

CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
DECEMBER 17, 2001

4231

**CALL TO ORDER**

The 1876<sup>th</sup> meeting of the Milwaukie City Council was called to order by Mayor Bernard at 7:05 p.m. in the City Hall Council Chambers. The following Councilors were present:

Mary King  
Jeff Marshall

Brian Newman

Staff present:

Mike Swanson,  
City Manager  
Alice Rouyer,  
Interim Community Development  
Director

John Gessner,  
Acting Planning Director

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARD**

None.

**CONSENT AGENDA**

Mayor Bernard read the list of consent agenda items:

- A. **City Council Minutes of December 3 & 4, 2001**
- B. **A Resolution Authorizing the Sale of City Owned Real Property Located at 2566 SE Harrison Street and Delegating the Authority to the City Manager to Execute All Documents Necessary to Affectuate the Sale.**
- C. **Resolution 44-2001: A Resolution for Adopting a Revised PERS Oregon Saving Growth Plan -- A Deferred Compensation Plan.**

Item B was removed for discussion under Other Business.

**It was moved by Councilor King and seconded by Councilor Newman to adopt the consent agenda. Motion passed unanimously among the members present.**

**AUDIENCE PARTICIPATION**

None.

**PUBLIC HEARING**

None.

**OTHER BUSINESS**

**Title 3 Flood Management**

**Gessner** sought Council direction on several key Title 3 issues:

1. Changes warranting additional revisions;
2. City attorney recommendations to reduce risk of Measure 7 claims;
3. Refinements relating to "uncontained areas of hazardous materials" and less stringent criteria for variances of balanced cut and fill requirements for developed properties on the Willamette River;
4. Planning Commission's support of working with the Fire Department to manage Title 3 provisions regarding uncontained hazardous materials; and
5. Planning Commission's non-support of relaxing variance criteria for flood management regulations.

**Councilor Newman** did not note any changes which would warrant additional revisions and would defer to those recommendations made by the city attorney and Planning Commission. **Councilor King** and **Mayor Bernard** concurred.

**Gessner** said the Planning Commission will consider the revisions in March and forward its recommendations for Council adoption in April.

#### Centennial Committee Appointments

**Mayor Bernard**, with Council consensus, appointed Kelley Howell, Ed Zumwalt, and Sharon Van Horn to the Milwaukie Centennial Committee.

#### Sale of Old Police Building, 2566 SE Harrison Street

**Swanson** was contacted by Mr. Burn regarding the potential sale of the property at 2566 SE Harrison Street. When he approached the previous city manager several years ago, Burn was told there were other plans for the property, and it was not for sale. The caller was concerned about how the Burkett's, the prospective buyers, had learned about the property which has been vacant since 1994. Burn was informed the Council would consider the sale at this meeting and had the option of attending or providing written comment for Council consideration. Mr. Burn was not in the audience.

**Swanson** briefly discussed the Burkett's plans for renovating the structure as a studio for processing and preparing nature photographs. He assured the Council the City was approached by the interested buyer. The city attorney is preparing an ordinance setting a policy for acquisition and sale of real property, and staff is compiling an inventory.

**Mayor Bernard** moved to adopt the resolution authorizing the sale of the property located at 2566 SE Harrison Street and **Councilor Marshall** seconded.

**Councilor Newman** supported pursuing a policy on disposition of surplus property.

**Motion passed unanimously among the members present.**

## RESOLUTION 43-2001:

A RESOLUTION AUTHORIZING THE SALE OF CITY OWNED REAL PROPERTY LOCATED AT 2566 SE HARRISON AND DELEGATING THE AUTHORITY TO THE CITY MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY TO AFFECTUATE THE SALE.

Status of Moved House

**Councilor King** asked the status of the house moved from Washington Street to its current location on 21<sup>st</sup> Avenue.

**Rouyer** said the buyer was given a year to proceed and understands the goal is to petition partition of the railroad property.

**Swanson** added it is a desirable structure, so there is probably a market for it.

Milwaukie Today and Yesterday

**Councilor Newman** encouraged viewers to watch these episodes being aired on channel 23.

Future Meeting Dates

**Mayor Bernard** announced the upcoming meeting dates on January 7, 8, and 22, 2002.

## ADJOURNMENT

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

**Mayor Bernard** adjourned the meeting at 7:25 p.m.

*Pat DuVal*

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Pat DuVal, Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL AGENDA  
DECEMBER 17, 2001**

**MILWAUKIE CITY HALL**  
10722 SE Main Street

**1876<sup>th</sup> MEETING**

**REGULAR SESSION - 7:00 p.m.**

- I. **CALL TO ORDER**  
Pledge of Allegiance
- II. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
- III. **CONSENT AGENDA** *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the "Consent" portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)*
  - A. **City Council Minutes of December 3 & 4, 2001**
  - B. **Sale of Old Police Station, 2566 SE Harrison Street -- Resolution**
  - C. **Renew PERS -- Oregon Savings Growth Plan -- Resolution**
- IV. **AUDIENCE PARTICIPATION** *(The Mayor will call for statements from citizens regarding issues relating to the City. It is the intention that this portion of the agenda shall be limited to items of City business which are properly the object of Council consideration. Persons wishing to speak shall be allowed to do so only after registering on the comment card provided. The Council may limit the time allowed for presentation.)*
- V. **PUBLIC HEARING** *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*

**None scheduled**
- VI. **OTHER BUSINESS** *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*
  - A. **Title 3 Flood Management and Erosion Control Regulations (Gessner)**
  - B. **Centennial Committee Appointments (Mayor Bernard)**
- VII. **INFORMATION**
  - A. **Center/Community Advisory Board, October 12, 2001**
  - B. **Ledding Library Board, October 22, 2001**
- VIII. **ADJOURNMENT**

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

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

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

**MILWAUKIE CITY COUNCIL  
WORK SESSION  
DECEMBER 3, 2001**

The work session came to order at 5:30 p.m. in the City Hall Conference Room.

City Council present: Mayor Bernard and Councilors King and Marshall.

Staff present: City Manager Swanson, Interim Community Development Director Rouyer, Acting Planning Director Gessner, Neighborhood Services Manager Gregory, and Program Specialist Herrigel.

### **Information Sharing**

#### **Johnson Creek Boulevard Improvement Project**

The group discussed ongoing Ardenwald neighborhood concerns with the Johnson Creek Boulevard Project and the City of Portland's limited response to Milwaukie's issues. If Milwaukie were to pull away from the project, it would probably be responsible for reimbursing Portland for the storm sewer work and engineering costs. The Milwaukie City Council asked Portland staff to look at reasonable alternatives, but apparently Project Manager Layden is not following through on neighborhood preferences. **Swanson** said a Portland City Commissioner is probably not that vested in the project, and staff is moving forward.

**Mayor Bernard** feels it is important to get the project the way the neighbors want it. On behalf of its citizens, the City requested the curve be redesigned and straightened, but the map shows it has simply been shifted to avoid the environmental zone.

**Swanson** commented the City of Portland does not appear to understand Clackamas County is responsible for resolving the survey discrepancy issues. **Mayor Bernard** understands County Commissioner Jordan said the Lillie property can be given back after the project.

**Swanson** feels Milwaukie has gone above-and-beyond to pressure the Portland City Council, but there is only so much that can be done to influence what has been a 20-year project.

**Mayor Bernard** suggested moving the utility poles rather than widening the sidewalk to meet ADA minimum standards. The neighbors are mainly concerned that the road is taking up too much space and the curve has not been redesigned.

**Councilor King** will contact Portland Commissioner Hales about these outstanding issues.

### III. A. 2

#### Milwaukie Heritage Projects

**Councilor Marshall** discussed Milwaukie's heritage and asked the other Councilmembers if they felt he should pursue talks with the Oregon Maritime Museum and the Regional Railroad Transportation Museum both of which are looking for new homes. He was given direction to proceed in these discussions as well as investigate potential tourism grants.

#### **Centennial Committee Interview**

The City Council interviewed Kelley Howell for a position on the Centennial Committee.

#### **Riverfront Board Roles**

Riverfront Board Members present: Chair Steve Loaiza; members Dave Green, Michael Martin, Mike Stacey, Paul Verbout, and Mitch Wall.

**Swanson** said the current fiscal year budget does not include any riverfront development funds. Herrigel has been working with the Board to restore order and help the group evaluate its role. It is also assessing riverfront goals and projects including the boat ramp.

**Herrigel** reviewed the Board's most recent history and its interest in taking over certain tasks. Board proposals include: reappointment of all current members to subsequent terms; inclusion of the boat ramp in the riverfront plan; removal of the Kellogg Treatment Plant; development of a mechanism to receive tax deductible contributions for elements of the riverfront plan; and inclusion of Riverfront Board review in future planning and development processes on or near the riverfront. The Board particularly noted its dissatisfaction with the McLoughlin Boulevard Project's compatibility with the downtown/riverfront plan.

**Loaiza** explained the Board feels it is important for the City Council to make a policy statement about integrating the boat ramp into future improvements. The Board also recommends staggering terms so all members do not go off at the same time.

**Councilor Marshall** suggested 1, 2, and 3 year term expirations. He discussed interest in trying to bring the Oregon Maritime Museum to Milwaukie. The sternwheeler would need a docking facility, and perhaps the City could seek Marine Board funds to further enhance the Milwaukie waterfront.

**Green** cautioned the group about the Marine Board's parking requirements.

**Councilor King** was very concerned about parking and would not support its taking over already limited downtown or waterfront area.

**Mayor Bernard** recommended including the boat ramp in riverfront planning and working with the parking issue. He noted the river is deep at the log dump and could probably accommodate something the size of the sternwheeler.

**Councilor Marshall** said he is having further conversations with the River Queen owners. The owners have a vision of converting it to 8 condos. Right now it is sitting in dry dock and is still a restaurant.

**Mayor Bernard** reminded the group to keep in mind the goal of decommissioning the treatment plant in 5 years.

**Swanson** will talk to the city attorney about a mechanism for collecting riverfront improvement contributions. **Mayor Bernard** said the 501C(3) formed for the Jr. High is paid for and could probably be modified to include riverfront project contributions.

**Herrigel** said the Milwaukie High School Langford Team is developing funding options for phase 1 riverfront improvements.

Board members indicated they were not interested in fundraising for the project. **Councilor Marshall** suggested the Board act as a clearinghouse and identify uses for the contributions.

**Loaiza** said the Board also wants to re-affirm its original purpose. It had no input to the McLoughlin Boulevard Project and downtown development and wants to be part of the process. Connecting with the downtown is key to riverfront development.

**Green** asked that staff spend time bringing the Board up to speed.

**Verbout** is concerned the McLoughlin Boulevard Project design be sensitive to the riverfront particularly regarding noise and access. The link to the riverfront is very important.

**Swanson** said there is still a lot of public process and design work, so the McLoughlin Boulevard Project is still evolving.

**Loaiza** thought the current proposed design made boat ramp access difficult. He acknowledged Herrigel for her work with the Board as well as the continued interest by the Olson family and Gary Klein.

### **Consider Request to Allow Pergolas in Yards**

**Gessner** explained a property owner is asking the City Council to revise the current zoning ordinance standards relating to pergolas and other accessory structures. The intent is to allow the structure currently in question to remain as

### III. A. 4

well as adopting regulations for future construction. Staff identified several options for City Council: reject the request and proceed with code enforcement activities; initiate a zoning amendment; or advise the property owner to apply for a variance.

**Mayor Bernard** recommended the Zoning Ordinance amendment option. It is documented the property owners received the wrong information and were told they did not need a permit to build the pergola. Zoning issues arose after a neighbor complained.

**Swanson** said there is some discretion, but staff does follow up on complaints. The appropriate venue may be to amend the ordinance, and, if adopted, this case could become moot

**Councilor Marshall** and **Mayor Bernard** did not support creating an ordinance allowing this one pergola to meet new standards. Councilor Marshall believed there was language in Section 700 to deal with this incident having to do with additions to single family residences or attached garages that would allow a Type 2 administrative review.

**Swanson** said code language would not be developed to particularly exempt this structure. He suggested allowing a week to review the code section Councilor Marshall cited.

#### **Proposed Revisions to Subdivision Ordinance**

**Gessner** identified 2 sections to the project: updating application procedures and improving lot and flaglot design standards. The purpose of the revisions is to adhere to state laws and generally refine the process.

The 5 actions requiring city review are: lot consolidation, property line adjustment, partition, subdivision, and replat. Staff recommends lot consolidations and property line adjustments follow a Type 1 administrative approval. It does not recommend any changes to the partition, subdivision, or replat process. The City wishes to assure it follows the same rules as the county surveyor and provide the public with adequate time to review applications. **Gessner** discussed the feasibility of customizing the review process to make minor changes administratively.

The group discussed the importance of notification and concerns with raising neighbor expectations for control. **Councilor Marshall** felt the applicant should absorb any notification costs. **Swanson** pointed out some processes are as simple as a building permit, so some boundaries need to be identified.

**Gessner** will provide options in his subsequent report. The next step in the revision process will be code drafting for Planning Commission review and eventual Council consideration at a public hearing.

**Other**

**Councilor Marshall** suggested a section of each edition of *The Pilot* to explain code related issues. He urged embarking on an incentive program to instill community pride and encourage residents to upgrade their properties to increase the values. He suggested a communication channel with all the appointed advisory boards similar to that of the Neighborhood District Association (NDA) for a quick turnaround of information. Councilor Marshall asked if the police department was ticketing trucks using residential streets, and **Swanson** said Capt. Colt reported the officers have issued some tickets.

**Councilor King** advocated for a beautification award.

**Swanson** announced an executive session to discuss pursuant to ORS 192.660.

**Adjournment**

**Mayor Bernard** adjourned the work session at 7:25 p.m.

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Pat DuVal, Recorder

III. A. 6

CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
DECEMBER 4, 2001

**CALL TO ORDER**

The 1875<sup>th</sup> meeting of the Milwaukie City Council was called to order by Mayor Bernard at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Mary King  
Brian Newman

Jeff Marshall

Staff present:

Mike Swanson,  
City Manager

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARD**

None.

**CONSENT AGENDA**

Mayor Bernard read the list of consent agenda items:

- A. **City Council Minutes of November 19 & 20, 2001**
- B. **Metro Local Share Extension**
- C. **Resolution 41-2001: A Resolution of the City Council of the City of Milwaukie, Oregon, Determining the Regular Session in January 2002 Will Be Called to Order at 6:00 p.m. in the City Hall Council Chambers on January 8 and January 22; the Work Session Will Be Called to Order at 6:00 p.m. in the City Hall Conference Room on January 7.**
- D. **Resolution 42-2001: A Resolution of the City Council of the City of Milwaukie, Oregon, Determining the Second Regular City Council Session of December and the Work Session Will Be Held on December 17, 2001.**

It was moved by Councilor King and seconded by Councilor Newman to adopt the consent agenda. Motion passed unanimously among the members present.

**AUDIENCE PARTICIPATION**

None.

**PUBLIC HEARING**

None.

**OTHER BUSINESS**

The group discussed a community event on the riverfront to watch the Christmas Fleet.

**Mayor Bernard** announced plans to remove the Safeway Store sign on Harrison Street.

**Councilor Marshall** noted some of the recent City Council meetings have been short and suggested using that time for general discussions.

The group agreed to meet prior to the joint work session with the Clackamas County Board of Commissioners.

**Swanson** briefly discussed the City budget and the issue of Qwest withholding its franchise fee. He will work with staff to get an update on the North Industrial Land Use Study (NILUS).

The Council discussed the 2003 Centennial event and how to involve community groups such as the Chamber and Rotary.

#### **ADJOURNMENT**

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

**Mayor Bernard** adjourned the meeting at 6:20 p.m.

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Pat DuVal, Recorder



**MEMORANDUM**

TO: Mayor and City Council

THRU: Mike Swanson, City Manager  
Alice Rouyer, Acting Community Development Director *ACR*

FROM: Kelly Somers, Fleet/Facility Manager

DATE: November 29, 2001

RE: Sale of Old Police Station

**Recommendation/Action Requested**

Authorize the City Manager to act as the agent for the City to sign all necessary documents to sell the City owned property located at 2566 SE Harrison for \$90,000.

**Background**

The City purchased the property located at 2566 SE Harrison in April 1973 for \$41,000. The building was used by the Milwaukie Police Department from 1973 to 1994 when the new Public Safety Building was opened. Since that time the building has been vacant. The building is in very poor condition and either needs to be completely restored or demolished. The property is surrounded by the Spring Creek apartment complex. The approximate size of the lot is  $\frac{3}{4}$  of an acre, but because of its location the property would have limited uses for any City purpose.

**Discussion**

The City has received an offer from Ruth and Christopher Burkett for \$90,000. The City recently completed a property appraisal for the site. This offer is on the high end of the property value range outlined in the appraisal. The Burketts have asked as part of their offer to have the City do the following items: (1) Decommission the Heating Oil Tank – Approximate cost to the City of \$1200.00. (2) Install a new water service to the building; the old service is not up to current City code and needs to be updated – Estimated cost to the City is \$2500.00. (3) Repair the sewer lateral from the property line to the house that

### III. B. 2

is currently plugged with roots and install a clean-out that meets the current code – Estimated cost to the City is \$6500.00. Total cost to the City for all of these items is not to exceed \$10,000. The net profit to the City following purchase is expected to be approximately \$80,000.

The Burketts plan to restore the building and use it as their office/studio. Mr. Burkett is a landscape photographer. His business is small and has only one or two people in his employ. His business is not open to the general public, which means there would be limited traffic going in and out of the site. The proposed use is consistent with the R-1-B zoning on the property. Staff believes that his business would be a good fit for the area and the fact that he plans to restore the building would be beneficial to the City not only for aesthetic values but to put the property back on the tax rolls.

#### Summary

Staff recommends that council authorize the City Manager to act as the agent for the City to sign all necessary documents in order to sell this property.

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

**A RESOLUTION AUTHORIZING THE SALE OF CITY OWNED REAL PROPERTY LOCATED AT 2566 SE HARRISON AND DELEGATING THE AUTHORITY TO THE CITY MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY TO AFFECTUATE THE SALE**

**WHEREAS**, the City of Milwaukie (City) purchased real estate (Real Property) located at 2566 SE Harrison in April 1973, and

**WHEREAS**, the Property was used by the City Police Department from its purchase to 1994, and

**WHEREAS**, the Property has been unoccupied since vacated in 1994, and

**WHEREAS**, there are no pending plans to use the Property for public purposes, and

**WHEREAS**, the City has received a market analysis that estimates the market value of the Property in its present condition to be \$70,000 to \$90,000, and

**WHEREAS**, the City has received an offer to purchase the Property for \$90,000 from Ruth and Christopher Burkett, and

**WHEREAS**, the offer is conditioned on certain improvements being made in the approximate amount of \$10,000, and

**WHEREAS**, the net to the City from the sale of the Property will be approximately \$80,000, which is within the market value as outlined above.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council, City of Milwaukie, Oregon, that the Property has been vacant for approximately seven years, and that the City has no plans for its use.

**BE IT FURTHER RESOLVED**, that the Property is surplus.

**BE IT FURTHER RESOLVED**, that the proposed sale of the Property will net the City the fair market value for the Property.

**BE IT FURTHER RESOLVED**, that the City Manager be delegated the authority to execute all necessary documents to effect the sale of the Property according to the terms as outlined herein.

Introduced and adopted by the City Council on December 17, 2001.

This resolution is effective on December 17, 2001.

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

ATTEST:

APPROVED AS TO FORM:

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

\_\_\_\_\_  
Ramis, Crew, Corrigan & Bachrach



III. C. 1

To: Mayor and City Council  
Through: Mike Swanson, City Manager  
From: Steve Smith, Finance Director  
Subject: PERS – Oregon Saving Growth Plan  
Date: December 11, 2001

Action Requested

Authorize City Manager to sign renewal of PERS – Oregon Saving Growth Plan, requiring the City to maintain compliance with federal 457 laws.

Background

In 2001, the City became part of the PERS – Oregon Saving Growth Plan, a deferred compensation program for City employees. The changes in federal 457 laws require the governing body adopt a revised Plan Trust document.

III. C. 2

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

**A RESOLUTION FOR ADOPTING A REVISED PERS OREGON SAVING GROWTH PLAN  
A DEFERRED COMPENSATION PLAN.**

The City Council of the City of Milwaukie, Oregon, pursuant to the provisions of Oregon Revised Statutes (ORS) 243.474 which provides in part that:

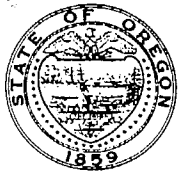
“A Local government that establishes a deferred compensation plan may invest all or part of the plan’s assets through the deferred compensation investment program established by the Oregon Investment Council (OIC) under ORS 243.241.”

Hereby determines to be included in the State of Oregon Deferred Compensation Investment Program, also known as the Oregon Saving Growth Plan, established by the OIC under ORS 243.241 and regulated the Public Employees Retirement Board according to ORS 243.435 for its eligible personnel.

**BE IT FURTHER RESOLVED** that the proper officers are herewith authorized and directed to take all actions and make such reductions and submit such deferrals as are required by the Public Employees Retirement Board of the State of Oregon pursuant to 243.478 (1) of the Oregon Revised Statutes, and

**BE IT FURTHER RESOLVED** that Employer agrees to be bound by the terms and conditions of the contracts between the State, its investment providers and record keeping company, and the “Revised Plan Document” as identified in ORS 243.401 to 243.507 and TPA Services as amended from time to time. Specifically, without limitation, Employer agrees to appoint its governing body as Trustees of its Plan, pursuant to Section 457 (g) (2) of the Internal Revenue Code (IRC). The Employer certifies it has received a copy of the Plan Document and TPA Services.

**BE IT FURTHER RESOLVED** that the Governing Body recognizing the PERS Board’s responsibility for maintaining the integrity of the Plan, the Governing Body and Employer hereby agree to cooperate fully with the Plan Administrator in accordance with procedures established by PERS in processing requests for withdrawal in case of an unforeseeable emergency as defined in Sec. 457 (b) (5) and Sec. 1.457-2(h) (4) and (5) of the Internal Revenue Code.



# Oregon

John A. Kitzhaber, M.D., Governor

III. C. 3

## Public Employees Retirement System

Deferred Compensation Division

800 Summer Street NE

Suite 200

Salem, OR 97310-1348

(503) 378-3730

TTY (503) 378-4942

FAX (503) 378-5888

November 19, 2001

Dear Local Government Plan Sponsor:

Recently, I sent you a letter detailing some of the exciting enhancements that are occurring with the Oregon Savings Growth Plan. In that letter I mentioned that the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) contains provisions that affect all 457 deferred compensation plans. I also indicated that I would be sending you information to help you maintain compliance with federal and state statute. In this letter I will detail the steps you need to take, identify when they need to be completed, and provide you with the necessary paperwork.

You need to take three simple actions: assure that your governing body adopts a revised Plan-Trust document and affixes signatures of the appropriate parties; as the designated agent, you will need to sign three copies of the Service Agreement; all four completed documents should then be forwarded to our office for review and additional signatures.

The Plan-Trust document is the framework for the trust which contains the assets of your plan. State statute requires that you maintain compliance with the federal 457 laws. The enclosed Plan-Trust document will provide compliance as soon as it is adopted by your governing body, signed by the presiding member of your governing body, and signed by you as the employer representative. **This action should be taken in December** to be compliant January 1, 2002.

The Service Agreement is the document that identifies responsibilities of your agency, PERS, and our third party record keeper. The Service Agreement has been updated to reflect the changes in the tax laws governing the Oregon Savings Growth Plan. All three copies need your signature along with completion of appropriate sections as indicated on the enclosed checklist.

The changes embodied in the Plan-Trust and Service Agreement reflect no reduction in services by PERS or our record keeper. In fact, the changes are very favorable toward participants in the plan while they are accumulating assets and after they sever employment. Increased deferral maximums, additional Catch-Up opportunities, ability to consolidate retirement assets by rolling into and out of our plan, and flexible withdrawal options like those currently available in IRAs are some highlights in the changes embodied in the enclosed documents. These changes are occurring at the same time our plan is seeing enhanced investments and reduced costs.

I ask for your assistance in completing and returning the Plan-Trust and Service Agreement with appropriate signatures to our office **by the end of December**. After we have secured the remaining needed signatures, your file copy will be returned to you. If you have questions, please call your Local Government Representative, Jon Pippert at (503) 378-3730 ext. 223.

Sincerely,

Jon W. Springer

Deferred Compensation Manager

Enclosures: Plan-Trust  
Service Agreement, three copies  
OSGP 457 Update Checklist





**To:** Mayor and City Council

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

**From:** John Gessner, Interim Planning Director *JG*

**Date:** December 17, 2001

**Subject:** Title 3 Flood Management and Erosion Control Regulations

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**I. Action Requested**

**Direct staff regarding proposed draft regulations and requested revisions to variance procedures and on-site management of hazardous materials.**

**II. Background**

**Key Issues**

1. *Has anything changed since last fall that warrants revisions to the proposed erosion control and flood management regulations?*
2. *City Attorney has recommended means to reduce the risks of Measure 7 claims.*
3. *An industrial property owner has requested refinements to the proposed code that include the following*
  - a. *Clarification of prohibitions against "uncontained areas of hazardous materials".*
  - b. *Less stringent criteria for variances of balanced cut and fill requirements for developed properties located along the Willamette River.*
4. *The Planning Commission supports working with the Fire Department to manage Title 3 provisions regarding uncontained hazardous materials.*

VI. A. 2

5. *The Planning Commission does not support relaxing variance criteria for flood management regulations.*

**History**

Metro Urban Growth Management Title 3 requires cities and counties to adopt regulations to protect water resources as follows:

- Minimize erosion of disturbed soils and resulting sedimentation of water bodies.
- Protect the storage capacity of flood plains through balanced cut and fill requirements.
- Protect stream corridors and wetlands through development setbacks.

Over spring and summer of last year the Planning Commission and City Council reviewed draft regulations that implement Title 3 Erosion Control and Flood Management provisions. City Council adoption of final regulations was scheduled for December 2001 but passage of Ballot Measure 7 halted the project on advice from City Attorney. Ballot Measure 7 allows property owners to claim compensation from the City for a reduction of property value created by a land use regulation. Measure 7 was declared unconstitutional and the matter is still pending in the courts.

The City Attorney has recommended a code provision to reduce the threat of Measure 7 claims. Metro Council has recently stepped up efforts to get region wide compliance with the Functional Plan. The City has formally requested time extensions on Title 3. Metro Council action on that request is scheduled for December 6, 2001. (See Exhibit 1 for recommended language that address Measure 7 claims)

Erosion control and flood management revisions are scheduled for adoption in April 2002. (See Exhibits 2 and 3 for draft code.) The public process on water quality buffers will start shortly and adoption is scheduled for September 2002.

**Analysis**

On November 27, 2001, the Planning Commission reviewed code refinements requested by Mark D. Whitlow on behalf of Mr. Howard Dietrich, who owns a number of industrial properties located in regulated flood plains.

1. **Clarification of prohibition against “uncontained areas of hazardous materials”.**

The intent of this provision is to prevent contamination of floodwater. Contamination occurs when floodwater enters open vessels or non-water proof packaging or containers holding

hazardous materials. The Planning Commission supported the staff recommendation to investigate options for implementing this provision through the Fire Marshal's office.

Metro requires that the regulation apply to hazardous materials as defined by state law. Mr. Whitlow has stated that there may be adequate regulatory protections through occupational safety and fire codes.

There is some question as to how best implement this Title 3 provision: is regulating material storage a land use issue or building occupancy issue? Problems include the following:

- a. Typically, interior uses including location of storage, production and assembly areas can change without land use review.
- b. Most of the land within city floodplains is already developed. If the prohibition were executed through the zoning ordinance, most buildings would be grandfathered since new zoning laws are not retroactive. The city can adopt zoning provisions that require the removal of non-conformities over time. In this case however, staff believes a program for removal of areas of uncontained hazardous materials would not be feasible through zoning.
- c. The Fire Marshal has more frequent access to buildings than do other city departments and is more familiar with managing the on-site handling of hazardous materials.

The Fire Marshal is reviewing this matter; additional information may be available at the Council's December 17, 2001 work session.

**2. Should variance criteria for be relaxed for balanced cut and fill requirements?**

See Exhibit 3, Section 18.04.130 for existing variance criteria. Mr. Whitlow has requested the City consider less stringent variance criteria for developed properties located along the Willamette River, which may have limited ability to meet new cut and fill requirements.

At the November 27, 2001, Planning Commission work session, Staff raised the concern that the criteria may be difficult to meet. The Planning Commission is comfortable with the existing language and does not support any modifications.

**III. Concurrence**

VI. A.

4

The involved departments concur with the proposal, which was developed by project team that included Planning, Engineering, Operations, and City Attorney.

**IV. Fiscal Impact**

Adoption of the regulations will require technical staff reviews that are not now conducted. Work within floodplains is already subject to application requirements under Natural Resource and Flood Hazard regulations. Application fees can be adjusted to accommodate new demands on city resources.

**V. Work Load Impacts**

Work loads will increase in proportion to the number of applications for development in the flood plain. This impact is expected to be minor.

**VI. Alternatives**

The Council has the following options for action on this request.

1. Advise staff to proceed with the project based on Commission direction.
2. Advise staff to proceed as modified by Council direction.
3. Suspend work on the project.

**EXHIBITS**

1. Recommended Code to Manage Measure 7
2. Draft Code Amendments for Erosion Control
3. Draft Code Amendments for Flood Management

SUGGESTED LANGUAGE FOR PROVISIONS THAT MAY TRIGGER  
MEASURE 7 CLAIMS.

In the event that a claim for just compensation is made against the City pursuant to Article I, section 18 of the Oregon Constitution based on the application or enforcement of this \_\_\_\_\_ (ordinance, chapter, title, section, code), the City Council may waive, suspend, or modify application or enforcement of this \_\_\_\_\_ if the City Council determines that application or enforcement would result in a unconstitutional taking. In the event that the waiver, suspension or modification results in a state statute or regulation becoming directly applicable, the City will enforce state law as required.

Chapter 16.28  
EROSION CONTROL

Sections:

16.28.010 General Policy

~~16.28.010 Erosion~~ 16.28.020 Erosion control permit and erosion control plans—  
Applicability—Conformance.

~~16.28.020 Content~~ 16.28.030 Contents of erosion control plan and general requirements.

~~16.28.030~~ 16.28.040 Approval process—Fees.

~~16.28.040 Amendment~~ 16.28.050 Maintenance and Amendment of inadequate  
measures.

~~16.28.050~~ Work in progress.

~~16.28.060 Enforcement Violation Penalty~~ 16.28.060 Work in progress.

16.28.070 Performance.

16.28.080 Erosion Control Certification.

16.28.090 Inspection

16.28.100 Deposit of Sediment

16.28.110 Enforcement—Violation—Penalty.

Section 16.28.010 General Policy

A. The policies of this chapter shall apply during construction and until permanent measures are in place following construction as described herein, unless otherwise noted.

B. It is the policy to require temporary and permanent measures for all construction projects to lessen the adverse effects of site alteration on the environment. The owner or his/her agent, contractor, or employee, shall properly install, operate and maintain both temporary and permanent works as provided in this section or in an approved plan, to protect the environment during the useful life of the project. These erosion control rules apply to all parcels within the authority of the City of Milwaukie.

C. Nothing in this chapter shall relieve any person from the obligation to comply with the regulations or permits of any federal, state, or local authority.

D. Until ownership of the facility is accepted by the City of Milwaukie upon terms and conditions set by the City, maintenance and repair of existing facilities shall be the responsibility of the owner of record as shown in the real property records.

E. It is the City of Milwaukie's policy to prevent erosion and to minimize the amount of sediment and other pollutants reaching the public storm and/or surface water system resulting from development, construction, grading, filling, excavating, clearing, and any other activity which accelerates erosion as required by water quality standards set forth in OAR 340-41-445 through 340-41-470.

F. No visible or measurable erosion shall leave the property during construction or during activity described in (E) above. The owner of the property, together with any person who causes such action from which the visible or measurable erosion occurs, shall be responsible for clean up, fines, and damages. Clean up responsibilities include clean up of creeks, drainageways, or wetlands impacted by a project.

For the purposes of this chapter “visible and measurable erosion” includes, but is not limited to:

1. Deposits of mud, dirt, sediment or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or into the storm and surface water system, either by direct deposit, dropping, discharge, or as a result of the action of erosion.

2. Evidence of concentrated flows of water over bare soils; turbid or sediment-laden flows; or evidence of onsite erosion such as rivulets or bare soil slopes, where the flow of water is not filtered or captured on the site.

3. Earth slides, mud flows, earth sloughing, or other earth movement which results in material leaving the property.

G. Dust and other particulate matters containing pollutants may settle on property and be carried to waters of the state through rainfall or other means. Dust shall be minimized to the extent practicable, utilizing all measures necessary, including, but not limited to:

1. Sprinkling haul and access roads and other exposed dust producing areas with water.
2. Establishing temporary vegetative cover.
3. Placing wood chips or other effective mulches on vehicle and pedestrian use areas
4. Use of covered haul equipment.
5. Pre-wetting cut and borrow area surfaces.

**Section 16.28.010 – Erosion 16.28.020 Erosion control permit and erosion control plans-- Applicability--Conformance.**

A. Definitions

1. “Erosion control permit” means the official approval issued by the City that demonstrates compliance with this chapter for activities described in the application form, erosion control plan, and related materials submitted pursuant to this Chapter.

2. “Erosion Control Plan” means all documents, maps, plans and other information specified in Section 16.28.030 and submitted in association with an application for an erosion control permit.

B. An erosion control plan that meets the requirements of Section 16.28.030 is required prior to any approval of an erosion control permit.

C. An erosion control permit is required as follows:

1. Prior to placement of fill, site clearing, or land disturbances including but not limited to grubbing, clearing or removal of vegetation), grading or construction ground vegetation, grading, excavation, or other activities, any of which cause a ground disturbance in excess of five hundred square feet of area results in the disturbance or exposure of soils exceeding 500 square feet.

2. For disturbed areas or exposed soils less than 500 square feet, where the City has determined that site conditions may result in visible and measurable erosion and where the City has provided written notice of the requirement to obtain an erosion control permit to the property owner. Upon notice by the City, all work shall cease pending approval of an erosion control permit and installation of approved erosion control measures.

3. For any lot designated Natural Resource Overlay Zone pursuant to Milwaukie Zoning Ordinance Section 322, an erosion control permit shall be required prior to placement of fill, site clearing, or land disturbances including but not limited to grubbing, clearing or removal of ground vegetation, grading, excavation, or other activities, any of which results in the disturbance or exposure of soils, regardless of the area of disturbance.

D. An erosion control permit shall not be issued for activities on lots zoned Natural Resource Overlay, where the site activity has not been authorized, or is not exempt under the provisions of Milwaukie Zoning Ordinance Section 322- Natural Resource Overlay Zone as determined by the Planning Director. This provision does not apply where the erosion control permit is associated with correction of a violation of city code or as necessary for public safety, or the protection of property or water quality.

E. Timing. Approval of the erosion control plan permit is required prior to the following, whichever comes first.

1. Issuance of grading permits, building permits, or approval of construction plans for subdivisions. All work on the site shall cease pending the approval of an erosion control plan and installation of approved erosion control subdivision; and measures.

C. By providing notice in writing to the property owner, the city may require an erosion control plan for any site clearing activity on sites which disturb an area of less than five hundred square feet, if the city determines that it is likely that an erosion problem will exist on that site as a result of the activity. All work on the site shall cease pending the approval of an erosion control plan and installation of approved erosion control measures.

~~— D. An erosion control plan is required prior to any site disturbance or act of removing vegetation from a lot, or portion thereof, for all property identified on the Natural Resources Property List in the city's comprehensive plan.~~

~~— E. If the city determines that site clearing, as defined in subsection (A) above, has occurred without an erosion control plan for property included on the Natural Resource Property List of the city's comprehensive plan, regardless of the size of the area that has been disturbed, the city shall provide notice in writing to the property owner of the need for an erosion control plan. All work on the site shall cease pending approval of:~~

- ~~1. An erosion control plan;~~
  - ~~2. Installation of approved erosion control measures;~~
  - ~~3. An approved revegetation plan, if applicable; and~~
  - ~~4. Processing of any applicable review procedures as prescribed in Section 322 of the Milwaukie Zoning Ordinance.~~
- ~~2. Placement of fill, site clearing, land disturbances including but not limited to grubbing, clearing or removal of ground vegetation, grading, excavation, or other activities, any of which disturbs or exposes soil.~~

~~— F. Erosion control measures set forth in any approved erosion control plan shall be implemented and maintained on the site until the date set forth in the plan, or the amended date as necessary for the establishment of final landscaping. The city may allow for the removal of erosion control measures at an earlier date if erosion control is assured by established landscaping. (Ord. 1718 § 1 (part), 1992)~~

**Section 16.28.020 – Content** **16.28.030 Contents of erosion control plan and general requirements.**

~~A. Erosion control plans shall include a description of erosion control methods that are adequate to ensure that runoff siltation and pollutants from the grading, site clearing or construction are contained on-site during the period of activity on the site until the final landscaping is sufficiently established to control erosion. Each plan shall contain a date which is the estimated ending date for maintaining erosion control measures. That date may be extended if final landscaping has not been sufficiently established to control erosion. Plan submittal requirements, and recommended erosion control measures, are included in the Clackamas County/City of Milwaukie Technical Guidance Handbook for Erosion/Sedimentation Control Plans (August 1991) (Guidance Handbook), which is hereby adopted in total as part of this chapter. Copies of the Guidance Handbook are available for a fee at the city public works department. (Ord. 1718 § 1 (part), 1992)~~

**Section 16.28.030 – Approval process – Fees.**

~~— A. An erosion control plan shall be submitted to the city for review and approval prior to site clearing, grading or construction which will cause a ground disturbance in excess of five hundred square feet of area, or on smaller sites as determined by the city, or for any site clearing or disturbance on property identified on the Natural Resources Property List of the city's comprehensive plan.~~ B. ~~At a minimum the Erosion Control Plan shall include:~~

1. The methods and/or facilities to be used to prevent erosion and pollution created from the development both during and after construction. Site-specific considerations shall be incorporated.
2. Limits of clearing by flagging boundaries in the field before starting site grading or construction. Staging areas shall be included.
3. An analysis of source controls such as detention and storage techniques during construction showing existing contours as an alternative method to control erosion from storm water runoff.
4. A drainage plan during construction.
5. Show existing contours as well as all sensitive areas, creeks, streams, wetlands, open areas and areas of natural riparian vegetation pursuant to chapter 322.
6. A description of historic localized flooding problems resulting from surface water runoff, FEMA or flooding problems known to the community or the local jurisdiction.

C. A site-specific Site Plan prepared by an engineer shall be required and additional erosion control measures may be required for sites having one or more of the following characteristics:

1. Sites greater than five (5) acres disturbed;
2. Sites with slopes greater than 15 percent on any portion of the site;
3. Sites with highly erodible soils;
4. Sites adjacent to a water feature, such as creeks, streams and wetlands, or areas of natural riparian vegetation pursuant to chapter 322;
5. Sites where grading and clearing activities are likely between November 1 and April 30.

D. Additional measures required by (C) above may include one or more of the following:

1. Limited area cleared at any one time;
2. Additional drainage requirements during construction;
3. Filtering or treatment of runoff;
4. Additional water quality measures;
5. Additional erosion control to cover portions of the site;
6. Maintaining some existing vegetation adjacent to water features, such as creeks, streams and wetlands or areas of natural riparian vegetation pursuant to chapter 322;
7. Additional facilities to reduce volume and velocity of water runoff;
8. If there are no workable alternatives, limit clearing and grading in some areas between November 1 and April 30;
9. Additional measures required by the Guidance Handbook.

E. All construction activities disturbing an area that is five (5) or more acres of land shall obtain an NPDES erosion control permit for construction activities issued by the City of Milwaukie.

#### **Section 16.28.040 Approval process--Fees.**

B.—Fees to cover the cost of erosion control plan review, site inspections and the Clackamas County/City of Milwaukie Technical Guidance Handbook for Erosion/ Sedimentation Control Plans (August 1991) will be set by city council resolution. (Ord. 1718 § 1 (part), 1992)

#### **Section 16.28.040 — Amendment of inadequate measures.**

—An approved erosion control plan may be amended by the city if, prior to the establishment of final landscaping sufficient to control erosion, the city determines that the erosion control measures in the approved plan have not, in fact, controlled site erosion or runoff as intended. All work on the site shall cease pending approval of an amended erosion control plan and installation of approved erosion control measures. Such amendment shall be provided to the permittee in writing and shall be implemented by the permittee. (Ord. 1718 § 1 (part), 1992)

#### **16.28.050 Maintenance and amendment of inadequate measures.**

The applicant shall maintain all facilities required by an approved Erosion Control Plan so as to assure their continued effectiveness during construction or other permitted activity. If the facilities and techniques approved in an Erosion Control Plan are not effective or sufficient as determined by the City's site inspector, the permittee shall submit a revised plan within three working days of written notification by the City. In cases where erosion is occurring, the City may require the Applicant to implement interim control measures prior to submittal of a revised Erosion Control Plan and without limiting the City's right to undertake enforcement measures. Upon approval of the revised plan by the City, the permittee shall immediately implement the revised plan.

#### **Section 16.28.050 16.28.060 Work in progress.**

Permittees or property owners for any site activities which were underway on the effective date of the ordinance codified in this chapter, may be required to prepare an erosion control plan for approval pursuant to this chapter. If the city determines that an erosion control problem exists, and requests an erosion control plan, ground work on the site shall cease pending approval of the plan and installation of approved erosion control measures. The provisions of this section shall apply only until final landscaping on the site is sufficiently established to control erosion. (Ord. 1718 § 1 (part), 1992)

**Section 16.28.060 16.28.070 Performance.**

The City may require the Applicant to submit a bond, cashiers check or irrevocable letter of credit from an acceptable financial institution to secure performance of the requirements of this chapter. Upon default, the City may perform work or remedy violations and draw upon the bond or fund. If the City does not require a bond and the Developer does not perform the erosion control plan in whole or in part, the City may, but shall not be obligated to, perform or cause to be performed corrective work and charge the Developer. Such amount shall bear interest at 9% per annum and shall be a lien upon the property foreclosable in accordance with ORS Chapter 88.

**Section 16.28.080 Erosion Control Certification.**

A. Developers/contractors of building activities requiring erosion control permits who have a certified individual on staff with authority over erosion control and who is responsible for erosion control of the site, are eligible for a discount of their erosion control fees. See Fees and Administrative Rules for implementation of discount. On large or complex sites, the City may require an individual certified in erosion control to be on site at all times. Developments with certified erosion control staff are subject to all of these Rules and Regulations. Violation of these Rules and Regulations resulting in enforcement procedures described in Section 16.28.110, will result in revocation of the certification and payment of the full erosion control fee. Recertification is required following erosion control violations resulting in enforcement actions. If certification is revoked, then there may be additional inspection fees. See Administrative Rules for details on the certification program.

B. Certification shall involve training in erosion control techniques, issues, and implementation strategies. A minimum of four (4) hours of classroom instruction shall be required every two (2) years.

**Section 16.28.090 Inspection**

The erosion control measures shall be installed by the owner or their representative and shall be inspected by the City prior to the start of any excavation work.

**Section 16.28.100 Deposit of Sediment**

No person shall drag, drop, track, or otherwise place or deposit, or permit to be deposited, mud, dirt, rock or other such debris upon a public street or into any part of the public storm and surface water system, including natural drainage systems, or any part of a private storm and surface water system which drains or connects to the public storm and surface water system, with the exception of sanding for ice and snow and maintenance such as crack or chip sealing. Any such deposit of material shall be immediately removed using hand labor or mechanical means. No material shall be washed or flushed into the road/street or any part of the storm or surface water system without erosion control measures installed to the satisfaction of the City, and any such action shall be an additional violation.

**Section 16.28.110 Enforcement--Violation--Penalty.**

A. The public works director or designee shall enforce the provisions of this chapter.

B. Beginning or continuing site-clearing, grading or construction activities without an approved erosion control plan required by this chapter constitutes a violation of this chapter. Failure to implement the erosion control measures set forth in the approved erosion control plan constitutes a violation of this chapter. No building shall be certified for occupancy if the property is deemed to be in violation of this chapter. Any person convicted of violating this chapter shall be punished by a fine of not more than three hundred dollars. Each day that such violation exists shall be deemed a separate violation of this chapter. (Ord. 1718 § 1 (part), 1992)

**EXHIBIT 3**

## Chapter 18.04

**FLOOD HAZARD AREAS**

## Sections:

- 18.04.010 **Purpose.**
- 18.04.020 **Methods of reducing flood losses.**
- 18.04.030 **Definitions.**
- 18.04.040 **Applicability.**
- 18.04.050 **Basis for establishing areas of special flood hazard and flood management areas.**
- 18.04.060 **Compliance required—Violation—Penalty.**
- 18.04.070 **Abrogation and greater restrictions.**
- 18.04.080 **Interpretation.**
- 18.04.090 **Warning—Liability disclaimer.**
- 18.04.100 **Development permit required.**
- 18.04.110 **Public works director—Designated administrator.**
- 18.04.120 **Public works director—Duties and responsibilities.**
- 18.04.130 **Variance—Appeal board.**
- 18.04.140 **Variance—Conditions.**
- 18.04.150 **General standards.**
- 18.04.160 **Specific standards.**
- 18.04.170 **Floodways.**

**Section 18.04.010 Purpose.**

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

- A. To protect human life and health;
  - B. To minimize expenditure of public money and costly flood control projects;
  - C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - D. To minimize prolonged business interruptions;
  - E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
  - F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
  - G. To ensure that potential buyers are notified that property is in an area of special flood hazard;
- and,
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions: (Ord. 1461 Art. 1 § 1, 1980); and,
  - I. To maintain the functions and values of floodplains such as allowing for storage and conveyance of stream flows through existing and natural flood conveyance systems.

**Section 18.04.020 Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

D. Controlling filling, grading, dredging, and other development which may increase flood damage; and

E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 1461 Art. 1 § 2, 1980)

**Section 18.04.030 Definitions.**

Unless specifically defined in this section, the words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application:

A. "Appeal" means to request review of the city's interpretation of any provision of this chapter or a request for a variance.

B. "Area of February 1996 inundation" means the areas along the Willamette its backwaters of Johnson and Kellog Creeks that were flooded to elevation 34.5 (NGVD) in February of 1996.

B-C. "Area of special flood hazard" means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

C-D. "Base flood" means the flood having a one-percent chance of being equalled or exceeded in any given year.

D-E. "City" means the city of Milwaukie, Oregon.

E-F. "Critical feature" means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

F-G. "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

H. "Design Flood Height" means the higher elevation of the following:

1. The elevation of the 100-year storm as defined in FEMA Flood Insurance Studies and shown as Zone A on Flood Insurance Rate Maps;

2. Water surface elevation of 34.5, the elevation of the February 1996 flood event measured for the Willamette River.

G-I. "FEMA" means the Federal Emergency Management Agency.

H-J. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1. The overflow of inland or tidal waters; or
- 2. The unusual and rapid accumulation of runoff of surface waters from any source.

I-K. "Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

J-L. "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

M. "Flood Management Areas" means all lands contained within the 100-year floodplain, floodplain area and floodway as shown on the Federal Emergency Management Agency Flood Insurance Rate Maps and Floodway Maps and the areas of inundation for the February 1996 flood as shown on the Metro Water Quality and Flood Management Area Maps

N. "Flood storage area" means that area below the design flood height but above bankful stage, which is capable of storing flood waters during a flood event.

K-O. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

L-P. "Habitable floor" means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor".

Q. "Hazardous materials" means materials described as hazardous by Oregon Department of Environmental Quality.

M.R. "Levee" means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

N.S. "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

O.T. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement also including the crawlspace if the crawlspace is sub-grade, below the grade outside the foundation). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

P.U. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured homes" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty consecutive days. For insurance purposes, the term "manufactured homes" does not include park trailers, travel trailers, and other similar vehicles.

Q.V. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

R.W. "Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are reinforced.

S.X. "New construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

Y. "Protected water feature" means:

1. Wetlands, other than lands artificially constructed and managed stormwater and water quality treatment facilities; and
2. Rivers, streams, and drainages downstream from the point at which 50 acres or more are drained to that water feature; and
3. Springs which feed streams and wetlands and have year-round flow; and
4. Natural lakes.

T.Z. "Remedy a violation" means to bring a structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

U.AA. "Start of construction" means and includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. "Permanent construction" does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

V.BB. "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

W.CC. Substantial Improvement.

1. "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

VI. A. 14 § 18.04 – FLOOD HAZARD AREAS

a. Before the improvement or repair is started; or  
b. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

2. "Substantial improvement" does not include either:

a. Any project for improvement of a structure to ~~comply with~~ correct existing violations of state or local health, sanitary, or safety code specifications which are solely have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

~~X.DD.~~ "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

~~Y.EE.~~ "Violation" means the failure of a structure or other development to be fully compliant with the city's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the FEMA standards is presumed to be in violation until such time as that documentation is provided.

~~Z.FF.~~ "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. 1626 § 2(A), (B), 1987; Ord. 1461 Art. 2, 1980)

**Section 18.04.040 Applicability.**

This chapter shall apply to all areas of special flood hazards and all Flood Management Areas within the jurisdiction of the city. (Ord. 1461 Art. 3 § 1, 1980)

**Section 18.04.050 Basis for establishing areas of special flood hazard and flood management areas.**

~~A.~~ The areas of special flood hazard identified by the Federal Insurance Administration in the scientific and engineering report entitled "The Flood Insurance Study for the City of Milwaukie," ~~to be dated June 18, 1980,~~ dated December, 1979, with accompanying Flood Insurance Rate Maps, ~~is~~ Maps and Floodway Maps dated June 18, 1990, and other FEMA maps and studies for those areas annexed or restudied are adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at 10722 S.E. Main Street, Milwaukie, Oregon. (Ord. 1461 Art. 3 § 2, 1980)

B. Those areas designated as Flood Management Areas on the Water Quality and Flood Management Areas Maps prepared by Metro, dated \_\_\_\_\_, and adopted by reference and declared to be a part of this chapter. Copies of the Metro Water Quality and Flood Management Areas Maps for the City of Milwaukie are on file at 10722 S.E. Main Street, Milwaukie, Oregon.

**Section 18.04.060 Compliance required--Violation--Penalty.**

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter shall be punishable by a fine of not more than one thousand dollars. Nothing contained in this subsection shall prevent the city from taking such other lawful action as is necessary to remedy any violation. (Ord. 1461 Art. 3 § 3, 1980)

**Section 18.04.070 Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 1461 Art. 3 § 4, 1980)

**Section 18.04.080 Interpretation.**

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the city; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 1461 Art. 3 § 5, 1980)

**Section 18.04.090 Warning--Liability disclaimer.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural cases. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 1461 Art. 3 § 6, 1980)

**Section 18.04.100 Development permit required.**

A development permit shall be obtained before construction or development begins within any area of special flood hazard or flood management area established in Section 18.04.050. The permit shall be for all structures, including manufactured homes, as set forth in Section 18.04.030 and for all other development including fill and other activities, also as set forth in Section 18.04.030. Application for a development permit shall be made on forms furnished by the public works director and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any structure has been floodproofed;
- C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 18.04.160B; and
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 1626 § 2(G)(part), 1987; Ord. 1461 Art. 4 § 1, 1980)

**Section 18.04.110 Public works director--Designated administrator.**

The public works director is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. (Ord. 1461 Art. 4 § 2, 1980)

**Section 18.04.120 Public works director--Duties and responsibilities.**

Duties of the public works director shall include, but not be limited to:

- A. Permit Review.
  1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
  2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;
  3. Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:
    - a. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
    - b. Be constructed with materials resistant to flood damage;
    - c. Be constructed by methods and practices that minimize flood damages; and

VI. A. 16 .04 – FLOOD HAZARD AREAS

d. Be constructed with electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B. Use of Available Base Flood Data. When base flood and floodway elevation data has not been provided for flood zones in accordance with Section 18.04.050, the public works director shall obtain, review and reasonably utilize any base flood and floodway elevation data available from a federal, state or other source, in order to administer Section 18.04.160(A) and Section 18.04.160(B).

C. Information to be Obtained and Maintained.

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

2. For all new or substantially improved floodproofed structures:

a. Verify and record the actual elevation (in relation to mean sea level), and

b. Maintain the floodproofing certifications required in Section 18.04.100C of this chapter;

3. Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of Watercourses.

1. Notify adjacent communities and the Federal Emergency Management Agency (FEMA), Insurance and Mitigation Division, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FIRM ~~Boundaries~~ and flood management area boundaries. Make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards and/or flood management areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 18.04.130. (Ord. 1651 § 2, 1989; Ord. 1461 Art. 4 § 3, 1980)

**Section 18.04.130 Variance--Appeal board.**

A. The planning commission as established by the city shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The planning commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the public works director in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the planning commission or any taxpayer, may have the determination reviewed by the city council and then under ORS 34.010 to 34.100.

D. In passing upon such applications, the planning commission shall consider all technical evaluation, all relevant factors and standards specified in other section of this chapter, and:

1. The danger that materials may be swept onto lands to the injury of others;

2. The danger of life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

E. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subdivisions 1 through 11 of subsection D of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

F. Upon consideration of the factors of subsection D of this section and the purposes of this chapter, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

G. The public works director shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request. (Ord. 1461 Art. 4 § 4(A), 1980)

#### **Section 18.04.140 Variance--Conditions.**

A. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. Variances shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense or create nuisances, cause fraud on or victimization of the public as identified in Section 18.04.010 or conflict with existing local laws or ordinances.

E. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below one foot above base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 1461 Art. 4 § 4(B), 1980)

#### **Section 18.04.150 General standards.**

In all areas of special flood hazards and all flood management areas the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

2. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

- a. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than fifty feet long requiring one additional tie per side;

- b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than fifty feet long requiring four additional ties per side;

- c. All components of the anchoring system be capable of carrying a force of four thousand eight hundred pounds; and

- d. Any addition to the manufactured home be similarly anchored.

3. An alternative method of anchoring may involve a system designed to withstand a wind force of ninety miles per hour or greater. Certification must be provided to the public works director that this standard has been met.

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utilize equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty lots or five acres (whichever is less).

E. Review of Building Permits. Where elevation data are not available, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. (Ord. 1461 Art. 5 § 1, 1980)

F. Hazardous Materials – Uncontained areas of hazardous materials as defined by the Department of Environmental Quality are prohibited. Uncontained areas of hazardous materials are those areas or facilities for the storage or use of hazardous materials that during a flood event would be unable to prevent those hazardous materials from contaminating flood waters.

G. Balanced Cut and Fill – The displacement of flood storage area by the placement of fill or structures (including building foundations) shall conform to the following standards for balanced cut and fill:

1. The placement of fill or structures which displace 10 cubic yards or less of flood storage area is exempt from the requirements of 18.04.150(G)(2)(a-1).

2. The placement of fill or structures which displace more than 10 cubic yards of flood storage area shall comply with the following standards:

a. No net fill in any floodplain is allowed.

b. All fill placed in a floodplain shall be balanced with at least an equal amount of soil material removal.

c. Excavation areas shall not exceed fill areas by more than 50 percent of the square footage.

d. Any excavation below bankful stage shall not count toward compensating for fill.

e. Excavation to balance a fill shall be located on the same parcel as the fill unless it is not reasonable or practicable to do so. In such cases, the excavation shall be located in the same drainage basin and as close as possible to the fill site, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis.

f. For excavated areas identified by the City to remain dry in the summer and provide stormwater detention in the winter, such as parks or mowed areas, the lowest elevation of the excavated area shall be at least 6 inches above the winter "low water" elevation, and sloped at a minimum of two percent towards the Protected Water Feature. One percent slopes will be allowed in smaller areas.

g. For excavated areas identified by the City to remain wet in the summer, such as a constructed wetland, the grade shall be designed not to drain into the Protected Water Feature.

h. Minimum finished floor elevations must be at least one foot above the design flood height for new habitable structures.

i. Short-term parking in the floodplain may be located at an elevation of no more than one foot below the ten-year floodplain so long as the parking facilities do not occur in a Protected Water Feature or its buffer. Long-term parking in the floodplain may be located at an elevation of no more than one foot below the 100-year floodplain so long as the parking facilities do not occur in a Protected Water Feature or its buffer.

j. Temporary fills permitted during construction shall be removed at the end of construction.

k. New culverts, stream crossings and transportation projects shall be designed as balanced cut and fill projects or designed not to significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in Flood Management Areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.

l. Excavation and fill required for the construction of detention facilities or structures, and other facilities, such as levees, specifically shall be designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable lands.

### **Section 18.04.160 Specific standards.**

In all areas of special flood hazards and flood management areas where base flood elevation data has been provided as set forth in Sections 18.04.050 and 18.04.120B, the following provisions are required:

A. Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above base flood elevation.

B. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot above base flood elevation, or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

3. Be certified by a registered professional engineer or architect that the design and methods of construction satisfy the standards of this subsection. Such certificates shall be provided to this official as set forth in Section 18.04.120(C).

#### C. Manufactured Homes.

1. All manufactured homes to be placed or substantially improved within zones A1-30, AH, and AE (as identified on Flood Insurance Rate Maps) shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 18.04.150(A).

2. For new manufactured home parks and manufactured home subdivisions; for expansions to existing manufactured home parks and manufactured home subdivisions; for existing manufactured home parks and manufactured home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for manufactured homes not placed in a manufactured home park or manufactured home subdivision, it is required that:

a. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be elevated one foot above base flood elevation;

b. Adequate surface drainage and access for a hauler are provided; and

c. In the instance of elevation on pilings, that:

i. Lots are large enough to permit steps,

ii. Piling foundations are placed in stable soil no more than ten feet apart, and

iii. Reinforcement is provided for pilings more than six feet above the ground level.

3. No manufactured home shall be placed in a floodway, except in an existing manufactured home park or existing manufactured home subdivision.

#### D. Miscellaneous Provisions.

1. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**VI. A.** 20 - FLOOD HAZARD AREAS

2. Provisions of this chapter are to be administered concurrently with those of Ordinance 1438, the Zoning Ordinance of the city. (Ord. 1626 §§ 2(E), (F), (G)(part), (H), 1987; Ord. 1461 Art. 5 § 2, 1980)

**Section 18.04.170 Floodways.**

Located within areas of special flood hazard established in Section 18.04.050 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 18.04.150 through this section.

C. The placement of any manufactured home is prohibited, except in an existing manufactured home park or existing manufactured home subdivision. (Ord. 1626 § 2(G)(part), 1987; Ord. 1461 Art. 5 § 3, 1980)

North Clackamas Parks and Recreation District  
Milwaukie Center  
Center/Community Advisory Board  
Minutes of Friday, October 12, 2001

Members Present: Marc Burnham, Molly Hanthorn, Eleanor Johnson, Stan Keltz, Dolly Macken-Hambright, Jim McCready, Joan Newman, Mary Siberz, Joan Staley, Carol Storment, Ben Tabler, Janet Witter

Excused: Kim Buchholz, Alice Neely

Staff Present: Cheryl Nally, Joan Young

**I. Call to Order:** Chair Eleanor Johnson called the meeting to order at 10:02 am.

**II. Minutes:** The minutes of September 14, 2001 was moved to be approved by Joan Staley, and seconded by Molly Hanthorn. Motion carried.

**III. Guests:** None

**IV. Correspondence:** Joan Young shared a letter from Karen Kasserman submitting her resignation from the Board due to time conflicts.

**V. Discussion Items:** Eleanor Johnson stated that the C/CAB still needs a representative for the Parks District Advisory Board (DAB). Marc Burnham expressed his interest in this position. His only concern was fitting this responsibility into his schedule. Eleanor stated that she would continue to serve as alternate and would attend meetings that he could not attend. It was moved by Dolly Macken-Hambright and seconded by Molly Hanthorn that Marc Burnham be recommended to the DAB as the C/CAB representative. Motion carried.

A re-application for Board membership was received from Joan Newman. It was moved by Carol Storment and seconded by Joan Staley that the Board accept the renewal of Joan Newman to the Board. Motion carried.

**VI. Board and Committee Reports:**

North Clackamas Parks and Recreation Advisory Board (DAB) – Eleanor Johnson reported that the DAB recognized Daisa Lawson for her years of service to the Parks District. The Board approved payment out of System Development Charges for a speed bump in front of Southern Lites Park on 117<sup>th</sup> off Sunnyside Rd. A tour of the parks and facilities is planned for the Board members. The Aquatic Park “Dog Daze” event was a huge success again. The Aquatic Park is putting together a swim team for ages 7 – 15. Jeff Milkes is the new Aquatic Park and Leisure Services Manager. New park development is being planned in conjunction with Water Environment Services in the area of 147<sup>th</sup> and Sunnyside Rd. Public input was received on the importance of acquiring the “Portland Traction Line” that runs through the Oak Grove neighborhood. Everyone is encouraged to attend one of the upcoming Comprehensive Master Plan public workshops on Nov. 10 and Nov. 13 to give input.

Budget/Finance – Jim McCready stated he had no report.

## VII. A 2

Programs and Services – Molly Hanthorn reported that students working on the Community Garden presented their plans to the City of Milwaukie Planning Commission and received necessary permissions. Fall classes have been going since late September, with increased attendance numbers. Rae Bartell from the Travel Program shared that they are planning smaller, day trips by using the Center's Transportation Program buses. The Adventist Health van will be at the Center October 17 with health checks available. Dever's Eye Clinic Glaucoma test will be the same day as Flu Shots, November 8.

Nutrition/Transportation – Ben Tabler shared information about nutrition site numbers throughout Clackamas County. Ben reminded Board members of the Low Income Energy Assistance Program (LIEAP) and the telephone assistance program for older adults who are income eligible.

Building Review – Stan Keltz reported that Building Maintenance staff, Chuck Kerns received the gift from the Board and stated his appreciation. Dry rot identified outside the north side of the building is going to be corrected. The Committee suggests that a sensor light be put outside the staff parking lot to lighten the area where the garbage receptacle is at night. Eleanor Johnson reported that two lights are out in the front parking lot.

History – Janet Witter stated that there is nothing new on this area at this time.

### **VII. Other Reports:**

Friends of the Milwaukie Center, Inc. – Joan Young reported that the Friends are currently without a Office Coordinator. The Friends have started with a new print shop for the monthly newsletter to save money. November 3, 8 – 11:30 am is the Lumberjack Breakfast fund-raiser.

### **VIII. Director's Report:**

Joan Young stated that the state legislators will be convening late in the year or early January in an emergency session to determine how to balance the budget. She encouraged Board members to contact their legislators and ask for continued support of the Senior Transportation Program and Oregon Project Independence.

### **IX. Information/Announcements:**

Stan Keltz gave a report from AARP regarding the Tax Aide Program. Milwaukie Center had the highest number of people served.

Eleanor Johnson stated that the Bridge Tournament Saturday October 20 was already full with 96 people signed up.

### **X. Adjourn:**

It was moved and seconded that the meeting be adjourned. Motion carried. Adjourned at 11:01 am.

Submitted by: Mary Siberz, Secretary

North Clackamas Parks and Recreation District  
**MILWAUKIE CENTER DIVISION**  
Monthly Report for October, 2001

VII. A 3

*Programs/Services:*

Concern about stroke, diabetes, high blood pressure and osteoporosis brought over 70 people in to the Center to take part in the co-sponsored Milwaukie Center and Adventist Health Screenings October 17<sup>th</sup>.

The 6<sup>th</sup> Annual Bridge Tournament on October 20<sup>th</sup> had a full turnout, with 96 players. Old Country Buffet provided cinnamon rolls, specially made individual deserts and cash prizes. Net proceeds from the event were \$702. This event was planned and run through a volunteer committee working with staff.

Fall Garden Day was scheduled the Saturday of the Bazaar. The Clackamas County Master Gardeners oversee this community event that had 24 people attend and tested 65 soil samples.

Fall quarter classes at the Milwaukie Center have enrolled 454 students to date, with over 45 offerings in the areas of arts and crafts, dance and music, fitness, language and writing, computers, outdoor recreation, and health and safety.

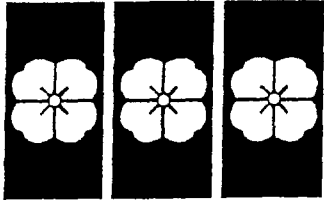
*Fund-raising:*

Friday and Saturday, October 26 and 27, the Nutrition Program held it's annual "Best in the West" Bazaar. 47 vendors purchased booths to sell their crafts and wares, and the traditional bake sale of homemade goodies was a huge success. The Nutrition Program offered a quality deli of delicious treats. Gross receipts from the event were just over \$3,000. Volunteers gave 175 hours of hard work to help make this event successful.

*Staffing:*

Kudos to Milwaukie Center staff who were put to the test and exhibited great abilities when the fire alarm sounded mid-afternoon on Friday, October 26 during the annual Bazaar. Within 6 minutes, the staff evacuated the building of over 400 participants and waited for the Fire Department to show up. The culprit? One of the vendors was demonstrating a candle – right under a fire sensor!

CITY OF



MILWAUKIE

# Ledding Library Board October minutes

Monday, 10/22/01

6:30 PM

Ledding Library

**Meeting called by:** Sue Trotter

**Attendees:** Attendees: Mark Docken, Pat Healy, Tom Hogan, Shannon Scott, Sue Trotter, and Ed Zumwalt.  
Absent: Anna O'Guinn  
Guests: Mayor Jim Bernard; Alice Rouyer and Kenneth Kent, City Planning Department  
Staff: Cynthia Sturgis

## Agenda topics

Approval of minutes

Approved as written.

Librarian's report

Cynthia reported that the carpet project was approved by Council at the October 16<sup>th</sup> meeting. The carpet order will take 6 – 8 weeks, and installation will probably take place in late December.

Action item from last meeting: Cynthia asked the City Manager about his stance on the proposed parks/library service district. He and the Council are not in favor of a service district to meet the funding needs for the library network. Alternative ways to meet funding needs should be explored.

Building expansion update

The personal services contract for Dallas Shaffer has been mailed. Pat and Cynthia will work out a meeting date with Dallas and the steering committee, possibly in November. Cynthia will contact Dallas about possible dates and any other information that needs to be exchanged before then.

Future parking needs

Cynthia showed the aerial photograph of the library with Kelly Somer's rough drawing of space for parking and possible expansion. Sue expressed the need for the Board to work on a statement concerning future parking needs with some suggestions for possible solutions.

Downtown development plan

Alice Rouyer and Ken Kent from the city planning department outlined the proposed downtown design guidelines and asked for questions and comments from the board. Issues discussed included concern about clearly defining guidelines and the process for review to avoid unnecessary expense to those seeking design approval; need to include pictures of buildings in Milwaukie which reflect the intention of the guidelines; need to clarify what architectural styles are indigenous to the Northwest and reflect Milwaukie heritage; and the need to include suggestions on how to meet the guideline for connecting buildings to the river.

Sue will draft a memo about the Board's responses and have it distributed to members for their review.

Statement from Mayor Bernard

Mayor Bernard expressed his thanks and appreciation to the Library Board for their hard work and support for the library and the city.