for landscaping wherever feasible and practicable.
- **Maintenance:** Consider maintenance needs and issues when designing traffic management measures and ensure long-term maintenance needs can be met.
- **Neighborhood Input:** Provide for neighborhood input when designing traffic management measures.

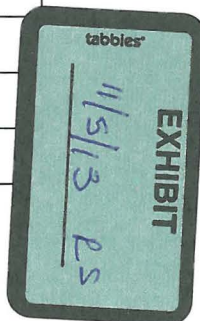
ATTENDANCE SIGN-UP SHEET

If you wish to have standing and/or to be on the mailing list for Council information
from tonight's hearing

City Initiated Vacation of Street Right-of-Way South of Monroe Street
between 4378 SE Monroe Street (Tax Lot 07802) and 4404 SE Monroe
Street (Tax Lot 09300) (Tax Map 12E31BB)

Date: November 5, 2013

Name	Address	Phone and/or e-mail (Optional)
Shirley Brown	4378 SE Monroe/Mil, OR	
Vera Badnik	4404 SE Monroe St. Mil. OR	





MILWAUKIE CITY COUNCIL REGULAR SESSION

City Hall Council Chambers
10722 SE Main Street
www.milwaukieoregon.gov

REVISED AGENDA

November 5, 2013

2,161st Meeting

1. CALL TO ORDER **Page #**
Pledge of Allegiance

2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

- A. Outstanding Student Achievement Award to Jacki Ammon for October 2013** **2**
- B. Vietnam 50th Anniversary Proclamation**

3. CONSENT AGENDA

These items are considered to be routine, and therefore, will not be allotted discussion time on the agenda; the items may be passed by the Council in one blanket motion; any Councilor may remove an item from the "Consent" agenda for discussion or questions by requesting such action prior to consideration of that part of the agenda.

- A. City Council Meeting Minutes** **4**
 - 1. September 28, 2010, Special Session;**
 - 2. September 17, 2013, Work Session;**
 - 3. September 17, 2013, Regular Session; and**
 - 4. October 1, 2013, Work Session**
- B. A Resolution Appointing Lynn Sharp to the Park and Recreation Board** **18**
- C. A Resolution Appointing Kathi Schroeder to the Library Board** **19**

4. AUDIENCE PARTICIPATION

The Presiding Officer will call for statements from citizens regarding issues relating to the City. Pursuant to Section 2.04.140 of the Milwaukie Municipal Code, only issues that are "not on the agenda" may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and return it to the City Recorder. Pursuant to Section 2.04.360 of the Milwaukie Municipal Code, "all remarks shall be directed to the whole Council, and the Presiding Officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous." The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.

5. PUBLIC HEARING

Public Comment will be allowed on items under this part of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.

- A. Consider City Initiated Vacation of Street Right-of-Way South of Monroe Street between 4378 SE Monroe Street (Tax Lot 07802) and 4404 SE Monroe Street (Tax Lot 09300) (Tax Map 12E31BB)** **21**
Staff: Public Works Director Gary Parkin

6. 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. **Second Reading and Adoption of the Proposed Transportation System Plan Amendments – Ordinance** 39
Staff: Associate Planner Brett Kelter
- B. **Council Reports**

7. INFORMATION

8. ADJOURNMENT

Meeting Information

- **Executive Sessions:** The Milwaukie City Council will meet in executive session immediately following adjournment pursuant to ORS 192.660(2)(h) consultation with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.
 - All Executive Session discussions are confidential and those present may disclose nothing.
 - 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.
 - Executive Sessions may not be held for the purpose of taking final actions or making final decisions.
 - Executive Sessions are closed to the public.
- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503-786-7555
- During meetings the Council asks that all pagers and cell phones be set on silent mode or turned off.



**Regular Session
Agenda Item No.**

2

**Proclamations,
Commendations,
Special Reports,
& Awards**



CITY OF MILWAUKIE
"Dogwood City of the West"

PROCLAMATION

RS 2. B.

WHEREAS, more than 3 million men and women from across the United States of America, including 126,000 who presently reside in the State of Oregon, answered the call to service over the course of the thirteen years of the Vietnam War; and

WHEREAS, 58,220 United States service members made the ultimate sacrifice in the line of duty to their country during the Vietnam War, including over 700 from the State of Oregon, and 11 from the City of Milwaukie; and

WHEREAS, by the end of the conflict 2,646 United States service members were reported as missing, and as of today 1,647 remain unaccounted for as a result of their response to our nation's call during the Vietnam War; and

WHEREAS, many veterans of the Vietnam War and their families continue to cope with the physical and mental scars suffered as a result of their service to our nation; and

WHEREAS, the City of Milwaukie recognizes the courage of the men and women who served, and with American Legion Post 180 was one of the first in the Pacific Northwest to officially join the United States Department of Defense program commemorating the 50th Anniversary of the Vietnam War; and

WHEREAS, the City of Milwaukie has partnered with America Legion Post 180 to commemorate the service, valor and sacrifice made by those who responded to the call to duty during the Vietnam War through various events and activities between 2015 and 2017.

NOW, THEREFORE, BE IT RESOLVED, I, Jeremy Ferguson, Mayor of the City of Milwaukie, in the County of Clackamas, and in the State of Oregon, do hereby proclaim the years 2012-2025, in Commemoration of the 50th Anniversary of the Vietnam War and commend its observance to all citizens of the "Dogwood City of the West".

IN WITNESS WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 11th day of November, 2013.

Jeremy Ferguson, Mayor

ATTEST:

Pat DuVal, City Recorder





**Regular Session
Agenda Item No.**

3

Consent Agenda

MINUTES
MILWAUKIE CITY COUNCIL SPECIAL SESSION
September 28, 2010

Mayor Ferguson called the special session to order at 6:00 p.m. in the City Hall Conference Room.

Council Present: Council President Chaimov (via phone), Councilors Deborah Barnes, Joe Loomis, and Susan Stone

Staff Present: Interim City Manager and Recorder Pat DuVal, City Attorney Tim Ramis

Consultant: Greg Prothman

Deliberation on City Manager Selection

Mayor Ferguson introduced the topic and discussed extending an offer to the top candidate.

It was moved by Councilor Stone and seconded by Councilor Loomis to move into Executive Session, to allow Council to talk amongst themselves about the candidates.

Councilor Barnes noted the high frequency of executive sessions called in the last year to discuss the status of the last City Manager and hiring the next City Manager. She noted the community is concerned about conducting the City's business behind closed doors, and strongly urged the Council to remain in a public session.

Councilor Stone noted that the City Charter allows for executive sessions and noted that it was her opinion that there is a professional need to discuss the candidates in an executive session. She suggested that the Council has not had the opportunity to discuss the top candidates and could do so freely in an executive session and then make a formal announcement in a public session, explaining their reasoning for their decision at that time.

Councilor Barnes suggested that Councilor Stone may not feel like she had the opportunity to discuss the candidates because she did not show up for most of the interviews.

Councilor Stone noted that her known obligations kept her from attending the interviews.

Councilors Barnes and Stone commented that the City Manager selection process should be public so everyone can hear the decision.

Councilor Loomis discussed the differences in discussions the Council may have; to discuss pros and cons he would rather have that done in executive session, but if the motion to continue in public session is adopted he intends to only discuss the candidate he supports.

Council President Chaimov stated he is happy to proceed in whatever manner the majority of the Council would like and noted the City Charter provides executive sessions for these types of discussions, although he understands the public's need to follow along.

Mayor Ferguson stated his concern about making negative comments about the candidate's public because if the first choice declines, it could be embarrassing or dissuade the second choice from accepting the City's offer. If the Council could maintain a positive conversation about all three final candidates he thought they could remain in public session.

Council President Chaimov and Councilors Barnes and Loomis all noted that they have only positive comments to make.

Mayor Ferguson called for the vote on the motion to move into an executive session. The vote failed with the following vote: Councilors Stone and Loomis voting "aye", Mayor Ferguson and Councilor Barnes voting "no", and Council President Chaimov abstaining. [2:2:1]

Mr. Ramis noted that the result of the vote is that the motion failed.

Mayor Ferguson then discussed moving on to the conversation about the final candidates.

Councilor Barnes moved and Mayor Ferguson seconded a motion that the Council should extend a negotiated contract proposal, with the assistance of Greg Prothman and the City's Attorney, to the person identified as the top pick for City Manager.

Councilor Loomis modified the motion to include the Mayor in the negotiation.

Mayor Ferguson further modified the motion by noting that a third party attorney will need to negotiate as one of the top candidates is employed by our City Attorney.

Mayor Ferguson called the vote on the motion to extend a negotiated contract proposal, with the assistance of outside legal assistance, Greg Prothman and the Mayor, to the person identified as the top pick for City Manager. Motion passed with the following vote: Mayor Ferguson, Council President Chaimov, Councilors Barnes, Loomis and Stone voting "aye". [5:0]

Mayor Ferguson then proposed that they discuss the Council's top pick.

Council President Chaimov reviewed the selection process and thanked Mr. Prothman; he noted he was looking for a candidate with a depth of city management experience, quality leadership skills and personal ethics, the ability to work cooperatively with key regional partners, and provide the inspired leadership for the staff. We had three outstanding candidates, but in his view Mr. Monahan best exemplifies the qualities he looked for.

Councilor Stone had no comments.

Councilor Loomis thanked Mr. Prothman and Ms. DuVal for being willing to serve. Reviewing the selection process, he stated that he appreciates how well Mr. Monahan knows Milwaukie and has experience and passion for the work.

Councilor Barnes noted that the public comments received at the Pond House meeting about Mr. Monahan suggest that he is the leader we need going forward. She was impressed by his dedication to Milwaukie as our City Attorney. She also commented on Mr. Monahan's professionalism and understanding of others and issues.

Mayor Ferguson commented that all three final candidates would do a great job and asked Mr. Prothman to review how the process arrived at the top three candidates.

Mr. Prothman reviewed the process and discussed a fourth candidate who was selected by another city.

Councilor Barnes moved and Council President Chaimov seconded a motion to propose an offer to Bill Monahan to be the next City Manager. Motion passed with the following vote: Mayor Ferguson, Council President Chaimov, Councilors Barnes, Loomis and Stone voting "aye". [5:0]

Mayor Ferguson adjourned the study session at 6:19 p.m.

Respectfully submitted,

Pat DuVal, Recorder

MINUTES
MILWAUKIE CITY COUNCIL WORK SESSION
SEPTEMBER 17, 2013

Mayor Ferguson called the work session to order at 5:05 p.m. in the City Hall Conference Room.

Council Present: Council President Hedges and Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff Present: City Manager Bill Monahan, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, City Attorney Tim Ramis, Police Chief Bob Jordan, Public Affairs Coordinator Grady Wheeler, Parks and Sustainability Director JoAnn Herrigel, Finance Director Casey Camors, Community Development Director Steve Butler, and Engineering Director Jason Rice.

Media: Michael Barnesberger, The Oregonian

City Manager's Report

Mr. Monahan reviewed the agenda that included moving the Street Tree and Sidewalk report to "Other Business" to allow for public comment and holding an Executive Session with City Attorney Ramis.

He spoke briefly about the email from the Service Employees International Union (SEIU) and the City's current janitorial services contract with Diversified Industries.

Community Development Department Projects

Mr. Butler commented on parks and sustainability activities to date including the Chamber After-Hours Event at Riverfront Park and garbage rates.

Mr. Rice reviewed the Engineering projects including the quiet zone implementation, Harrison Street paving and waterline replacement, clay pipe replacement, 17th Avenue bike/pedestrian path, and the Clackamas County Transportation System Plan (TSP) update. He also updated the City Council on the Adams Street Connector project which would likely go to bid in February 2014 with completion in June.

Mr. Butler said the Planning Commission was scheduled to hear an appeal of a Director's Determination for the Pendleton Woolen Mill property in the North Industrial Area related to vehicle parking. The Milwaukie TSP was moving along quickly as was the Moving Forward Milwaukie: Enhancing Our Commercial Districts Project. Mr. Butler would prepare summary notes from the developer roundtable for the City Council. He discussed the potential code amendments related to medical marijuana dispensaries and provided an update on the Kellogg Bike/Pedestrian Bridge to be installed in spring 2014.

Ballot Measure discussion

Mr. Wheeler updated the City Council on the upcoming public opinion poll and stakeholder interviews. He was on a subcommittee working with the consultant Barney & Worth along with Councilors Miller and Gamba. The draft survey would be available for Council feedback soon.

Councilor Miller said simplicity was the goal to ensure there were no misunderstandings. The group agreed to read the survey for clarity prior to going public so the responses were not clouded.

Mr. Wheeler discussed upcoming timelines including an article in the October *Pilot* that would focus on saving money and maintaining core services by paying off the TriMet obligation through a general obligation bond. A speaker's bureau would be set up in November.

Council President Hedges was interested in the timelines and the amount of money it would take to wage a successful campaign. He urged caution until all the facts were out.

Mayor Ferguson supported Mr. Wheeler's moving forward quickly to get out in front of the process.

Public Safety Advisory Committee (PSAC) Update

Committee members present: Don Wiley, Chair, Linda Hedges, Sonya Sauder, and staff liaison Police Chief Bob Jordan.

Mr. Wiley briefly reviewed the Committee charge. The work plan had not changed a lot, but PSAC added a couple of items including Domestic Violence Awareness in October, the Bikes for Kids Program, and Community Safety Appreciation Week. The group wanted to continue to purchase electronic speed signs to be used in multiple locations throughout the City.

Mayor Ferguson requested that PSAC consider taking over the Mayor's Emergency Management Series.

Mr. Wiley would place it on next month's PSAC meeting agenda for discussion.

Ms. Hedges would be glad to hear Mayor Ferguson's input and the feasibility of putting on or being involved in safety events. The group discussed an all-encompassing Public Safety Fair and reviving the Walk Safely Milwaukie Program. She summarized upcoming Community Emergency Response Team (CERT) events and the efforts of Milwaukie Legion Post 180.

Mayor Ferguson announced the City Council would meet in executive session pursuant to ORS 192.660(2)(f), exempt public records, and ORS 192.660(2)(h) consultation with counsel concerning legal right and duties regarding current litigation or litigation likely to be filed.

Mayor Ferguson adjourned the work session at 6:23 p.m.

Respectfully submitted,

Pat DuVal, Recorder

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
SEPTEMBER 17, 2013**

CALL TO ORDER

Mayor Ferguson called the 2158th meeting of the Milwaukie City Council to order at 7:10 p.m. in the City Hall Council Chambers.

Present: Council President Dave Hedges and Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff present: City Manager Bill Monahan, Assistant to the City Manager Teri Bankhead, City Attorney Tim Ramis, City Recorder Pat DuVal, Engineering Director Jason Rice, Community Development Director Steve Butler, Parks and Sustainability Director JoAnn Herrigel, and Finance Director Casey Camors

Media: Michael Bamesberger, *The Oregonian*

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Recognize Lee Morris for Outstanding Student Achievement, September 2013

Milwaukie High School Principal Mark Pinder introduced Lee Morris recipient of the September 2013 Outstanding Student Achievement Award.

B. Metro Update

Metro District 2 Councilor Carlotta Collette, reported on Community Development and Planning Grants awarded in District 2. Metro was beginning its Regional Transportation Plan (RTP) which was federally required for all metropolitan regions. She discussed the RTP elements of the Active Transportation Plan and the Regional Safety Plan. The Plan was scheduled for Metro Council adoption in summer 2014. The Joint Policy Advisory Committee on Transportation (JPACT) and Metro Council would approve the final projects for Regional Flexible Funds in October. She discussed projects in the Natural Areas levy that was approved by voters in May, the Willamette Falls Legacy Project, Nature in the Neighborhoods grants, Community Investment Initiative, Climate Smart Communities scenarios, and the Convention Center Hotel proposal. Zoo updates included the Condor Exhibit and Elephant Lands groundbreakings.

C. Constitution Week Proclamation

Mayor Ferguson read a proclamation naming the week of September 17 through 23, 2013, as Constitution Week and asked citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedom guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

CONSENT AGENDA

It was moved by Councilor Miller and seconded by Council President Hedges to approve the consent agenda as presented.

A. City Council Meeting Minutes:

1. July 31, 2012 Study Session; and
2. August 6, 2013, Work Session.

B. Resolution No. 72-2013: A Resolution of the City Council of the City of Milwaukie, Oregon, Affirming the Appointment of a Ledding Library Board Member to Serve as the City of Milwaukie's Representative on the Clackamas County Library District Advisory Board.

Motion passed with the following vote: Councilors Gamba, Miller, Churchill, and Hedges and Mayor Ferguson voting "aye." [5:0]

AUDIENCE PARTICIPATION

There were no follow up items from the previous meeting's audience participation.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. Downtown Tree and Sidewalk Presentation

Mr. Rice was joined by Terry Flanagan, International Society of Arboriculture (ISA) Board Certified Master Arborist with Teragan & Associates, Inc. who had previously assisted the City with retention of the White Oak in Kronberg Park. He reviewed what had occurred to date and commented on the current Public Works Standards.

Mr. Flanagan reported on issues that lead to uneven sidewalks in downtown Milwaukie including restricted planting space, incorrect species selection, shallow soil conditions, large mature tree sizes, fine textured soil, and inadequate site design. Many communities have struggled with this same issue. Tree based strategies include species selection, consideration of mature size, rooting characteristics which can be soil driven, and buttress roots. Currently Milwaukie was doing root pruning which was not successful and could cause future tree decline or dangerous trees. He talked about altering the infrastructure to create more space and below ground soil vaults that created a gap between the bottom of the soil and the concrete. Alternately, streets could be narrowed and tree islands created or undergo remedial treatment by escape trenching. A root zone-based strategy could be employed to help guide the roots with soil replacement, modification, and management such as encouraging deeper rooting by means of deeper watering.

The immediate concern was the potential for trees to fail. Mr. Flanagan suggested one option might be to plant larger species at the corners and smaller species at mid-block. The root crown could be deeper and the soil amended. In the long term it would be wise to consider soil vaults.

The group discussed sacrificing parking spaces for larger trees at the corners of blocks.

Councilor Miller discussed the present policy which seemed to be removing trees and replacing panels. The only other alternative was to grind off the edges of raised panels to solve tripping hazard issues. The downtown businesses had been hit hard by light rail and infrastructure projects, and the tree issues were resulting in another hit. He asked if there were other alternatives that could be proposed to the downtown

businesses. He hoped some alternatives could be developed so property and business owners would have some choices.

Mr. Rice agreed that was the challenge. Grinding the panels bought some time, but if the trees continued to damage the sidewalk, then the panels would have to come out at some time. Solving the tripping hazard issues was the immediate main focus, and tree removal was the least expensive option if damage continued. The Americans with Disabilities (ADA) Standard was ¼ inch difference in sidewalk surface.

Councilor Churchill commented that amending the tree well or tree channel areas made for healthier trees. The root structure could also be cut back, but there were no root guards or protections for lifting panels. He suggested looking at the tree planting code to focus more on species selection and amending the tree well zones to reduce the chances of lifting panels.

Council President Hedges asked if planting fewer trees would help solve the problems.

Mr. Flanagan replied the current 4 x 4 area was just not large enough.

Neil Hankerson, Dark Horse Comics, provided an historical perspective. When the company purchased the buildings in the early 1990's there were no trees, and then one day volunteers began digging holes and planting trees as part of a Downtown beautification program. Last year, downtown property owner Ron Koenig had a trip and fall issue, and sidewalks began to buckle in front of Dark Horse Comics. Some trees were planted under power lines and near water and gas lines, and he noted the discovery of an underground storage tank in front of Dark Horse Comics. Mr. Koenig did the necessary work about a year ago, and he would have to do the work again in the near future. The City planted the trees, and businesses were asked to pay the price. He asked for consideration of responsibility from the position of equity.

Ron Koenig, owner of the property located on the southwest corner of Main and Monroe Streets, said he had been dealing with sidewalks for a long time, and now he was faced with more expenses. His main point was that he hoped the City Council would find some remedy to help property owners. Trees were nice, but businesses had issues with awnings, gutters and clogged drains. He was concerned that roots were being covered by new asphalt which could cause more sidewalk problems.

Kim Keehner, Main Street business owner, noted the owner of her property would have to remove a tree and replace 18-feet of sidewalk, and she understood he would be fined on a daily basis. From her perspective as a business owner going into the holiday season, she would like a timeline developed that did not put a hardship on the businesses. For her, the day after Easter was fine and asked if there could be a moratorium until the busy season was over. She urged the City Council to protect the vitality of the downtown. She suggested grinding down the panels in the meantime and finding a temporary fix until the dry season.

Ed Parecki, owner of the McLoughlin Building, thought the big question was who owned the trees. From his perspective, the City planted the trees and should be responsible. He did like the idea of proper trees being planted. He spent \$10,000 replacing the sidewalk and sent a letter to the City Council seeking reimbursement for work on City property. He noted the work done by the Oregon Department of Transportation (ODOT) on McLoughlin Boulevard was not up to code. He asked that the City repair the potholes on Scott Street and all the cracks in the curbs. If not fixed, then the City should be fined \$200 a day. This was not a one-way street; the City should fix those things for which it was responsible. His main point was that the City planted the trees, and the City should be responsible for repairing any lifted panels.

Councilor Miller asked if grinding would take care of the problem in front of the Main and Monroe Building.

Mr. Parecki replied a tree would grow as fast as it wanted to. He could schedule the work to be done in front of Enchante in one day.

Mr. Rice sought short term guidance while looking for long term solutions. Grinding or filling the cracks was allowed as long as ADA requirements were met. The issue was how staff should approach an applicant's desire to remove a tree.

Mayor Ferguson felt it was important to come up with long term goals as soon as possible and suggested the Engineering Department staff ask a few more questions when someone applied for tree removal. If appropriate within the code, then grinding might be an option. He understood there were limiting financial issues and costs to repairing the panels. If there is a problematic tree, then it should be taken out and redone correctly.

Council President Hedges appreciated that the trees were planted in 1990 with the best of intentions. If the City planted the trees without consulting the property owner, then it should make things right. The expert told the Council that planting practices needed to be changed and that a solution needed to be identified that would last for several decades. There may be some very hard decisions. He encouraged temporary repair in the short term with the City's being responsible.

Mr. Rice commented that planting smaller trees in the middle of blocks would make more sense than planting fast growing maples. This might be one option.

Council President Hedges thought smaller trees might be dictated by circumstances unless the City wanted ongoing repair problems. In hindsight, those trees planted in the 1990's were not the best choice, but we cannot have it both ways.

Councilor Churchill said the original tree plantings were done with best of intentions and could have been done better. In heavy clay soil conditions, a well amended tree well will not heave surrounding sidewalks. He discussed the value in pruning and maintaining that, while the canopy might not be gigantic, the size would be sufficient to create beautification. He leaned toward removal of incorrect species and doing proper planting with amendments and root guards to encourage sidewalk panels that would provide 25 years' of service.

Councilor Gamba said, as a member of the task force, he went in with the intent of saving as many trees as possible. It became clear to both him and Dr. Platter that it would be important to focus on a long term solution for a canopied Main Street that did not cause any problems. In the short term, he felt the proper approach would be to remove trees as they created problems so sidewalk panels did not have to be removed causing greater expense. In the meantime, he recommended finding places downtown where trees could be properly planted and utilizing bulbouts. He suggested considering the design of the South Downtown to create space for large trees. The group of volunteers in the 1990's planted trees with the best of intentions, and understood the planting had been a City effort. He agreed that if the City forced someone to put in a tree by code, it needed to assume responsibility. He saw no solution to not removing some trees on Main Street.

Councilor Miller provided history on the Milwaukie Downtown Development Association (MDDA) tree planting. At the time, the trees met the code and street tree standards. Today it would be important to develop a list of appropriate trees that were agreeable to all and come up with a solution for dealing with the roots. He thought the City should also have some standards as to how long a sidewalk could be open and

barricaded. He noted the sidewalk in front of Graham's had been closed for almost two months. It discussed the importance of determining ownership responsibility and developing a public program in which all could share. Replacement trees should have a minimum caliper, and Councilor Miller suggested forming a group to develop acceptable standards.

Mr. Rice understood there was direction to develop some short term standards and perhaps working with Moving Forward Milwaukie on development standards for redevelopment in the Downtown. The municipal code grants the ability to modify standards, so staff would develop a few iterations to bring back to the City Council.

Mr. Monahan stated some trees had been planted by individuals in the last 10-15 years based on standards of that day. He suggested staff prepare new funding mechanisms for City Council consideration. This could be done during the Downtown review and perhaps considered for a broader program in the entire City.

Mayor Ferguson would like to consider what could be done to help business owners in the future such as a small fee to help create a program for street trees and sidewalks.

Councilor Miller asked who was responsible for curbs and pothole repair.

Mr. Koenig noted the curbs right next to the trees in front of his property were broken down.

Mr. Rice said although the Street Surface Maintenance Program (SSMP) did not address curb repair, the City did ensure any damage caused by contractor would be fixed by that contractor. He discussed the recently implemented pothole hotline and concrete coloration.

Councilor Churchill had some knowledge of concrete coloration products used in other communities.

Mayor Ferguson said the City Council committed to doing what was best for all involved. He suggested pavers might be a short term, inexpensive solution.

Council President Hedges suggested putting a slab in place until the tree planting issues were resolved.

Mr. Rice said he would work with property owners on a temporary covering and talk with Mr. Parkin about amending the standards. He would provide guidance to the property owners and plant trees where it made sense.

Councilor Miller was concerned about the \$200 a day fine and did not want to wait until standards were in place.

Mr. Monahan explained the \$200 per day was an infraction standard and up to the Municipal Court Judge. The intent was to encourage cooperation from the property owner, and he would not suggest taking that code tool away. The Judge could be advised this was an ongoing situation, but the decision was ultimately his.

B. Intergovernmental Agreement (IGA) with the Oregon State Marine Board for Construction of Boating Facilities at Milwaukie Riverfront Park – Resolution

Ms. Herrigel provided the staff report and provided background on the staff request that the City Council approve a resolution authorizing the City Manager to sign an intergovernmental agreement (IGA) with the Oregon State Marine Board for a grant of \$200,000 for construction of boating facilities at Milwaukie Riverfront Park. The project must be completed and final invoices submitted to the Marine Board by June 30, 2015.

Councilor Gamba asked about the possibility of kayak rentals and things of that nature.

Ms. Herrigel said she would look into that question and suggested that other areas of the Riverfront Park might be developed to accommodate that type of use.

It was moved by Councilor Gamba and seconded by Councilor Churchill to adopt the resolution authorizing the City Manager to sign an intergovernmental agreement with the Oregon Marine Board (OMB) for a grant of \$200,000 for construction of boating facilities at Milwaukie Riverfront Park and approving up to \$200,000 in appropriations in capital outlay for the Community Development Department in the Fiscal Year 2013 – 14 Budget. Motion passed with the following vote: Councilors Gamba, Miller, Churchill, and Hedges and Mayor Ferguson voting “aye.” [5:0]

RESOLUTION NO. 73-2013:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH THE OREGON MARINE BOARD (OMB) FOR A GRANT OF \$200,000 FOR CONSTRUCTION OF BOATING FACILITIES AT MILWAUKIE RIVERFRONT PARK AND APPROVING UP TO \$200,000 IN APPROPRIATIONS IN CAPITAL OUTLAY FOR THE COMMUNITY DEVELOPMENT DEPARTMENT IN FISCAL YEAR 2013 – 14 BUDGET.

C. Reimbursement Resolution Declaring the City’s Official Intent to Reimburse Certain Expenditures from the Potential Proceeds of Tax Exempt Obligations – Resolution

Ms. Camors provided the staff report. Staff requested that the City Council adopt the resolution declaring the City’s official intent to reimburse certain expenditures from the potential proceeds of tax-exempt obligations. In 2012, the City signed a settlement agreement with TriMet financing its \$5 million obligation associated with the Portland-Milwaukie Light Rail Project and seemed to be moving toward a bond measure. The City may be reimbursed for cash expenditures up to 60 days prior to the date of such an adopted reimbursement resolution.

It was moved by Council President Hedges and seconded by Councilor Gamba to adopt the resolution declaring the official intent to reimburse certain expenditures from proceeds of tax exempt obligations and related matters. Motion passed with the following vote: Councilors Gamba, Miller, Churchill, and Hedges and Mayor Ferguson voting “aye.” [5:0]

RESOLUTION NO. 74-2013:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING OFFICIAL INTENT TO REIMBURSE CERTAIN EXPENDITURES FROM PROCEEDS OF TAX EXEMPT OBLIGATIONS, AND RELATED MATTERS.

D. Council Reports

Mayor Ferguson announced the Cedar Crossing Covered Bridge Rededication Ceremony on September 28, 2013, at a reception at the Historic Wikman Building.

Councilor Miller reported the City had hosted the North Clackamas Parks and Recreation District (NCPRD) Board meeting the previous week.

Councilor Gamba attended the Metro Joint Policy Advisory Committee on Transportation (JPACT).

Councilor Churchill thanked Mayor Ferguson and staff for their support of the City Hall Diamond Jubilee. He worked with Milwaukie and Metro staff in looking at additional opportunity sites for the Moving Forward Milwaukie Project.

Council President Hedges attended the Clackamas County Coordinating Committee (C4) meeting where the final recommendation for flexible funds was discussed

Mayor Ferguson thanked everyone who had participated in the City Hall Diamond Jubilee. He thought it was an incredible success.

ADJOURNMENT

It was moved by Mayor Ferguson and seconded by Councilor Churchill to adjourn the meeting. Motion passed with the following vote: Councilors Gamba, Miller, Churchill, and Hedges and Mayor Ferguson voting “aye.” [5:0]

Mayor Ferguson adjourned the regular session at 10:06 p.m.

Respectfully submitted,

Pat DuVal, Recorder

MINUTES
MILWAUKIE CITY COUNCIL WORK SESSION
OCTOBER 1, 2013

Mayor Ferguson called the work session to order at 5:00 p.m. in the City Hall Conference Room.

Council Present: Council President Hedges and Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff Present: City Manager Bill Monahan, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, Finance Director Casey Camors, Community Development Director Steve Butler, and Engineering Director Jason Rice.

Media: Michael Barnesberger, *The Oregonian*

City Manager's Report

Mr. Monahan reviewed the agenda. The application for the Ed Zumwalt Volunteer of the Year Award was posted on the City's website. Election law training was scheduled for board, commission, and committee members on November 20, 2013. He discussed the Portland General Electric (PGE) franchise and the Clackamas Fire District #1 (CFD#1) lease agreement for the Public Safety Building (PSB). Because of scheduling difficulties, there was a proposal that a subcommittee of Milwaukie City Council members and North Clackamas School District School District #12 (NCSD#12) convene.

Mr. Monahan discussed Ed Parecki's letter and invoice to the City for repairs he had done. He recommended not paying and had not seen any reason for taking responsibility.

Mr. Rice discussed downtown standards a full build out and what was defined as sidewalk. Mr. Parecki had done work beyond what was requested of him including the right-of-way up against the curb.

Mr. Monahan noted that if the issue goes to it, Citycounty Insurance Services (CIS) may decide to pay. The group discussed responsibility for the sidewalk and bulbouts.

Parks and Sustainability

Ms. Herrigel brought displays of materials that could and could not go into curbside recycling. She discussed the status of the Riverfront Park Project and Tree City USA designation. The contract award for the City Swale/Median Maintenance was scheduled for the October 15 City Council agenda, and new garbage rates were now in effect.

Councilor Gamba had made some contacts at the recent League of Oregon Cities (LOC) Conference and thought a Milwaukie urban forestry program looked promising.

Engineering

Mr. Rice reported on the Quiet Zone Implementation. The City received the Right of Entry Permit from Union Pacific and notified the contractor. Improvements were expected to be done in 30 days, and then staff would apply for the Quiet Zone with the Federal Rail Administration (FRA). The Harrison Street Paving Project should be completed on October 4, 2013, followed by striping on Main and Harrison Streets. He

provide a schedule of upcoming Clackamas County Transportation System Plan (TSP) meetings.

Mr. Butler reported the City Council would have its first hearing on the Milwaukie TSP on October 15 and updated the group on the Moving Forward Milwaukie Project.

Mayor Ferguson announced the community booth would be set up at the October 18 Milwaukie High School football game, and on October 30 there would be an Oregon Passenger Rail briefing at the Milwaukie Center.

Mayor Ferguson recessed the work session at 5:40 p.m. for the Budget Committee meeting and reconvened it at 5:59 p.m.

Transportation System Plan Update

Mr. Kelter reviewed the Work Session outline in preparation for the public hearing scheduled for October 15. He discussed the relationship between the City's TSP which implemented the State Transportation Planning Rule for a long range multimodal transportation plan. The local TSP also needed to be consistent with Metro's Regional Transportation Plan (RTP). The document adjusted the planning horizon to 2035 and confirmed the plans for various modes to provide redundancy and to meet the needs of the community. This Plan, however, did not specify streets that would be repaved as the Street Surface Maintenance Plan (SSMP) did; the Capital Improvement Plan (CIP) determined project funding priorities. The TSP identified needs to improve the system and provided high level guidance.

When the assessment began it was determined that certain areas of the 2007 TSP needed updating such as deleting completed projects and reprioritizing projects as needed. For budgetary and staffing reasons, the Planning Department operated with the philosophy that the new Metro requirements could be addressed with a "light touch" approach to the update. Keeping the skeleton of the document, a public involvement process was launched; however, it was not as extensive as the 2007 effort. On September 24, 2013, the Planning Commission voted unanimously to move the package forward to the City Council.

Councilor Gamba asked why Metro required municipalities to do a TSP.

Mr. Kelter replied, in order to develop a robust system, it was a State requirement to provide an updated local plan to be included as part of regional plan.

Councilor Miller asked for clarification of the strikeouts and highlighting.

Mr. Kelter responded that as the Planning Commission hearing neared, staff started making changes that were recommended. The addendums were changes proposed to the original draft document. The edits highlighted in yellow were completed after the Planning Commission hearing. He was preparing an addendum list with all the changes and brief descriptions.

Mr. Kelter showed an outline of the tables in the document and pointed out chapters 5 – 9 that addressed the basic modes of the transportation system. He briefly reviewed the action plan lists.

Councilor Miller suggested referencing the SSMP or making it an addendum.

Mr. Monahan suggested adding something to the executive summary to clarify that the existing conditions were taken into account along with the SSMP information.

Mr. Kelter would look in the revised document for a place where additional language might be added in response to City Council comments.

Council President Hedges expressed some concerns with one person's requesting a change to the document who was not a Public Safety Advisory Committee (PSAC) member. He felt that destroyed the document's credibility. One person approached staff and caused a change.

Mr. Butler replied that staff was trying to be very open to accepting comments. Staff may follow up on a comment it feels is valid.

Councilor Churchill observed a typo was one thing, but unnecessary influence could be construed as a concern. When it came to approval, individual comments should be noted as being heard and be considered by the Planning Commission. It was good to hear a professional opinion with Planning Commission interpretation.

Mr. Kelter said the document would be refreshed in terms of project priorities, the SSMP addendum, and the staff recommendation to the Planning Commission.

Mr. Monahan thought it was important for people to know what processes their questions and feedback go through.

Mr. Rice added that some project suggestions did not fit with the TSP and needed to be considered as part of the utility maintenance schedule. He did not believe all individual comments made it to the list of changes.

The Council Goals Update was rescheduled to the end of the regular session.

Mayor Ferguson adjourned the work session at 7:01 p.m.

Respectfully submitted,

Pat DuVal, Recorder

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE,
OREGON, APPOINTING LYNN SHARP TO THE PARK AND RECREATION
BOARD.**

WHEREAS, a vacancy exists on the Park and Recreation Board; and

WHEREAS, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

WHEREAS, Lynn Sharp possesses the necessary qualifications to serve on the Park and Recreation Board.

Now, therefore, the City of Milwaukie, Oregon resolves as follows:

SECTION 1: That Lynn Sharp is appointed to the Park and Recreation Board filling the remainder of the term for position four.

SECTION 2: That her term of appointment shall expire on March 31, 2015.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on **November 5, 2013**.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE,
OREGON, APPOINTING KATHI SCHROEDER TO THE MILWAUKIE LIBRARY
BOARD.**

WHEREAS, a vacancy exists on the Milwaukie Library Board; and

WHEREAS, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

WHEREAS, Kathi Schroeder possesses the necessary qualifications to serve on the Milwaukie Library Board.

Now, therefore, the City of Milwaukie, Oregon resolves as follows:

SECTION 1: That Kathi Schroeder is appointed to the Milwaukie Library Board filling the remainder of position four.

SECTION 2: That her term of appointment shall expire on March 31, 2015.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on **November 5, 2013**.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



**Regular Session
Agenda Item No.**

5

Public Hearing



**MILWAUKIE CITY COUNCIL
AGENDA ITEM SUMMARY**

Agenda Item: **RS 5. A.**

Meeting Date: **11/5/13**

Title: **City Initiated Vacation of Street Right-of-Way (44th
Ave at Monroe)**

Prepared By: Gary Parkin, PW Director

Department Approval: Jason Rice, Engineering Director
Gary Parkin, PW Director

City Manager Approval: Bill Monahan

Approval Date: October 23, 2013

ISSUES BEFORE COUNCIL

With the concurrence of the Hector Campbell NDA and the adjacent property owners, City Council agreed to initiate the vacation of the unimproved section of 44th Avenue Right-of-Way (ROW) as it runs south of Monroe Street. Tonight's public meeting is needed to complete the action.

STAFF RECOMMENDATION

Staff has begun the vacation process according to Oregon Revised Statute Chapter 271. The specified notice has been provided and none of the notified property owners have objected in writing. The two abutting property owners, to whom the property would be vacated to, have provided written consent. Staff recommends approval of the street ROW vacation.

KEY FACTS & INFORMATION SUMMARY

The City Attorney's office was asked for their opinion as to the options open for the disposition of the unimproved section of right-of-way for 44th Ave just south of Monroe St. Their opinion did not extend to whether the City should vacate but provided that if the ROW were vacated, vacating it to the original adjacent dedicating properties was the only legal course of action.

Staff has reviewed the City's future transportation needs and concluded that there is no apparent need for the ROW to be improved as a street. It is not identified in the Transportation System Plan for future connectivity plans.

The adjacent property owners could petition for the ROW vacation but it is costly as the City is entitled to cost recovery for staff time expended. A City-initiated vacation would recognize the efforts that adjacent property owners have already expended in the maintenance of the ROW and that there is benefit for the City in moving the ROW into private property.

The Hector-Campbell NDA provided concurrence with the vacation at their April 8, 2013 meeting.

OTHER ALTERNATIVES CONSIDERED

Many alternatives were considered by the neighborhood. Most were deemed to be in violation of land use law.

CITY COUNCIL GOALS

N/A

FISCAL NOTES

If the vacation proceeds to a successful conclusion there would likely be a small increase in property taxes collected from the adjacent properties that would absorb this right-of-way.

ATTACHMENTS

1. Resolution authorizing the City to initiate the street vacation process
2. Aerial Map showing the area in question
3. Map showing area of development around subject ROW
4. Memorandum from the City Attorney's office dated November 5, 2012
5. Map showing utilities located in the unimproved ROW
6. Portion of Oregon Revised Statutes Chapter 271
7. Letters of consent from the abutting property owners
8. Resolution authorizing the City to complete the street vacation process



MILWAUKIE CITY COUNCIL STAFF REPORT

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **City Initiated Vacation of Street Right-of-Way (44th Avenue at Monroe)**

From: Gary Parkin, PW Director

Date: October 29, 2013

ACTION REQUESTED

Completion of City Council action related to the street vacation process for an unimproved section of 44th Avenue just south of Monroe Street.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

May 21, 2013: Council provided direction to move forward with the City-initiated vacation of an unimproved section of 44th Avenue just south of Monroe Street (attachment 1).

March 19, 2013: Council was provided with information on the 44th Avenue street vacation and Council then provided direction to staff to proceed after checking in with the Hector-Campbell NDA.

BACKGROUND

The impetus for this street vacation request was an inquiry from a neighborhood representative of the Hector-Campbell NDA. Staff was approached about the unimproved street right-of-way (ROW) for 44th Ave off of Monroe Street. The ROW area is about the size of single building lots in the area and looks like a vacant lot (attachment 2). There is no clear need of this ROW for street purposes.

The Romalyn subdivision adjacent to the south of the ROW developed in the 1980's without continuing 44th Avenue. Homes are constructed where the street was planned for and connectivity was achieved without the use of 44th Avenue (see attachment 3). Continuation of 44th Avenue utilizing the subject ROW is impossible without acquiring at least one of the properties in the Romalyn subdivision and removing a residence.

After reviewing potential uses of the right-of-way with the NDA representative and the City Attorney's office it was determined that the size, location and original dedication of the ROW limited its future use and that the most appropriate means of moving forward with the property would be to vacate the ROW resulting in returning the property to private ownership (attachment 4).

The City has an existing water main running along the west side of the ROW (see attachment 5). An easement for that main will be needed if the ROW is vacated. The vacating process can reserve an easement for this main. An exhaustive search has not been made for private utilities that may be using this ROW and utility companies will be notified and possibly create

easements(s) if needed. There are overhead power and communication lines running through the area that will be addressed by the private utilities involved.

Oregon Revised Statute (ORS 271.130 – attachment 6) states that a city governing body may initiate vacation proceedings without a petition or the consent of property owners. Notice must be provided per the statute and the vacation shall not be made before the hearing, nor if the owners of a majority of the area affected object in writing, nor without the consent of the abutting property owners if the market value of their property will be substantially affected.

These conditions have been met for this proposed vacation. Notice was provided and no objections received, although the right of property owners to be heard continues through the public hearing. The two abutting property owners provided written consent to this action (see attachment 7) although the additional area that will be added to their properties per this vacation will not substantially affect their property value.

Staff recommends completing Council action on this vacation request and moving forward with the administrative action needed to complete the vacation. If the vacation is granted, staff will follow up with recording an easement for the City's waterline and then working with the County to provide title to the vacated ROW, attaching it in equal portions to the two properties that border the ROW from the original plat that established it.

CONCURRENCE

Both of the abutting property owners have expressed their desire to move forward with the street vacation. The Hector–Campbell NDA provided concurrence at their April 8, 2013 meeting. Both the City's Community Development and Public Works Departments support this vacation.

FISCAL IMPACTS

The vacation process requires staff time but only a small amount for direct charges to cover recording fees and mailing.

If the vacation proceeds to a successful conclusion there would likely be a small increase in property taxes collected from the adjacent properties that would absorb this right-of-way.

WORK LOAD IMPACTS

Preparing the street vacation file and processing through to Council review required some time and effort. The schedule to complete this vacation was not demanding on staff.

ALTERNATIVES

Don't proceed at this time.

ATTACHMENTS

1. Resolution authorizing the City to initiate the street vacation process
2. Aerial map showing the area in question
3. Map showing area of development around subject ROW
4. Memorandum from the City Attorney's office dated November 5, 2012
5. Map showing utilities located in the unimproved ROW
6. Portion of Oregon Revised Statutes Chapter 271
7. Letters of consent from the abutting property owners
8. Resolution authorizing the City to complete the street vacation process

RESOLUTION NO. 44-2013

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
AUTHORIZING THE CITY INITIATED VACATION OF A PORTION OF THE STREET
RIGHT-OF-WAY FOR 44TH AVENUE SOUTH OF MONROE STREET.**

WHEREAS, the unimproved section of 44th Ave adjacent and south of Monroe Street was dedicated to the City for roadway purposes; and

WHEREAS, the City of Milwaukie has determined that the unimproved section of 44th Ave adjacent and south of Monroe Street is not needed for roadway purposes; and

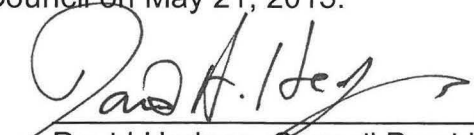
WHEREAS, the Oregon Revised Statutes (ORS) Chapter 271 provides for the vacation of street rights-of-way; and

WHEREAS, the City Council of the City of Milwaukie wishes to follow the provisions of ORS Chapter 271 and initiate the vacation the unimproved section of 44th Ave adjacent and south of Monroe Street on their own motion per Chapter 271.130;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milwaukie, Oregon, that:

This resolution initiating the street vacation of the unimproved section of 44th Ave adjacent and south of Monroe Street per ORS 271.130 is effective immediately.

Introduced and adopted by the City Council on May 21, 2013.


David Hedges, Council President

ATTEST:

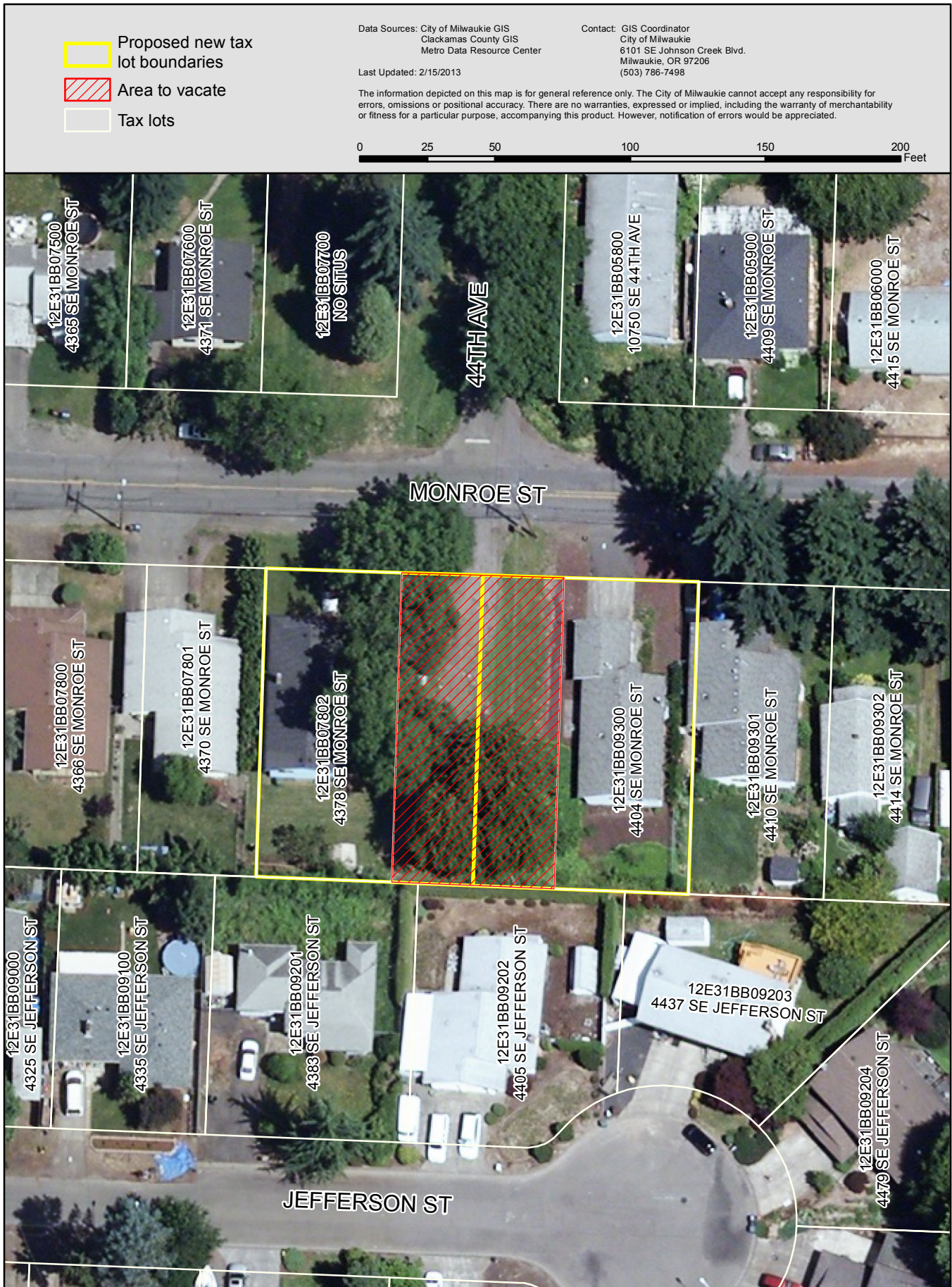

Pat DuVal, City Recorder

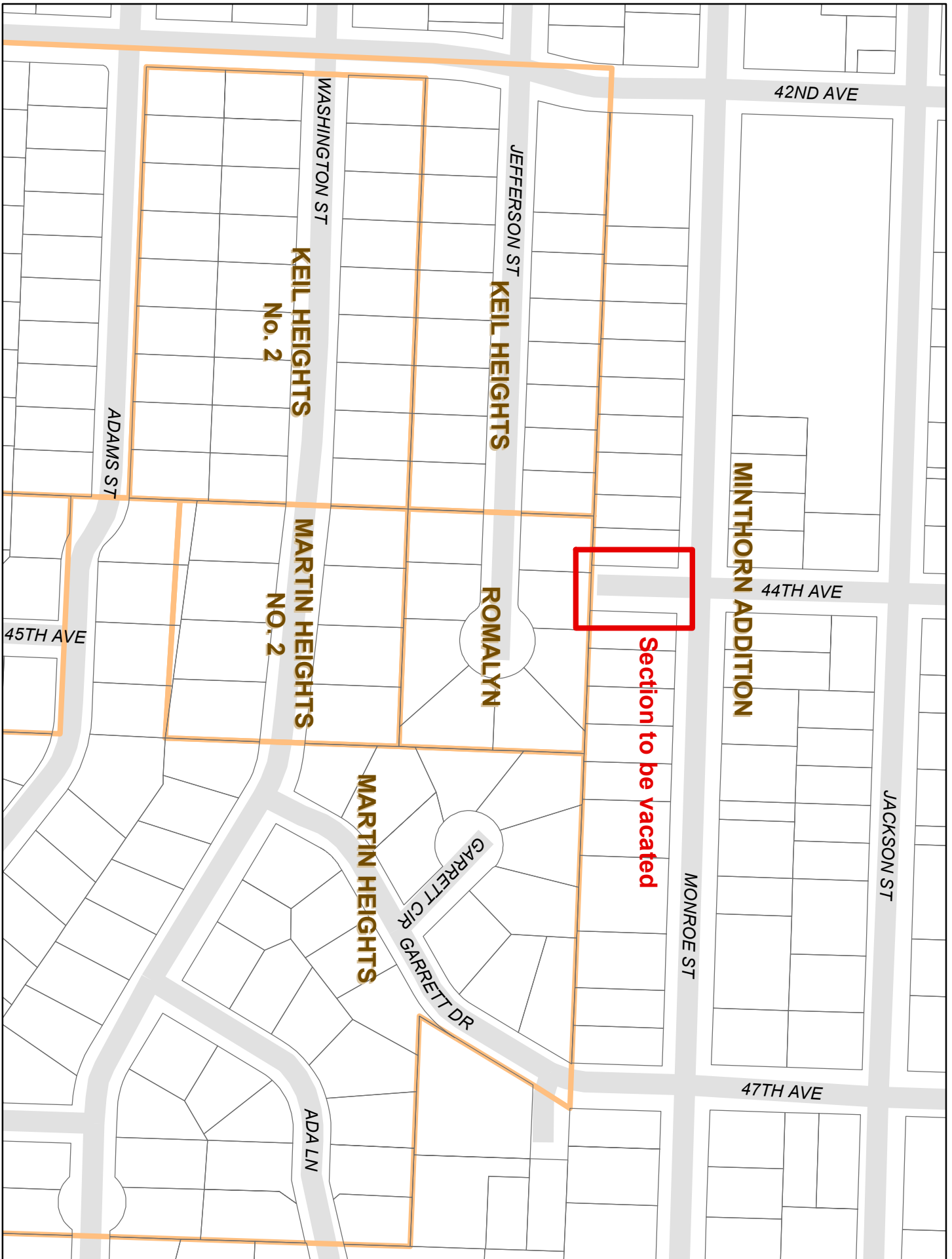
APPROVED AS TO FORM:

Jordan Ramis PC


City Attorney

Attachment 2





JORDAN RAMIS PC
ATTORNEYS AT LAW

Two Centerpointe Dr 6th Fl
Lake Oswego OR 97035
www.jordanramis.com

Phone: (503) 598-7070
Toll Free: (888) 598-7070
Fax: (503) 598-7373

LEGAL MEMORANDUM

TO: Gary Parkin
FROM: Damien Hall
DATE: November 5, 2012
RE: **Talking Points—44th Avenue Dedication**
File No. 49979-36742

QUESTIONS PRESENTED

The City has interest in vacating an unimproved piece of right-of-way (ROW) located at the south end of 44th Avenue at its crossing of Monroe Street. An image of the area for potential vacation is attached. We have been asked:

1. Can the City vacate the ROW and turn it into a buildable lot?
2. Can the ROW continue to be public property for purposes other than roadway (for example, can it be used for a park)?
3. Must the City vacate to the area to the benefit of the two lots adjacent to the area east and west?

SHORT ANSWERS

1. We could locate no precedent to support the city converting the unused ROW into a buildable lot, presuming the lot would be buildable by a private party. Such a result, especially if it financially benefitted the city, would probably violate the terms of the original dedication.
2. The dedicated street area must be used for street purposes, though limited non-permanent uses may be legally acceptable, especially with consent of the abutting private property owners.

November 5, 2012

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3. Assuming that there are different private parties on either side of the ROW, Oregon law entitles each parcel in the subdivision to be enlarged up to the midline of 44th Avenue if that street section is vacated.

DOCUMENTS REVIEWED

In creating this memorandum we have relied on the following documents:

- A copy of the Minthorn Addition, signed on 5 May 1890, which contains the stub of 44th Street that is discussed in this memo;
- A copy of the Romalyn Subdivision, located due south of the discussed 44th Street stub section. Romalyn Subdivision was signed on 5 January 1977.
- Your vicinity diagram with section of 44th Street to be vacated shown in red.

FACTS

We assume the following for this memo:

- The subject ROW was dedicated as part of the Minthorn Addition, and that this plat was properly recorded with Clackamas County.
- There is no active homeowner's association for Minthorn Addition.
- Since there are homes on either side of the ROW, different persons own the private property on the east and west sides of the area in question.
- A private person owns the property due south of the ROW, but that property is in a subdivision (Romalyn) recorded after the Minthorn Addition.
- If the City recognized a buildable lot on the street stub, the City would intend to own the lot initially, or hold it in trust, and ultimately transfer the lot to a private party.

It appears that the Minthorn Addition was lawfully created in 1890. The copy we reviewed appears to be taken from a true copy of the plat. The plat contains the following words of limitation as to streets:

"We hereby dedicate to the use of the public forever all of the streets and avenues designated on said annexed plat."

DISCUSSION

1. Deeming the stub a buildable lot under City ownership would likely violate the property rights of the abutting owners. But, the abutting owners could collaborate and create a lot following a vacation.

November 5, 2012

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In general, Oregon law observes that when land is dedicated, the public “acquires only an easement in the land; that is, the right only to use the property for the purposes for which it was dedicated.” Sheldon Parks, The Law of Dedication in Oregon, 20 Or. L. Rev. 111, 152 (1940). The fee in a street remains in the dedicator until the time the dedicator sells a lot abutting the street; at that time the purchaser “takes and holds the title to the middle of the street upon which the land abuts,” subject to the public’s right under the dedication. Kurtz v. Southern Pacific Co., 80 Or. 213, 216, 155 P. 367, 369 (1916).

Under this view, were the City to vacate the street stub, common law would recognize title in the abutting landowners. Oregon statutes would require the same result (section 3, below). The law would not recognize the City as holding title, as the street is owned by private persons on either side. Were the City to assert a right to hold fee title, a reviewing court would almost certainly distinguish between the City’s role, on the one hand, as safeguarding public access under the dedication, versus an abutting owner’s right to hold fee title.

Even though the title to the street stub could pass to separate persons, nothing prevents the owners from combining their interests into one parcel. It seems at least arguable that the owners could assert a development right on a combined parcel.

2. The terms of the dedication limit 44th Street to uses not inconsistent with a street.

The City’s prerogative to use 44th Street depends on how a reviewing court would interpret the use relative to the words of dedication written on the plat. Oregon law limits use of dedicated premises to the “purposes for which it was dedicated.” Parker, *supra*, at 150. A government’s use of property for purposes inconsistent with the dedication is vulnerable to a claim of “misuse and diversion” filed by abutting property owners, who could probably obtain an injunction against the government’s inconsistent use. *Id.* at p. 151.

In an early case, the Oregon Supreme Court held that land dedicated for use as a street could not be used as a public square. City of Portland v. Whittle, 3 Or. 126 (1869). Yet even though the Court would not recognize “public square” as a street use, streets are capable of other uses more in line with the street’s essential nature. The courts of North Carolina have favorably cited the discussion a popular Municipal Law encyclopedia for the proposition that while streets cannot be appropriated for non-street purposes, streets can be used in several ways, including “the construction of sewers . . . use of a street by a railroad, placing of telephone poles . . . for part of a sea wall system . . . [and] modernized to confirm to modern plans for traffic flow and control.” Wooten v. Town of Topsail Beach, 127 N.C.App. 739, 741, 493 S.E.2d 285, 287 (1997), *citing* McQuillin, The Law of Municipal Corporations, 3rd Ed. vo. 11A Sec. 33.74.

These principals were adopted in Georgia and discussed in terms helpful to our question. In Metropolitan Area Rapid Transit Authority (MARTA) v. Datry, 235 Ga. 569, 220 S.E.2d 905

November 5, 2012

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(1975).the Georgia Supreme Court reviewed whether constructing rail transit and a pedestrian mall in the City of Decatur was outside of a “dedication for the public use of the right-of-way of Sycamore Street” MARTA, 220 S.E.2d at 907. The Supreme Court held that constructing railway and a pedestrian mall was a valid use of right of way because those uses were customary to the meaning of street: “A thoroughfare for pedestrian traffic is, by definition a street and thus, necessarily, a use within the ambit of an implied easement for public travel.” Id. at 575.

In our case, the following words of dedication appear on the plat: “We hereby dedicate to the use of the public forever all of the streets and avenues designated on said annexed plat.” The duration of the use—“forever”—is limitless. But, the purpose of that use that is narrower: “streets and avenues.” A reviewing court would probably not interpret the purpose broadly unless such breadth was clear from the instrument, and we do not believe the instrument contains such an intent. An example of expansive language would be “any lawful purpose,” or, “use in the discretion of the City.” But, that sort of text is absent from this plat.

Cases like Wooten and MARTA echo other cases which hold that the primary legal purposes of streets are: 1) to supply streets for the public; and 2) to provide ingress and egress to properties fronting a street. *See, Cove Lodge v. Harris*, 134 Or 566, 572, 297P. 355, 357 (1930). However, in Prosch v. City of La Grande, 14 Or App. 546, 552, 514 P.2d 351, 354 (1973) the Court of Appeals discussed this rule in a case where a street had been dedicated but not opened by a city. While not diminishing the general public’s access rights—and while not requiring the city to automatically open every dedicated street—the Court noted that landowners abutting unopened streets may “make improvements to the road not inconsistent with the public’s right of use.” Prosch, 14 Or. App. at 552, 514 P.2d at 354. It is very similar to argue that the general public—embodied by the City—may make improvements to the road not inconsistent with the public’s general right to a street use.

Thus, we believe a reviewing court would most likely: 1) bar the city from using the 44th Street stub for a purpose inconsistent with street use; 2) accept a non-permanent, City-constructed improvement that was not inconsistent with a street, but 3) order the City or other property owner to remove an improvement that impaired use of the area for a street, or impaired a primary access right.

3. If the City vacated the 44th Street stub, title would pass to the landowners on the east and west. The southern landowner, though abutting 44th Street, holds a lot in an unrelated subdivision. That owner is not entitled to take title under a vacation.

Oregon statutes control passage of title after vacation. The rule is contained in ORS 271.140, which states:

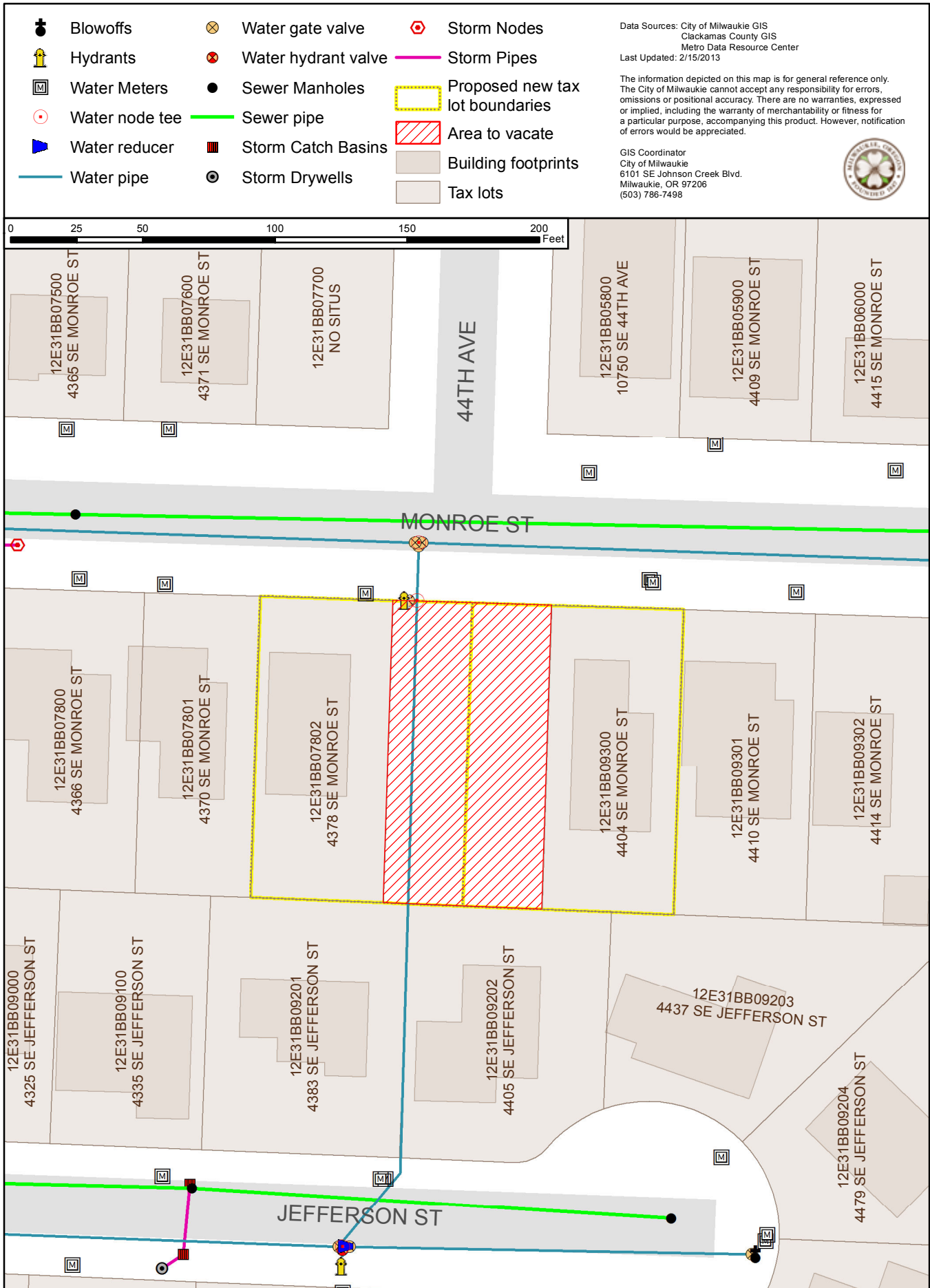
November 5, 2012

Page 5

The title to the street or other public area vacated shall attach to the lands bordering on such area in equal portions; except that where the area has been originally dedicated by different persons and the fee title to such area has not been otherwise disposed of, original boundary lines shall be adhered to and the street area which lies on either side of such boundary line shall attach to the abutting property on such side. If a public square is vacated the title thereto shall vest in the city.

Though not a model of drafting clarity, the statute indicates the right to take title exists because the original dedicator reduced the lot size by dedicating adjacent streets to the public. The statute also recognizes that the area involved in a vacation may have been dedicated by different persons, and that fee title should follow original property lines. In our case, there is a line between premises dedicated by Minthorn in 1890, and by the dedicators of Romalyn in 1930. The 44th Street stub is entirely located within the Minthorn Addition. The statute cited above suggests that only the lot owners in the Minthorn Addition may take title to 44th Street, if it is ever vacated. It is true that lots 1 and 2 of Romalyn Subdivision technically abut 44th Street. However, those lot owners gave up no claim to 44th Street (if for no other reason than 44th Street was already dedicated by the time Romalyn Subdivision was recorded). Property owners that dedicated no interests cannot benefit from a street vacation.

Attachment 5



RS 33

271.130 Vacation on city governing body's own motion; appeal. (1) The city governing body may initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110, but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provision for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide.

(2) Two or more streets, alleys, avenues and boulevards, or parts thereof, may be joined in one proceeding, provided they intersect or are adjacent and parallel to each other.

(3) No ordinance for the vacation of all or part of a plat shall be passed by the governing body until the city recording officer has filed in the office of the city recording officer or indorsed on the petition for such vacation a certificate showing that all city liens and all taxes have been paid on the lands covered by the plat or portion thereof to be vacated.

(4) Any property owner affected by the order of vacation or the order awarding damages or benefits in such vacation proceedings may appeal to the circuit court of the county where such city is situated in the manner provided by the city charter. If the charter does not provide for such appeal, the appeal shall be taken within the time and in substantially the manner provided for taking an appeal from justice court in civil cases. [Amended by 1995 c.658 §101]

271.110 Notice of hearing. (1) The city recorder or other recording officer of the city shall give notice of the petition and hearing by publishing a notice in the city official newspaper once each week for two consecutive weeks prior to the hearing. If no newspaper is published in such city, written notice of the petition and hearing shall be posted in three of the most public places in the city. The notices shall describe the ground covered by the petition, give the date it was filed, the name of at least one of the petitioners and the date when the petition, and any objection or remonstrance, which may be made in writing and filed with the recording officer of the city prior to the time of hearing, will be heard and considered.

(2) Within five days after the first day of publication of the notice, the city recording officer shall cause to be posted at or near each end of the proposed vacation a copy of the notice, which shall be headed, "Notice of Street Vacation," "Notice of Plat Vacation" or "Notice of Plat and Street Vacation," as the case may be. The notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be at least 14 days before the hearing.

Oregon Revised Statutes (ORS)
2011 Edition

(3) The city recording officer shall, before publishing such notice, obtain from the petitioners a sum sufficient to cover the cost of publication, posting and other anticipated expenses. The city recording officer shall hold the sum so obtained until the actual cost has been ascertained, when the amount of the cost shall be paid into the city treasury and any surplus refunded to the depositor. [Amended by 1991 c.629 §1; 2005 c.22 §196]

271.080 Vacation in incorporated cities; petition; consent of property owners. (1) Whenever any person interested in any real property in an incorporated city in this state desires to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, such person may file a petition therefor setting forth a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation.

(2) There shall be appended to such petition, as a part thereof and as a basis for granting the same, the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. In the vacation of any plat or part thereof the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing. [Amended by 1999 c.866 §2]



October 23, 2013

Shirley Brown, Trustee
4378 SE Monroe Street
Milwaukie, OR 97222

Subject: ***Notice of intent to vacate the Unimproved Right-of-Way for 44th Ave***

Dear Shirley:

The City Council has determined that it is the interest of the City to return the section of 44th Ave shown in the attached map to private ownership. In accordance with state law the property is to be returned to the two adjacent properties as shown in the map.

As we have discussed, the vacation of the right-of-way will result in half of the vacated right-of-way to be added to your lot. This action will be recorded with the County Recorder's Office and will likely result in an increase in your assessed property value with a corresponding increase in your property tax. Questions related to your property taxes should be directed to the County's Assessment and Taxation office (PropertyTaxInfo@co.clackamas.or.us).

The City will record an easement for the existing water main that currently transverses the unimproved right-of-way. This easement will be within the portion of the vacated easement that will be added to your lot.

You have expressed your support for this action. This letter is provided for you to show that support with your signature.

I understand and support the vacation of 44th Ave adjacent to my property:

Signed: Shirley C Brown Date: 10-24-13

Sincerely,

Gary Parkin, PE
Public Works Director

Enclosures: maps showing the vacated right-of-way

CITY OF MILWAUKIE
10722 SE Main Street, Milwaukie, Oregon 97222
P) 503-786-7555 / F) 503-786-7528
www.cityofmilwaukie.org



CITY OF MILWAUKIE
"Dogwood City of the West"

Attachment 8

Resolution No.

A resolution of the City Council of the City of Milwaukie, Oregon, authorizing the vacation of a portion of the street right-of-way for 44th Avenue south of Monroe Street.

WHEREAS, the unimproved section of 44th Avenue adjacent and south of Monroe Street was dedicated to the City for roadway purposes; and

WHEREAS, the City of Milwaukie has determined that the unimproved section of 44th Avenue adjacent and south of Monroe Street is not needed for roadway purposes; and

WHEREAS, the City of Milwaukie followed the provisions of ORS Chapter 271 and initiated the vacation the unimproved section of 44th Avenue adjacent and south of Monroe Street on their own motion per Chapter 271.130; and

Now, Therefore, be it Resolved that the vacation of the unimproved right-of-way for 44th Avenue south of Monroe Street 100 feet to its terminus is hereby authorized to proceed through the administrative steps needed to effectuate the vacation.

Introduced and adopted by the City Council on **November 5, 2013**.

This resolution is effective on **November 5, 2013**.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



**Regular Session
Agenda Item No.**

6

Other Business



MILWAUKIE CITY COUNCIL
AGENDA ITEM SUMMARY

Agenda Item: **RS 6. A.**

Meeting Date: **11/05/13**

Title: **Public Hearing for Adoption of Proposed TSP
Amendments**

Prepared By: Brett Kelter, Associate Planner

Department Approval: Stephen C. Butler, Community Development Director /
Interim Planning Director

City Manager Approval: Bill Monahan, City Manager

Approval Date: 10/23/13

ISSUES BEFORE COUNCIL

Adoption of proposed amendments to Transportation System Plan (TSP)

STAFF RECOMMENDATION

Conduct the second reading of the adopting ordinance to approve the proposed amendments to the TSP.

KEY FACTS & INFORMATION SUMMARY

On October 15, 2013, Council opened a public hearing to consider the proposed amendments to the TSP. Council affirmed two small changes and added one additional change to the proposal and then voted 5-0 for adoption and had the first reading of the adopting ordinance (by title only).

OTHER ALTERNATIVES CONSIDERED

Delay adoption of proposed amendments and request an additional extension from Metro (beyond December 31, 2013) to demonstrate the TSP's compliance with the Regional Transportation Plan.

CITY COUNCIL GOALS

Goal 6d: Carry out review of the Transportation System Plan (TSP).

FISCAL NOTES

The 2013 TSP Update project included funds allocated to cover the necessary traffic consultant costs; there are no additional external costs, and no additional funds are needed to complete the project.

ATTACHMENTS

1. Ordinance (*revised with deleted "repeal/replace" language*)
 - Exhibit A: Findings in Support of Approval (*revised with final dates*)
 - Exhibit B: Proposed Amendments to Transportation System Plan (Underline/Strikeout version)
(*packet includes revised pages only—from Chapters 4, 12, and 13*)
 - Exhibit C: Proposed Amendments to Transportation System Plan ("Clean" version)
(*packet includes revised pages only—from Chapters 4, 12, and 13*)



MILWAUKIE CITY COUNCIL STAFF REPORT

To: Mayor and City Council
Through: Bill Monahan, City Manager
Stephen C. Butler, Community Development Director /
Interim Planning Director
Subject: **Public Hearing for Adoption of Proposed TSP
Amendments**
From: Brett Kelter, Associate Planner
Date: 10/29/13

ACTION REQUESTED

Conduct the second reading of the adopting ordinance to approve the proposed amendments to the Milwaukie Transportation System Plan (TSP), Land Use File #CPA-13-03 (see **Attachment 1**).

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

- **October 15, 2013:** Opening of public hearing by Council, to discuss the proposed amendments to the TSP, resulting in a 5-0 vote in favor of the proposed amendments (with minor changes).
- **October 1, 2013:** Council briefing to prepare for public hearing
- **September 24, 2013:** Continuation of Planning Commission public hearing on proposed TSP amendments, resulting in a recommendation to move the proposal forward to Council
- **September 10, 2013:** Opening of public hearing by Planning Commission on proposed TSP amendments
- **July 16, 2013:** Council briefing on project status
- **May 21, 2013:** Council briefing on project status
- **March 5, 2013:** Council briefing on TSP update project
- **December 2007:** Adoption of revised TSP (Ord. #1975, Files CPA-07-01, ZA-07-01)
- **July 1997:** Adoption of first TSP (Ordinance #1820, Land Use File CPA-96-01)

BACKGROUND

The City's Transportation System Plan (TSP) implements the State Transportation Planning Rule requirement for local governments to complete long-range multi-modal transportation plans. The City's TSP was first adopted in 1997 and extensively updated in 2007.

The primary motivation for updating the TSP at this time comes from State law, which requires the City's TSP to be consistent with Metro's Regional Transportation Plan (RTP). The current RTP, most recently updated by Metro in 2010, includes some new concepts and standards and has a forecasting horizon of 2035 (the current TSP has a forecasting horizon of 2030). The City has until December 31, 2013 (which is an extension from the original deadline of December 31, 2012), to demonstrate that the TSP is consistent with Metro's 2035 RTP.

On September 24, 2013, the Planning Commission voted unanimously to recommend that the Council adopt a set of proposed amendments to the TSP. The proposed amendments were developed by staff from the City's Planning and Engineering Departments with substantial participation and input from the public. Public meetings were held on June 3 and September 5, 2013, providing many public comments and suggestions that staff incorporated into the proposed amendments.

On October 15, 2013, the Council opened a public hearing on the proposed amendments and took testimony from 9 people before discussing the proposal and voting 5-0 for adoption (with a few minor changes). The adopting ordinance was read (by title only) for the first time, with a second reading scheduled for November 5, 2013.

The Ordinance materials provided in **Attachment 1** include the revised adopting ordinance, a revised version of the Findings in Support of Approval (with final meeting dates inserted into the text), and corrected versions of the pages from the TSP that are affected by the changes requested by Council at the October 15 meeting. The complete versions of Exhibits B and C that were presented at the October 15 meeting are not included as part of this packet but will be posted as part of the final signed ordinance.

Note: In the process of preparing the final ordinance materials, staff identified another needed change in the adopting ordinance itself. The existing TSP document is only being amended, not repealed and replaced, as earlier versions of the adopting ordinance suggested. A key example of how this detail makes a difference is that there are many pages from the appendices of the TSP that are not being changed and so have not been included in earlier exhibits for review. If the "repeal and replace" language were to remain in the adopting ordinance, the final updated TSP would be missing these unchanged pages. The adopting ordinance has been revised accordingly, and the City Attorney has advised staff that this change can be accommodated without further delay at the November 5 meeting.

CONCURRENCE

The Planning, Engineering, and Finance Departments have coordinated on the TSP Update project to identify needed changes and verify relevant data. The Planning Commission held a public hearing on the proposed amendments on September 10 and September 24, 2013, and voted unanimously to recommend that Council approve and adopt the proposed amendments.

FISCAL IMPACTS

The 2013 TSP Update project included funds allocated to cover the necessary traffic consultant costs; there are no additional external costs. The 2013 TSP Update project itself does not require additional funds. Implementation of the top-priority projects listed in the TSP will involve future discussions between City Council, the Budget Committee, and City staff about how to best use the City's limited financial resources.

WORK LOAD IMPACTS

Staff time has been allocated to the project as a minor-level or "light-touch" update to the TSP. Staff workload on the project has increased as the project moves through the final adoption stages but will be substantially reduced once the adoption process is completed. Adoption will allow staff to start working to implement the TSP.

ALTERNATIVES

Delay adoption of proposed amendments and request an additional extension from Metro to demonstrate the TSP's compliance with the Regional Transportation Plan. Staff does not

advocate for this alternative, as it means diverting staff resources away from the implementation of other project work, including projects in the TSP.

ATTACHMENTS

1. Ordinance *(revised with deleted “repeal/replace” language)*
 - Exhibit A: Findings in Support of Approval *(revised with final dates)*
 - Exhibit B: Proposed Amendments to Transportation System Plan (Underline/Strikeout version)
(packet includes revised pages only—from Chapters 4, 12, and 13)
 - Exhibit C: Proposed Amendments to Transportation System Plan (“Clean” version)
(packet includes revised pages only—from Chapters 4, 11, 12, and 13)

Attachment 1



CITY OF MILWAUKIE
"Dogwood City of the West"

Ordinance No.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE TRANSPORTATION SYSTEM PLAN, AN ANCILLARY DOCUMENT OF THE COMPREHENSIVE PLAN, TO MAINTAIN COMPLIANCE WITH THE STATE TRANSPORTATION PLANNING RULE AND REGIONAL TRANSPORTATION PLAN (FILE # CPA-13-03).

WHEREAS, the City's Transportation System Plan (TSP) was last updated in 2007, with a forecasting horizon to the year 2030; and

WHEREAS, the most recent Regional Transportation Plan (RTP) was adopted by Metro Council in 2010 and utilizes a forecasting horizon to the year 2035; and

WHEREAS, the State Transportation Planning Rule requires that local jurisdictions maintain their TSPs to be consistent with the applicable RTP; and

WHEREAS, Metro informed the City in December 2011 of the need for the City to demonstrate that its TSP is consistent with the 2035 RTP; and

WHEREAS, on October 31, 2012, Metro extended the City's deadline for demonstrating the TSPs consistency with the 2035 RTP to December 31, 2013; and

WHEREAS, all legal and public notices have been provided as required by law, in addition to efforts to educate community members more broadly about the proposal; and

WHEREAS, on September 10, 2013, the Planning Commission opened a public hearing on the proposed amendments, and on September 24, 2013, approved a motion to recommend that the City Council adopt the amendments; and

WHEREAS, the City Council opened a public hearing on October 15, 2013, and finds that the proposed amendments are in the public interest of the City of Milwaukie and will ensure that the TSP remains compliant with the 2035 RTP and State Transportation Planning Rule; and

WHEREAS, the City Council finds that the amendments are extensive in scope and require 60 days from the date of adoption to put into effect.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the amendments are attached as Exhibit A.

Section 2. Amendments. The Transportation System Plan is amended as described in Exhibit B (underline/strikeout version) and Exhibit C (clean version).

Section 3. Repeal and Replacement. The 2007 Transportation System Plan is repealed and replaced with the new 2013 Transportation System Plan as presented in Exhibit C.

Section 43. Effective Date. The amendments shall become effective 60 days from

the date of adoption.

Read the first time on **10/15/2013**, and moved to second reading by **5-0** vote of the City Council.

Read the second time and adopted by the City Council on **11/05/13**.

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Exhibit A

Findings in Support of Approval File #CPA-13-03, Transportation System Plan Update

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, the City of Milwaukie, is proposing to amend its Transportation System Plan (TSP), an ancillary document to the Comprehensive Plan. The land use application file number is CPA-13-03.
2. The purpose of the proposed amendments is to ensure that the City's TSP remains consistent with Metro's 2035 Regional Transportation Plan (RTP) and therefore compliant with the State Transportation Planning Rule. The proposed amendments will also bring the TSP up to date in its representation of existing conditions and make it more current with regard to the prioritization of improvement projects.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC 19.902 Amendments to Maps and Ordinances
 - MMC 19.1008 Type V Review
4. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. Public hearings were held by the Planning Commission on September 10 and September 24, and by City Council on **October 15 and November 5, 2013**, as required by law.
5. MMC Section 19.1008 Type V Review
 - a. MMC Subsection 19.1008.3.A.1 requires opportunity for public comment and review.

Opportunity for public comment and review has been provided. Public meetings were held on April 17, June 3, and September 5, 2013. The Planning Commission and City Council have each had worksessions that discussed the TSP. Public notice in the form of e-mail to the Neighborhood District Associations and over 50 interested persons, and information on the City website have publicized the Planning Commission's hearing on the TSP to encourage comment by any interested party.
 - b. MMC Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public. A notice of the Planning Commission's September 10, 2013, hearing was posted as required on August 9, 2013. A notice of the City Council's October 15, 2013, hearing was posted as required on September 13, 2013.
 - c. MMC Subsection 19.1008.3.A.2 requires notice be sent to individual property owners if the proposal affects a discrete geographic area. The TSP is a document that is applicable to the entire city, and specific property owner notice is not required.
 - d. MMC Subsection 19.1008.3.B and C require notice of a Type V application to be sent to Metro 45 days prior to the first evidentiary hearing and to the Department of Land Conservation and Development 35 days prior to the first evidentiary hearing. This notice was sent to Metro on July 26, 2013, and to the DLCD on August 6, 2013.
 - e. MMC Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the application would affect the permissible uses of land for those property owners. The TSP is a transportation master plan and does not affect permissible land uses for property owners. As such, this notice is not required

- f. MMC Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application. The Planning Commission held duly advertised public hearings on September 10 and September 24, 2013, and passed a motion recommending that the City Council approve the Comprehensive Plan amendment. The City Council held duly advertised public hearings on **October 15 and November 5, 2013**, and approved the Comprehensive Plan amendments.
6. MMC Section 19.902 Amendments to Maps and Ordinances
 - a. MMC Subsection 19.902.3.B establishes criteria for Comprehensive Plan amendments. Amendments to ancillary documents such as the TSP are subject to the same criteria.
 - (1) The proposed amendments are consistent with the goals and policies of the Comprehensive Plan, as proposed to be amended.
 - (a) Chapter 1 – Citizen Involvement

The City strove to involve citizens throughout the Transportation System Plan (TSP) update process. To reach this goal, the City provided numerous opportunities for citizens to participate in the development of the TSP over the course of seven months. Approximately 60 people chose to participate by attending a public meeting or submitting comments. Public outreach and involvement efforts included the following:

 - Open Houses & Workshops (3 meetings total)
 - Ongoing E-mail Announcements
 - Multiple Pilot Articles and Announcements

In addition to the above events, project staff created a project web site containing up-to-date information about the TSP update process, draft TSP revisions, meeting materials and notes, and information about how to use the TSP.

The TSP was distributed to all Neighborhood District Associations in the City for review and comment prior to the first public hearing. The public was properly notified of all public hearings pursuant to Milwaukee Municipal Code (MMC) Section 19.1008.

As noted in Finding 5, above, both the Planning Commission and City Council held public hearings to consider the proposed amendments and took public testimony on the proposal.
 - (b) Chapter 5 – Transportation, Public Facilities, Energy Conservation: Transportation Element

In combination with the TSP, the Transportation Element of the Comprehensive Plan reflects the City's long-term transportation goals and policies. The TSP has been updated to reflect current goals and policies, recognize the completion of goals and projects from the 2007 TSP, and reestablish project priorities.
 - (2) The proposed amendment is in the public interest with regard to neighborhood or community conditions.

The TSP identifies existing problem areas for all modes of transportation in the city, looks into the future to identify the needs created by growth, and provides solutions to existing and future needs with guidelines to develop a more robust multimodal transportation system. By identifying specific needs, the TSP helps guide the City in making future investments in the transportation system and outlines how land use and transportation decisions can be brought together for the benefit of the whole community. The proposed amendments to the TSP further the public interest by updating a document that will be used to improve the transportation infrastructure over the next two decades.

- (3) The public need is satisfied by these particular proposed amendments.

The TSP contains the community's vision for the city's transportation system and includes both a policy framework (in the form of goals, policies, and recommendations) and a financially constrained project list (in the form of mode-specific Action Plans). The updates to the TSP reflect the community's preferences related to the project list, and recognize that the City has made progress on several of the projects since 2007.

- (4) The proposed amendments are consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendments were sent to Metro for comment. Metro did not identify any areas where the proposed amendments were inconsistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

- (5) The proposed amendments are consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. DLCD did not identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules.

The City Council finds that these criteria are met.

The City Council finds that the criteria of MMC 19.902 are met.

7. Notice of the proposed legislative changes was posted at City Hall, Ledding Library, and the City's office on Johnson Creek Boulevard, as well as online at the City's website. The proposed amendments were referred to various City departments, governmental agencies, neighborhood district associations (NDA), and stakeholders for review and comment. A draft of the proposed amendments to the TSP was posted online at the City's website, with hard copies made available to the NDAs. The proposed amendments were discussed at several Planning Commission and City Council meetings. Public comments received, including any City responses, are summarized in the staff report.

Exhibit B

dwelling units (housing), retail employees, service employees, and other employees. Table 4-1 summarizes the aggregated land use data for the ~~2005~~2010 base and future ~~2030~~2035 scenarios within the study area. This land use data is divided into smaller areas called Transportation Analysis Zones (TAZs), which contain a portion of the households, retail, service and other employees. This land use creates varying trip modes such as motor vehicle, pedestrian, bicycle and transit trips. ~~A detailed summary of the uses for each Transportation Analysis Zone (TAZ) within the Milwaukie study area is provided in the Technical Appendix.~~

Table 4-1 Milwaukie TSP Study Area Land Use Summary

Land Use	2005 <u>2010</u>	2030 <u>2035</u>	Increase	Percent Increase
Households (HH)	9,209 <u>9,791</u>	40,794 <u>11,668</u>	4,582 <u>877</u>	47% <u>19%</u>
Retail Employees (RET)	1,697 <u>1,405</u>	2,313 <u>1,902</u>	616 <u>497</u>	36% <u>35%</u>
Service Employees (SER)	2,769 <u>3,860</u>	4,627 <u>4,943</u>	1,858 <u>1,083</u>	67% <u>28%</u>
Other Employees (OTH)	7,643 <u>6,754</u>	8,534 <u>7,792</u>	888 <u>1,038</u>	12% <u>15%</u>

Source: Metro (subset of TAZ data that approximates Milwaukie city limits)

The overall operation of the transportation system is affected as land uses change in proportion to each other (i.e. ~~a significant increase in employment relative to household growth~~). Retail land use typically generates a higher number of trips per acre of land than households and other land uses during the p.m. peak period. The location and design of retail land use in a community can greatly affect future transportation system operation. Additionally, if an area within the city is homogeneous in land use character (i.e. all employment or residential), the transportation system typically supports significant trips coming to or from the area rather than within the area. Integration of residential, commercial, and employment land uses within a small geographic area promotes sustainable livability, where residents can work, shop, and play locally. Among other significant benefits, this reduces long-distance traveling by residents who would otherwise be seeking services outside their locality.

Table 4-1 displays the projected employment growth (approximately ~~3,400~~2,600 jobs) in Milwaukie ~~in the next 20 years~~ that is projected to occur over a 25-year period. The transportation system should be monitored to make sure that land uses in the plan are balanced with transportation system needs. A primary purpose of a TSP is to determine those needs and help identify transportation projects for all modes that help balance future needs with the forecasted ~~2030~~2035 land uses.

Within the study area there are approximately ~~thirty-one (31)~~ 36 original TAZs used by Metro for planning purposes. The number of TAZs in the study area has increased from 31 since the last TSP update, due to Metro's continued refinement of the regional travel demand model. ~~These 31 TAZs were disaggregated into 90 TAZs as part of this plan to better locate land uses (and the potential for motor vehicle trips) at a more refined level. The original and disaggregated TAZ boundaries are shown in Figure 4-1.~~

METRO AREA TRANSPORTATION MODEL

Accurately forecasting travel demand of estimated future population and employment is important for determining future ~~traffic~~ transportation system needs. The objective of the

In 2008, the City created information for the public and downtown employees about location, cost, availability, and the purpose of downtown parking lot locations, as well means for utilizing the permit program. This information has been distributed through targeted outreach and direct mailings to downtown businesses, brochures, maps, and website development. In February 2013, the City's Finance Department took over administration of the parking permit program. This shift brings enhancements to the permit program, including selling permits in more than one location (e.g., at City Hall, by mail, on-line), offering flexible payment options (e.g. credit card, automatic deduction), and offering customized permit packages (e.g. monthly, semiannually, annual renewals).

The City has a Residential Parking Permit program, primarily designed for neighborhoods adjacent to the downtown core. An existing traffic regulation (No. 237, adopted in May 1993) provides a straightforward blueprint for defining area eligibility and the process to establish a residential parking permit area. Within Traffic Regulation No. 237, Section 2 (Area Eligibility) sets forth the criteria to initiate the process of establishing a residential parking permit area.

To implement the Residential Parking Permit program, there are three areas that need further clarification from City Council: (1) establishing a fee structure, (2) determining which City department or division will enforce the residential parking permit area (e.g., police or code enforcement), and (3) establishing a penalty structure for violations within the permit area. Further policy development is needed to address the potential parking impacts of mixed use redevelopment in the downtown core. This includes guidance on how to address the parking needs of downtown residents and businesses, as well as what mechanisms need to be in place to address parking spillover.

Management of Future Parking Supply

~~In 2003, the City's *Downtown Parking and Traffic Management Plan* included a forecast of the anticipated impact of future development on the supply of parking. Using land use growth estimates derived from the Downtown Plan, the study anticipated net growth of 68,930 gross square feet over a 10-year period. Using both 2003 and 2006 parking demand estimates, it is forecasted that new growth in downtown will generate demand for 121 to 167 new parking stalls by 2013.⁴ Table 12-1 summarizes demand projections.~~

Table 12-1 Future Parking Demand/Supply Growth

Year	Developed Area	Net Peak Parking Demand	Rate of Demand
2006	341,670 GSF	660-831 stalls	1.9-2.43 stalls/1,000 SF
2013 Estimated	410,600 GSF*	781-998 stalls	1.9-2.43 stalls/1,000 SF
Growth	68,930 GSF	121-167 stalls	

* Represents future land use scenario established by City of Milwaukee in accordance with the Downtown Milwaukee Land Use Framework Plan. System peak hour is from 11:00 a.m. to 12:00 p.m. Demand numbers reflect demand during this peak hour.

With most of downtown's ~~unbuilt~~ buildable land already in use as surface parking, future development will inevitably impact net parking resources. PMLR construction will result in the loss of approximately 50 on-street parking spaces near the new light rail station downtown.

⁴ ~~Projections are for new demand for parking stalls. It does not include demand created due to parking stalls lost (and therefore in need of replacement) as new projects are built on existing surface parking lots.~~

event parking. The City or a downtown business association can take the lead in contacting property owners or developing incentives such as facility upgrades (e.g., lighting, striping, pavement, landscaping), leasing arrangements, revenue sharing, or public purchasing. Shared parking arrangements could be arranged between two private parties, or between private parties and the City.

Evaluate Funding Strategies for New Supply

The City should begin to discuss and evaluate potential funding sources for future public parking supply. These discussions with downtown stakeholders should assure that the final recommendations have broad support within the downtown community. Most public parking facilities developed in other jurisdictions are funded with multiple sources that include urban renewal/tax increment financing, parking fees and charges, meter districts, local improvement districts, capital fund allocations, and bonding.

Capital Implementation Projects

Signage Changes

Over time, distinctive, friendly, and clear customer/visitor parking signs should be designed and installed at all short-term public parking lots. The signs should be "blade" signs with information on both sides so that downtown patrons can read the signs from either direction.

Upgrade Public Parking Lots

The City should maintain the pavement, lighting, and landscaping of its off-street public parking facilities to ensure a safe and attractive appearance.

Implement the Public Area Requirements

Implementing the Public Area Requirements of the Downtown Plan will result in wider, continuous sidewalks with appropriate lighting. These improvements will help address concerns about walking several blocks between a parking lot and a destination.

Master Plan

Table 12-32, the Downtown Parking Master Plan Projects List, summarizes the key projects needed to implement the recommendations in this chapter. Many of the projects related to the operation and maintenance of the City's parking program may be self-funding through parking permit fees and parking fines.¹³

Table 12-32 Downtown Parking Master Plan Projects List

Priority	Type	Project Name	Project Description	Cost(s) \$1,000s ¹⁴
High	O	Downtown Parking Enforcement Management	Implement a downtown parking management system, including a dedicated parking manager.	\$40
Med High	C	Public Parking Structure	Construct 3- to 4-story public parking structure with retail at ground floor for visitor/employee parking.	\$10,00011,000

¹³ This source of funding is not included in the TSP transportation funding forecast (Chapter 13).

¹⁴ Project costs are order-of-magnitude estimates and are in 20072012 dollars. Future costs may be more due to inflation. ~~Costing details can be found in the Technical Appendix.~~ In the case of operational projects, estimated costs are for the entire 22-year planning period.

Project Name	TSP Chapter	Project Description	From	To	Estimated Cost (\$1,000s) ⁹	Priority Ranking ¹⁰	Is Project Funded in Action Plan? ¹⁴	Project Type
Intersection Improvements at Linwood Ave and Monroe St	Bicycle	Improve safety of crossing at intersection.	Location-specific	Location-specific	\$10	LowHigh	No	Capital
Lake Rd Bike Lanes	Bicycle	Fill in gaps in existing bicycle network with bike lanes.	Main St	Guilford Dr	\$3,142 3,400	LowHigh	No	Capital
Stanley Ave Connectivity at King Rd	Automobile Street	Enhance connection along Stanley Ave at King Rd.	Location-specific	Location-specific	\$53 60	LowHigh	No	Capital
Stanley Ave Connectivity at Monroe St	Automobile Street	Enhance connection along Stanley Ave at Monroe St.	Location-specific	Location-specific	\$53 60	LowHigh	No	Capital
Intersection Improvements at McLoughlin Blvd and 22nd Ave	Pedestrian, Bicycle, & Street	Improve safety of Trolley Trail crossing at 22nd Ave.	Location-specific	Location-specific	\$200	High	Yes	Capital
Improved Connection to Springwater Trail at 29th Ave and Sherrett St	Pedestrian & Bicycle	Pave the connection to Springwater Trail at 29th Ave and Sherrett St. (TSAP)	Location-specific	Location-specific	\$20	High	No	Capital
Downtown Loop Bus	Transit	Establish bus service from downtown to Tacoma and Park Ave stations.	Downtown	Tacoma station, Park Ave station	TBD	High	Yes	Service Enhancement
Neighborhood Loop Bus	Transit	Establish bus service between eastern neighborhoods and downtown.	Eastern city limits	Downtown	TBD	High	Yes	Service Enhancement
Milwaukie Transportation Management Association Program	Transit	Implement a transportation management association for downtown employers.	Milwaukie Town Center	Milwaukie Town Center	\$200	LowHigh	No	Operational
Improved Connection from Springwater Trail to Pendleton Site (Ramps)	Pedestrian & Bicycle	Construct ramps to improve existing connection of Springwater Trail to Pendleton site at Clatsop St. (TSAP)	Location-specific	Location-specific	\$630	High	No	Capital
Improved Connection from Springwater Trail to Pendleton Site (Widened Undercrossing)	Pedestrian & Bicycle	Widen existing undercrossing to improve connection of Springwater Trail to Pendleton site at Clatsop St. (TSAP)	Location-specific	Location-specific	\$100	High	No	Capital
Improved Connection from Springwater Trail to Tacoma Station	Pedestrian	Construct stairs to connect Springwater Trail to Tacoma station. (TSAP)	Location-specific	Location-specific	\$80	High	No	Capital
Signage and Intersection Improvements at McLoughlin Blvd and Ochoco St	Freight	Establish signage for trucks and improve intersection. (TSAP)	Location-specific	Location-specific	\$1,600	High	No	Capital
Downtown Parking Signage	Parking	Install wayfinding and identification signage at McLoughlin Blvd intersections and around public parking lots.	Downtown	Downtown	\$10	Medium High	No Yes	Capital
Public Parking Structure	Parking	Construct 3- to 4-story public parking structure with retail at ground floor for visitor/employee parking.	Location-specific	Location-specific	\$10,000 11,000	Medium High	No	Capital

Exhibit C

units (housing), retail employees, service employees, and other employees. Table 4-1 summarizes the aggregated land use data for the 2010 base and future 2035 scenarios within the study area. This land use data is divided into smaller areas called Transportation Analysis Zones (TAZs), which contain a portion of the households, retail, service and other employees. This land use creates varying trip modes such as motor vehicle, pedestrian, bicycle and transit trips.

Table 4-1 Milwaukie TSP Study Area Land Use Summary

Land Use	2010	2035	Increase	Percent Increase
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Retail Employees (RET)	1,405	1,902	497	35%
Service Employees (SER)	3,860	4,943	1,083	28%
Other Employees (OTH)	6,754	7,792	1,038	15%

Source: Metro (subset of TAZ data that approximates Milwaukie city limits)

The overall operation of the transportation system is affected as land uses change. Retail land use typically generates a higher number of trips per acre of land than households and other land uses during the p.m. peak period. The location and design of retail land use in a community can greatly affect future transportation system operation. Additionally, if an area within the city is homogeneous in land use character (i.e. all employment or residential), the transportation system typically supports significant trips coming to or from the area rather than within the area. Integration of residential, commercial, and employment land uses within a small geographic area promotes sustainable livability, where residents can work, shop, and play locally. Among other significant benefits, this reduces long-distance traveling by residents who would otherwise be seeking services outside their locality.

Table 4-1 displays the projected employment growth (approximately 2,600 jobs) in Milwaukie that is projected to occur over a 25-year period. The transportation system should be monitored to make sure that land uses in the plan are balanced with transportation system needs. A primary purpose of a TSP is to determine those needs and help identify transportation projects for all modes that help balance future needs with the forecasted 2035 land uses.

Within the study area there are approximately 36 TAZs used by Metro for planning purposes. The number of TAZs in the study area has increased from 31 since the last TSP update, due to Metro's continued refinement of the regional travel demand model. The TAZ boundaries are shown in Figure 4-1.

METRO AREA TRANSPORTATION MODEL

Accurately forecasting travel demand of estimated future population and employment is important for determining future transportation system needs. The objective of the transportation planning process is to provide necessary information to aid decision-making of where and when transportation system improvements should be made to meet future travel demand. Metro uses VISUM, a computer-based transportation modeling program to process large amounts of data related to land use and person trips for several modes of travel for the Portland Metropolitan area. The modeling process for the Milwaukie TSP uses the 2010 and 2035 travel demand

NTM Measure	Description	Example	■ Recommended ▣ Optional □ Not Recommended Functional Classification				
			Arterial	Collector	Neighborhood Route	Local Street	Skinny Street
Signal Timing	Coordination of signals to reduce stops along corridors and delays at intersections. Reduced green time on side streets discourages cut-through travel.		■	■	□	□	□
Police Enforcement	Use of regulatory authority to cite violators for speeding and other traffic infractions, such as illegal turning movements, to reduce such violations in the future.		■	■	■	■	■
Education	Education of the public regarding the hazards of speeding and the impacts of cut-through traffic through public service announcements, direct mailings, and driver education courses.		■	■	■	■	■
Speed Reader Board	Use of speed reader board to measure and display a driver's speed.		■	■	■	■	■
Photo Radar Van	Use of photo radar van to measure a driver's speed and issue speeding tickets for violations.		■	■	■	■	■

residential parking permit area. Within Traffic Regulation No. 237, Section 2 (Area Eligibility) sets forth the criteria to initiate the process of establishing a residential parking permit area.

To implement the Residential Parking Permit program, there are three areas that need further clarification from City Council: (1) establishing a fee structure, (2) determining which City department or division will enforce the residential parking permit area (e.g., police or code enforcement), and (3) establishing a penalty structure for violations within the permit area. Further policy development is needed to address the potential parking impacts of mixed **use** redevelopment in the downtown core. This includes guidance on how to address the parking needs of downtown residents and businesses, as well as what mechanisms need to be in place to address parking spillover.

Management of Future Parking Supply

With most of downtown's buildable land already in use as surface parking, future development will inevitably impact net parking resources. PMLR construction will result in the loss of approximately 50 on-street parking spaces near the new light rail station downtown. While the overall amount of public and private parking is generally abundant today, it will become less so over time.¹

One of the first needs addressed in this TSP update is the sorting out of who is responsible for providing future parking in downtown Milwaukie. The answer depends on several factors: whether the parking is public or private; is replacing existing parking or serving new uses; is intended for downtown employees, residents, or visitors; and is part of a structure or surface lot. This chapter attempts to clarify how these factors should be considered as the City determines its parking-related responsibilities associated with Downtown Plan implementation.

As evidenced by the North Main Village project, which was built on a former Safeway site near the corner of Main St and Harrison St, new development and infill in downtown Milwaukie will cause existing surface parking facilities to transition to new and denser land uses. The City should take a role as a developer or facilitator of new parking supply if it hopes to accomplish the urban vision outlined in the Downtown Plan. The private sector must also participate in the provision of new parking, and the City should understand how and when it could support businesses in this regard.

Development Code Modifications

The City Zoning Ordinance regulates not only building form and use, but also the amount of parking that can and should be built on a site. With the exception of the Downtown Storefront Zone, the City's parking requirements for downtown development are currently the same as for other sites outside of downtown that are zoned for commercial or office development. The City's current parking standards for new development within the downtown zones are exceedingly variant and in many cases, overly burdensome. The parking requirements can be summarized as follows:

- In the Downtown Storefront Zone (and in the part of the Downtown Office Zone that is north of Washington St and east of McLoughlin Blvd), no off-street parking is required. Parking is allowed, but the applicant determines how much to provide.

¹ As described in Chapter 3, the City's December 2012 downtown parking inventory found 1,828 parking spaces (385 on-street and 1,443 off-street). Of these, 1,221 are private parking spaces. During the peak hour (11:00 a.m.-12:00 p.m.), the public spaces are generally 50% full and the private spaces are 42% full. See Figure 3-18 in Chapter 3 for a map of parking in downtown.

and maintenance of the City's parking program may be self-funding through parking permit fees and parking fines.¹²

Table 12-2 Downtown Parking Master Plan Projects

Priority	Type	Project Name	Project Description	Cost(s) \$1,000s ¹³
High	O	Downtown Parking Management	Implement a downtown parking management system, including a dedicated parking manager.	\$40
High	C	Downtown Parking Signage	Install wayfinding and identification signage at McLoughlin Blvd intersections and around public parking lots.	\$10
High	C	Public Parking Structure	Construct 3- to 4-story public parking structure with retail at ground floor for visitor/employee parking.	\$11,000
Med	C	Downtown Streetscape Improvements	Install sidewalk bulbouts, lighting, and pedestrian amenities.	\$7,300
Med	C	Downtown Public Parking Lot Improvements	Upgrade and maintain off-street public parking facilities with improved landscaping and lighting.	\$60

Notes:

C = Capital Project High = High priority
O = Operational Project Med = Medium priority
P = Policy Project Low = Low priority

Action Plan

The Downtown Parking Action Plan (Table 12-3) identifies the highest priority projects that are reasonably expected to be funded with local funds by 2035, which meets the requirements of the State's Transportation Planning Rule.¹⁴ The action plan project list is based upon a 2007 citywide project ranking process. In 2007, all of the modal master plan projects were ranked by the TSP Advisory Committee after consideration of the Working Groups' priorities, other public support for the project, and how well each project implements the TSP goals and policies. For the 2013 TSP Update, City staff reassessed the prioritization of all projects, incorporating public comments gathered at and around a public meeting in June 2013. Action plan projects that were completed since 2007 were removed from the action plan and new projects identified as top priorities were added.

Table 12-3 Downtown Parking Action Plan

Project Name	Project Description	From	To	Project Cost (\$1,000s)	Direct Funding or Grant Match
Downtown Parking Management	Implement a downtown parking management system, including a dedicated parking manager.	Downtown	Downtown	\$40	Direct

¹² This source of funding is not included in the TSP transportation funding forecast (Chapter 13).

¹³ Project costs are order-of-magnitude estimates and are in 2012 dollars. Future costs may be more due to inflation. In the case of operational projects, estimated costs are for the entire 22-year planning period.

¹⁴ OAR Chapter 660, Department of Land Conservation and Development, Division 012, Transportation Planning, adopted on March 15, 2005, effective April 2005.

Project Name	TSP Chapter	Project Description	From	To	Estimated Cost (\$1,000s) ^a	Priority Ranking ⁹	Is Project in Action Plan?	Project Type
Improved Connection from Springwater Trail to Pendleton Site (Widened Undercrossing)	Pedestrian & Bicycle	Widen existing undercrossing to improve connection of Springwater Trail to Pendleton site at Clatsop St. (TSAP)	Location-specific	Location-specific	\$100	High	No	Capital
Improved Connection from Springwater Trail to Tacoma Station	Pedestrian	Construct stairs to connect Springwater Trail to Tacoma station. (TSAP)	Location-specific	Location-specific	\$80	High	No	Capital
Signage and Intersection Improvements at McLoughlin Blvd and Ochoco St	Freight	Establish signage for trucks and improve intersection. (TSAP)	Location-specific	Location-specific	\$1,600	High	No	Capital
Downtown Parking Signage	Parking	Install wayfinding and identification signage at McLoughlin Blvd intersections and around public parking lots.	Downtown	Downtown	\$10	High	Yes	Capital
Public Parking Structure	Parking	Construct 3- to 4-story public parking structure with retail at ground floor for visitor/employee parking.	Location-specific	Location-specific	\$11,000	High	No	Capital
MEDIUM PRIORITY PROJECTS								
Lake Rd Sidewalks	Pedestrian	Fill in sidewalk gaps on both sides of street.	Where Else Ln	Hwy 224	\$2,200	Medium	No	Capital
19 th Ave and Sparrow St Neighborhood Greenway	Bicycle	Designate as a "neighborhood greenway" and install traffic-calming improvements. This would connect the south end of Kellogg Creek Trail to River Rd.	Eagle St	River Rd	\$800	Medium	No	Capital
Intersection Improvements at Main St and Mailwell Dr	Freight	Upgrade intersection turning radii to better accommodate freight movements.	Location-specific	Location-specific	\$60	Medium	No	Capital
McLoughlin Blvd Sidewalks	Pedestrian	Fill in sidewalk gaps on both sides of street.	Washington St	Southern city limits	\$650	Medium	No	Capital
Pedestrian Walkway Amenities	Pedestrian	Install amenities, such as benches, along key walking routes.	Citywide	Citywide	\$60	Medium	No	Capital
Intersection Improvements at McLoughlin Blvd and 17 th Ave	Street	Prohibit left-turn movement from 17 th Ave to northbound McLoughlin Blvd and include in Hwy 224 & Hwy 99E Refinement Plan.	Location-specific	Location-specific	\$20	Medium	No	Capital
Intersection Improvements at McLoughlin Blvd and River Rd	Street	Consolidate a single access point for the area at Bluebird St with full intersection treatment and signalization or add second northbound left-turn lane at River Rd.	Location-specific	Location-specific	\$980	Medium	No	Capital
Harrison St and King Rd Connection	Street	Enhance connection between King Rd and Harrison St at 42 nd Ave.	Location-specific	Location-specific	\$60	Medium	No	Capital
37 th Ave Sidewalks	Pedestrian	Fill in sidewalk gaps on both sides of street.	Lake Rd	Harrison St	\$870	Medium	No	Capital
Intersection Improvements at 42 nd Ave and King Rd	Pedestrian	Enhance intersection function.	Location-specific	Location-specific	\$20	Medium	No	Capital
Downtown Public Parking Lot Improvements	Parking	Upgrade and maintain off-street public parking facilities with improved landscaping and lighting.	Downtown	Downtown	\$60	Medium	No	Capital
Community Bicycle Rides	Bicycle	Support community bike rides to encourage bike use.	Citywide	Citywide	\$5	Medium	No	Operational