

**MILWAUKIE CITY COUNCIL
WORK SESSION
DECEMBER 17, 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, Marshall, and Newman.

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

Information Sharing

1. **Councilor Marshall** commented on a letter received from North Clackamas School District Superintendent Naso and suggested the City Council respond.
2. **Councilor Marshall** asked the status of the electric truck, and staff reported it is being used by the engineering department.
3. **Councilor Marshall** thought Milwaukie should ask Metro if it intends to reimburse the City for Measure 7 claims. While Title 3 may be a great concept, it is another un-funded mandate.

Swanson explained cities choose to adopt and enforce regulations and must deal with any lawsuits. Milwaukie will enforce, and people will generally comply.

Rouyer added the attorney advised adopting an escape clause.

Councilor King suggested cities share legal teams and staff.

Purchase of Old Police Building, 2566 SE Harrison Street

Swanson was contacted by a person interested in the property at 2566 SE Harrison Street who may address the City Council at its regular session. This person spoke with the previous city manager and was told the property was not for sale. Swanson explained the staff is finalizing its inventory of City-owned property, and the city attorney is developing a policy for acquisition and disposal. The City Council may decide to continue with the sale to the Burkett's or advertise the property as surplus.

Meeting with Clackamas County Board of Commissioners

Swanson will reschedule the joint work session since most discussion issues are still in the developmental stages.

Code Enforcement Cases

Swanson said Forris Frick would like to discuss the tree replacement on his property prior to the scheduled January trial. The City Council expressed no interest in a discussion prior to the trial.

Swanson recommended proceeding with code compliance action on the Hov case and not waiving the variance application fee. Based on its research, staff does not believe the pergola could be considered an accessory type dwelling.

Other

Councilor Newman clarified his comments on acquisition of trail property which appeared in a recent *Oregonian* article. He acknowledged he intended to say getting to the waterfront is a priority.

Open Public Forum

None.

Harmony Road Draft Letter

Swanson discussed Clackamas County's plan to widen Harmony Road from 82nd Avenue to Fuller Road. The project was approved as part of Milwaukie's Transportation System Plan (TSP) in 1997 by a previous City Council. Staff spoke with Metro and found an amendment would be acceptable. He suggested going through the Draft Environmental Impact Statement (DEIS) process which requires citizen input and assures that residents in the impact area have a chance to be heard and receive published reports.

Edie Kerbaugh, Linwood Neighborhood District Association (NDA), understands the widening project alterations would be on the north side of Harmony Road and would incorporate a transit option including busway or light rail. Cedarcrest residents have been contacted, but there is no clear story from the County.

Councilor Newman added the funds which had been identified for engineering the Harmony/Linwood overpass have been downgraded to fund Sunrise Corridor engineering. He felt traffic should be diverted from Harmony Road to Hwy 224 by adding an additional southbound left-turn lane at 82nd Avenue and Sunnyside Road.

Swanson will contact County staff on this issue.

Councilor Marshall recommended the City Council be united on its issues before meeting with the Commissioners.

Clackamas County Coordinating Committee

Swanson reviewed a memo from the Clackamas County Coordinating Committee staff person Donna Peterson asking for informal city votes on the proposed Library/Parks District and countywide utility fee. Thus far, he felt the Committee has been presented with issues which specifically reflect County problems and concerns.

Swanson discussed the history of the library levy which funds the network and supports local services. This levy has been renewed and increased over a number of years, and he believes the voters have spoken in support of their libraries. If sheriff department shortfalls are made up through the proposed public safety levy, the libraries will probably be safer. However, if that levy fails, one commissioner was heard to say the shortfall will be made up by a general fund transfer resulting in reduced library funding. Further, cities with their own police departments will not see any service improvements if the general fund transfer is made to sheriff patrol activities.

The second issue is the proposed countywide transportation utility fee. **Swanson** questioned the advisability of entering into an agreement for funding of any sort without an agreement that city money goes for city streets. He also stressed the need to control consulting project costs and commented on the expense of the SB 122 and Complete Communities projects. It would be good to know at the front end what projects the County has in mind and if they would benefit Milwaukie. The County has asked cities to respond by December 20, and **Swanson** understands most cities as well as Oak Lodge Sanitary District will say "no". Milwaukie is in the position of needing the County in order to accomplish removal of the Kellogg Treatment Plant in the near future. He prepared 2 draft letters for Council consideration. The first simply said "no", and the second left room for discussion. Both letters discussed the issue of who should really be providing urban services. He recommended the more gentle approach to keep discussions open on other issues.

Mayor Bernard and **Councilor Newman** favored draft #2.

Councilor Marshall, a CCCC member, understood there would be a pool of projects to which transportation fee funds would be allocated, and the Committee would be responsible for prioritizing them. Members are also concerned about how election campaign costs would be allocated. He felt the CCCC should step back and make some general policy decisions.

Swanson said most cities are concerned about the funds being spent on the Sunrise Corridor. He plans to meet with the County transportation director to discuss maintenance fees, but, overall, he feels it is important to keep discussions open.

Other

South Corridor Policy Group Meeting

Swanson discussed the projects under consideration including I-205 and McLoughlin Corridor light rail and the gap between the amount of money available and the projected costs. Late in the process, the Association for Portland Progress (APP), a private, non-profit association of central city business leaders, weighed in with a letter saying none of the proposed projects help the multitude of downtown problems and suggesting downtown mall improvements instead.

At a meeting earlier today, Metro staff proposed continuing with the DEIS currently underway and starting up a separate project to look at the downtown Portland issues. The Tri-Met General Manager was concerned the Federal Transit Administration would not be comfortable with this approach without plans for a new bridge. The Milwaukie NDA leadership responded quickly to these recent developments and prepared a letter with its input on this latest proposal.

Councilor Newman said, although I-205 and McLoughlin Corridors have been scaled down, no one can figure out how to pay for either one. Clackamas County claims to have some funds available so is that much closer to getting the I-205 project started. Options for closing the funding gaps, including a regional vote, are being considered. At this point, a parallel process to study downtown Portland problems seems appropriate.

Councilor Marshall felt downtown Portland is a separate problem and suggested someone tell Portland and Metro the world does not revolve around them.

Swanson said the NDAs dealt with the APP letter very swiftly and let the staffs at the regional level know they are harming their own credibility. Metro representatives are scheduled to meet with NDA chairs on January 19.

Councilor Newman said the project must be as lean as possible while serving the greatest number of people. It may be necessary to resurrect the bus option. The new proposal on the table from APP will likely make things more complicated and expensive. A relatively small project like McLoughlin Corridor should not take on the added burden of solving other problems.

Councilor Marshall added the complaint has always been that the projects are too expensive. We need to get down to the business of moving people.

Ed Zumwalt said a lot of people worked very hard on the South Corridor Study, and Metro still has a credibility problem. He believes it is all politics and money, and neighborhood volunteers will not work to support the additional projects.

4228

Adjournment

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

Pat DuVal

Pat DuVal, Recorder



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: December 10, 2001
RE: FYI Memorandum

WORK SESSION
DECEMBER 17, 2001
COUNCIL CONFERENCE ROOM
5:30 P.M.

This week's work session will begin at 5:30 P.M. with Council sharing. We had originally scheduled a joint work session with the Board of County Commissioners, but that will have to be rescheduled in January. The issues that we have to discuss are not quite ripe for a productive exchange. Please note that the meeting we originally scheduled for 4:30 P.M. to discuss our meeting with the Board has also been cancelled.

Even with the cancellation of the joint session, we do have two issues to discuss. They are:

- (1) Harmony Road Draft Letter:** The attached letter is being recommended as the action to be taken with regard to Harmony Road. A prior Council did indeed approve the widening in 1997, and the project has been included within the regional framework. At this point the County will have to conduct a series of meetings to complete an Environmental Impact Statement before proceeding with the widening project. We are requesting that affected Milwaukie neighborhoods and City government be included in discussions about the impacts of the proposal.
- (2) Clackamas County Coordinating Committee (CCCC) Request:** The staff to the CCCC has requested that each jurisdiction respond to both the proposal for a Library/Parks District and the RFP for a consultant to study the issue of a countywide transportation utility fee. Given the complications with the parks issue, it is probably not advisable to proceed. With regard to the library issue, the Board of County Commissioners indicated that it would continue its support of libraries through the General Fund. I fear that if they develop alternative funding they will use that General Fund amount to support the Sheriff's Department. Assuming that would include patrol services, the

effect will be that the City will be lending financial support to a service it does not receive. At the date of the writing of this memo I am still developing information on the transportation utility fee.

REGULAR SESSION
DECEMBER 11, 2001
COUNCIL HEARING ROOM
7:00 P.M.

At its last Council meeting the date for the December 18, 2001 hearing was changed to this date and time.

- (1) Sale of Old Police Station, 2566 SE Harrison Street:** The City purchased the property in 1973 to use as a police station. The use was abandoned in 1994, and the property has been vacant since then. Within the last two months the City was approached by the prospective buyer with an offer to purchase the property for \$90,000. They plan to renovate the existing building and to use it as a studio for their photography business. In light of the fact that the property is surplus and without any future planned use, it is being recommended for sale. I have spoken with both the Chair of the NDA and with former Mayor Hupp about the sale. Both seem to be supportive. Hupp believes that a portion of the property is a city park. It does show up on a master plan and some inventories, but it does not appear to have been officially designated. It appears as a part of the agreement between the City and the North Clackamas Parks District, but they have not maintained it for years.
- (2) Renew PERS—Oregon Savings Growth Plan—Resolution:** This matter was first acted upon by the Council a few months ago. It creates an additional deferred compensation option for City employees. There is no cost to the City. This action is required to renew the plan consistent with changes in federal law.
- (3) Title 3 Flood Management and Erosion Control Regulations**
After a several month hiatus, proposed code amendments that limit the placement of fill in floodplains and improve the City's erosion control regulations are back for review. Just before last November's adoption of Ballot Measure 7, the Council had approved draft regulations that implement portions of Metro Functional Plan Title 3, which protects water resources. The project was put on hold due to the uncertainties raised by the measure. The City Attorney has recommended means to manage Measure 7 issues and the code project is back on track.

**OTHER MATTERS
OF INTEREST
TO THE COUNCIL**

- (1)** The annual City hall potluck is being held Friday, December 14, 2001 from 11:30 until 1:30. Please come by for lunch and conversation.
- (2)** The annual JCB potluck is being held from 11:30-1:30 on December 21, 2001. Please come by for lunch and conversation.
- (3)** Removal of the Safeway sign is scheduled for December 19, 2001 at 10:00 a.m. We plan to have a brief ceremony and would like to have as many Council members there as possible.
- (4)** Many of you have asked if there was a process for removing an NDA officer. Attached is a copy of the standard NDA by-laws. You will note that there is not a provision dealing with officer removal. The by-laws do state that membership in the land use committee is open to interested members. That might be construed to permit a vote to remove a chair. However, new elections are held in May, and, therefore, it might be best to wait and elect a new chair.
- (5)** At the last Council meeting there was a discussion of planning a get together at the Jefferson Street Boat Ramp to watch the Christmas Fleet. This is a great idea to bring attention to the Milwaukie riverfront, but due to Council's full schedule and the short amount of time left for planning, it has been suggested to wait until next year.

RESOLUTION NO. 5-1994

A RESOLUTION OF THE CITY OF MILWAUKIE SUPPORTING THE ESTABLISHMENT OF A NEIGHBORHOOD DISTRICT ASSOCIATION PROGRAM BY ADOPTION OF STANDARD BYLAWS FOR OPERATION OF THE PROGRAM.

WHEREAS, Goal #3 of the 1992-1993 City Council Goals, outlines an action plan to start an officially recognized neighborhood association program; and

WHEREAS, the City has developed the framework for a comprehensive Neighborhood District Association Program, including Standard Bylaws governing the operation of Neighborhood District Associations recognized by the City Council; and

WHEREAS, significant review of Program elements by the Milwaukie Planning Commission, during public meetings, has been undertaken; and


WHEREAS, City Council worksessions have been held at which comment on Program organization has been gathered and considered;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE:

Section 1. **EFFECTIVE DATE:** effective immediately.

Section 2. **NEIGHBORHOOD DISTRICT ASSOCIATION STANDARD BYLAWS:** The Neighborhood District Association Standard Bylaws be adopted, as shown in EXHIBIT A, as rules of operation for Neighborhood District Associations.

Introduced and adopted by the City Council on April 5, 1994.


Craig Lomnicki, Mayor

ATTEST:


Pat DuVal, City Recorder

Approved as to form:


O'Donnell Ramis Crew & Corrigan

"EXHIBIT A"

CITY OF MILWAUKIE

NEIGHBORHOOD DISTRICT
ASSOCIATION
STANDARD BYLAWS

ARTICLE I: PURPOSES OF THE _____ NEIGHBORHOOD
DISTRICT ASSOCIATION

- A. To provide a channel for two-way communication between City government and _____ Neighborhood District Association Residents.
- B. To bring together citizens in the _____ Neighborhood District who have an interest in shaping and maintaining the quality of life in their neighborhoods.
- C. To provide _____ neighborhood district residents with meaningful opportunity for review and commentary on City policies and programs.

ARTICLE II: REQUIREMENTS FOR RECOGNITION BY THE CITY COUNCIL
FOR THE _____ NEIGHBORHOOD DISTRICT
ASSOCIATION

- A. The _____ Neighborhood District Association shall represent District _____ as described in Chapter 1 of Milwaukie's Comprehensive Plan. (See the attached map, Exhibit #1).
- B. The _____ Neighborhood District Association shall adopt and abide by the City of Milwaukie Neighborhood District Association Standard Bylaws.
- C. The _____ Neighborhood District Association shall maintain a separate Land Use District Review Committee comprised of members and/or officers of the Association.
- D. The _____ Neighborhood District Association shall actively seek and encourage membership participation that represents a broad cross-section of its district.
- E. To retain recognition, the _____ Neighborhood District Association shall hold a minimum of four regularly scheduled meetings each year where agenda items are addressed.

ARTICLE III: MEMBERSHIP REQUIREMENTS

- A. Anyone of voting age or older is a member of the _____ Neighborhood District Association who is:
1. A resident within the neighborhood district; or
 2. A property owner whose property is located within the neighborhood district; or
 3. A business owner whose business is located within the neighborhood district; or
 4. A designated representative of a business, corporation, or trust located within the neighborhood district; or
 5. A designated representative of a non-profit business or group located within a neighborhood district.
- B. All rights, privileges, and responsibilities of membership including the right to vote on Association business shall accrue to members.
- C. Only Neighborhood District Association members as defined above may be elected or appointed to officer or committee positions.
- D. In compliance with applicable State and local civil rights statues, membership in the _____ Neighborhood District Association shall be open to everyone who meets the requirements of Article III, Section A, above.

ARTICLE IV: REPRESENTATION OF DISTRICTS AND DUTIES OF OFFICERS:

- A. The officers of the Neighborhood District Association shall comprise the Board of the Association and shall represent the Neighborhood Association. Neighborhood District Associations shall elect at least three officers: Chair, Vice Chair and Secretary/Treasurer.
- B. The duties of the Neighborhood District Association Officers shall include the following:
1. The Chair's responsibilities shall include management and leadership of all Neighborhood District Association activities. The Chair shall also be responsible for ensuring that the Neighborhood District Association complies with the requirements of the Neighborhood District Association Standard Bylaws and other applicable guidelines.

2. The Vice Chair's responsibilities shall include assisting the Chair in performing the defined duties and assuming the Chair's duties in the Chair's absence.
 3. The Secretary/Treasurer's duties may be separated if a separate Treasurer position is designated by the Neighborhood District Association (see C below). Otherwise, the Secretary/Treasurer's duties shall include:
 - a) Ensuring that accurate minutes of all Association meetings are kept; ensuring that attendance registration is kept at all Association meetings; ensuring that attendance reports and minutes are maintained and that they are available for review by anyone who asks; ensuring that minutes and registration lists of all meetings are forwarded to the City of Milwaukie; ensuring that meeting notification and agendas are transmitted to the City and to members in a timely manner; ensuring that current and updated lists of officers and Land Use Review Committee members are provided to the City.
 - b) The safekeeping and accounting of all Neighborhood District Association funds and the proper disbursement of those funds shall occur in accordance with City and Neighborhood District Association guidelines. The Secretary/Treasurer shall also maintain records of incoming donations, funds and contributors and shall make those records available to all who ask.
- C. Other Officer positions may be created and defined by Neighborhood District Associations. Additional Officer Positions may be appointed by the Board of Directors or elected by the Neighborhood District Association membership for specific duties or elected at large, with duties defined by the Board. Any additional officer positions elected shall be subject to the same membership and election requirements as the required officers.

ARTICLE V: ELECTIONS OF OFFICERS AND TERMS OF OFFICE

Elections of officers and all non-appointed committee positions shall be held yearly during the month of May. The City and the _____ Neighborhood District Association shall coordinate with each other to effectively publicize elections. Publicity activities will be planned for implementation before April 1st of each year.

ARTICLE VI: LAND USE DISTRICT REVIEW COMMITTEES

- A. The Land Use District Review Committee shall represent the Neighborhood District for the purpose of review and commentary on land use issues of interest to the neighborhood district.
- B. The Land Use District Review Committee shall have the authority to speak on behalf of the Neighborhood District Association.
- C. Action by the Land Use District Review Committee shall be by majority vote of the members of the Land Use District Review Committee present at official meetings of the Committee.
- D. Membership in the Land Use District Review Committee shall be open to all interested members and officers of the _____ Neighborhood District Association. The Land Use District Review Committee shall elect a committee Chair and Vice Chair, from among themselves, by majority vote of the Land Use District Review Committee membership. The elected officers shall direct the efforts of the Land Use District Review Committee.
- E. The Land Use District Review Committee shall keep accurate minutes of their proceedings and shall make those minutes available for review by anyone who asks.
- F. The Land Use District Review Committee shall conduct a minimum of two meetings per year where District membership or the public may bring agenda items.

ARTICLE VII: COMMITTEES

The Board of Directors of the Neighborhood District Association may establish additional standing and ad hoc committees that do not address land use issues. Committees shall not have the power to act but shall be advisory in nature unless authorized by the membership of the _____ Neighborhood District Association by a majority vote.

ARTICLE VIII: FINANCE

The Neighborhood District Association may not impose dues or other charges on its membership. The Neighborhood District Association may solicit and accept donations from any source. The Neighborhood District Association may also pursue other fund-raising activities not precluded by law.

ARTICLE IX: OPEN MEETING AND NOTICE REQUIREMENTS

- A. All meetings of Neighborhood District Associations and Land Use Review Committees, including regular, special and Board meetings shall be unqualified, open meetings where anyone may attend and propose agenda items for consideration or offer comment on agenda items before the Association. All Associations shall make reasonable accommodations to persons with disabilities at all Association meetings and events, per the 1990 Americans With Disabilities Act.
- B. All meetings of Neighborhood District Associations including regular, special and Board meetings, shall be reasonably publicized to active members and to the public. Agendas for publicized meetings should be submitted with meeting notifications.
- C. Notice activities must include notification to the City for inclusion in regular City publicity channels. In addition, Neighborhood District Association Memberships shall receive notice from the Association. Membership notification may include, but is not limited to: telephone trees, door hangers, newsletters, and newspaper releases.
- D. Where applicable, open meeting and notice policy shall comply with the requirements of Oregon public meeting laws, or other statutes and administrative guidelines.

ARTICLE X: ACTION BY NEIGHBORHOOD DISTRICT ASSOCIATIONS

- A. Except as noted above in Article VI, Section C, action by Neighborhood District Associations shall be conducted by majority vote of the membership present.
- B. Meetings shall be conducted in a businesslike manner consistent with Robert's Rules of Order.
- C. Members shall have the right to introduce agenda items for consideration at all regular and special meetings in writing or by motion from the floor.
- D. Additional operating rules and procedures:

Neighborhood District Associations may adopt or modify additional rules and procedures that do not conflict with the Neighborhood District Association Standard Bylaws by a 2/3 vote of those present at a regular or special meeting.

ARTICLE XI: STANDARD BYLAW CHANGES:

- A. The City Council, at a regular meeting, may revise or suspend any section of the Neighborhood District Association Standard Bylaws as they pertain to individual districts.
- B. Proposals from the _____ Neighborhood District Association requesting the City Council to revise or suspend section(s) of the Neighborhood District Association Standard Bylaws shall be approved by a 2/3 vote of the Association membership present at

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

MILWAUKIE CITY HALL

Second Floor Conference Room
10722 SE Main Street

WORK SESSION – 5:30 p.m.

Discussion Items:

	<u>Time</u>	<u>Topic</u>	<u>Presenter</u>
1.	5:30 p.m.	Dinner and Information Sharing	Group
2.	6:00 p.m.	Open Public Forum	
3.	6:30 p.m.	Harmony Road Draft Letter	Swanson
4.	7:00 p.m.	Clackamas County Coordinating Committee	Swanson
5.	7:30 p.m.	Adjourn	

The Council may vote in work session on non-legislative issues.

The time listed for each discussion item is approximate. The actual time at which each item is considered may change due to the length of time devoted to the preceding items.

At the end of the work session, 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.



December 17, 2001

Clackamas County Board of Commissioners
906 Main Street
Oregon City, OR 97045

Dear Board:

We are writing this letter to express the City's interest in staying involved in the County's proposal to widen Harmony Road. Citizens have recently approached the Council to express their concerns about the project. We share those concerns.

The project is included in the City's 1997 Transportation System Plan, and it is located in the City's Urban Growth Management Area. Accordingly, we anticipate that the County will coordinate with the City as the environmental process moves forward. Among the steps that we respectfully request are the following:

- City staff representatives be included on the project's technical advisory committee;
- County staff provide regular updates to the Council on project status, schedules, and meetings; and
- County staff actively seek involvement from the City's affected neighborhoods and citizens.

Thank you for your consideration of this request.

Sincerely,

James Bernard
Mayor

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




CLACKAMAS COUNTY

Administration

STEPHEN A. RHODES
COUNTY ADMINISTRATOR

DATE: November 20, 2001

TO: Members of the Clackamas County Coordinating Committee

FROM: Donna M. Peterson 
Assistant to the Administrator

RE: Enclosed Materials

Enclosed for your review are hand-outs that were distributed at the Coordinating Committee meeting on 11/15/01. Please note there was no quorum at this meeting. Consequently, although presentations were made, no decisions occurred. The enclosed materials are background for future agenda discussion and decision.

Item #1 is an update on the proposed Library/Parks District. A problem has been identified with formation of a combined district due to existing parks districts and the inability to create overlapping districts. This does not preclude creation of a combined district, but would complicate the effort. There was a very lively discussion about the options presented on this proposal. Due to lack of quorum, no decision could be made regarding how or if to proceed with further work on this proposal. Given momentum by at least two cities for formation of their own districts, it is necessary to make a decision very soon about whether work should continue on any of the options proposed.

Staff was directed to develop a pro/con sheet for each option. This summary will be emailed to members by the end of November. We need to assess the interest of jurisdictions in the proposed Library/Parks District or some variation thereof. Please share this information with your fellow elected officials and respond electronically to me with your majority position by December 20th. This will not be a binding vote as the Committee's by-laws provide for voting solely through attendance at a meeting at which there is a quorum.

Item #2 is a matrix reflecting estimates of cost sharing for jurisdictions for the cost of a consultant to study the issue of a countywide transportation utility fee. It is not possible to know how much such a study might cost, so cost sharing is shown for 3 possible amounts. Consensus among the members of the committee present was to proceed with an RFP to see what would be available and at what cost. Your jurisdictions will need to decide whether or not they are willing to participate in this effort.

Item #3 was distributed as part of the presentation on Concurrency and a status report on its implementation by the County. Item #3 is the model ordinance language being proposed for adoption by the County. Item #4 is proposed amendments to the County's Comprehensive Plan to reflect adoption of the ordinance. These are provided for your information only and do not require action on the part of your jurisdictions.

Finally, the regularly scheduled meeting on December 20th has been cancelled. The next meeting of the Coordinating Committee will be January 17, 2002. Meeting materials will be sent to you prior to this meeting. It has been requested that staff contact members directly to ensure a quorum at the January meeting. Please mark your calendars now.

Thank you.

TO: Clackamas County Coordinating Committee

FROM: Stephen A. Rhodes, County Administrator

DATE: November 15, 2001

RE: **Library/Parks District Update**

In doing research on the formation of Library/Park District the staff has discovered a major obstacle to establishing the District as envisioned. According to State Statute a District cannot include territory of another District providing the same service. In the case of the current proposal that means that the territory included in the Blue Heron District in Canby and the North Clackamas Park and Recreation District (NCPRD) cannot be included in the area to be covered.

It would be possible to exclude these two Districts from the proposal and as far as Parks issues went this would probably be acceptable. However in the case of Libraries, this would exclude two cities that have operating Libraries, Canby and Milwaukie and remove a major piece of the support for the County Library in the north county area.

Staff has examined a number of options but so far has not identified a solution that does not involve other disadvantages. We have looked at dissolving the current Districts. Since the Blue Heron District is not yet operating this may not be a problem but in the case of the NCPRD, the County would have to find another way to provide the service and determine how to repay the outstanding debt. Another option would be a Local Option Levy but that would not be a permanent source of financing and be subject to Measure 5 limits. The creation of a ORS 190 Intergovernmental Agency was also considered but rejected since such an agency does not have the ability to levy a property tax.

With problems the discovered, the best option may be to proceed with the formation of a Library District based on the original concept of providing a funding mechanism for local service providers. While this may resolve the Library funding issue, it obviously leaves unresolved the Park Service providers need for funds.

The Coordinating Committee needs to determine how it wishes to proceed on this project. The options include:

1. Form a District excluding the two current Park Districts.
2. Develop a Local Option Levy for Libraries and Parks.
3. Form a District for Library funding only.
4. Abandon the project.

ITEM #2

Potential Cost to Cities and County for Consultant
 Work on Countywide Transportation Utility Fee Based on Population

Jurisdiction	Population 1999	% total population	\$50,000	\$75,000	\$100,000
Barlow	125	0.0%	\$19	\$28	\$38
Canby	12,595	3.8%	\$1,909	\$2,864	\$3,818
County Unincorporated	186,976	56.7%	\$28,340	\$42,511	\$56,681
Estacada	2,200	0.7%	\$333	\$500	\$667
Gladstone	11,695	3.5%	\$1,773	\$2,659	\$3,545
Happy Valley	3,965	1.2%	\$601	\$901	\$1,202
Johnson City	615	0.2%	\$93	\$140	\$186
Lake Oswego	34,110	10.3%	\$5,170	\$7,755	\$10,340
Milwaukie	20,075	6.1%	\$3,043	\$4,564	\$6,086
Molalla	5,670	1.7%	\$859	\$1,289	\$1,719
Oregon City	23,405	7.1%	\$3,548	\$5,321	\$7,095
Rivergrove	310	0.1%	\$47	\$70	\$94
Sandy	5,300	1.6%	\$803	\$1,205	\$1,607
West Linn	22,835	6.9%	\$3,461	\$5,192	\$6,922
TOTAL	329,876	100.0%	\$50,000	\$75,000	\$100,000
Wilsonville	12,985	out			

WS. 3 4

Clackamas County Concurrency Project
Ordinance Revision Group
Model Ordinance Language (3/27/01)

Land use approval of multifamily, commercial and industrial developments, subdivisions and partitions shall be granted only if all of the following criteria are met:

- (A) For developments that require public sanitary sewer service, the applicant shall provide a certificate from the sanitary sewage treatment service provider and the collection system service provider verifying that sanitary sewer capacity will be available in the wastewater treatment system and the sanitary sewage collection system to serve the proposed development. The certificate(s) need not reserve sanitary sewer system capacity for the proposed development.
- (B) The applicant shall provide a certificate from the surface water management services provider verifying that adequate surface water treatment and conveyance will be available to serve the proposed development. The certificate need not reserve surface water treatment and conveyance system capacity for the proposed development.
- (C) For developments that require domestic, municipal or industrial water service, the applicant shall provide a certificate from the water system service provider verifying that water service will be available in levels appropriate for the proposed development, including fire flows, and that adequate water system capacity will be available in source, supply, treatment, transmission, storage and distribution. The certificate need not reserve water system capacity for the proposed development
- (D) Transportation facilities shall be adequate or shall be made adequate in a timely manner.
 - (1) As used in Subsection (D), "adequate" means Level of Service D, as defined by the *Highway Capacity Manual*, except for roads within Regional Centers, roads serving developments on property with a Comprehensive Plan designation of Industrial and roads serving high-employment developments where the standard shall be Level of Service E. A high-employment development shall be one that provides a minimum of 50 FTE per acre. Only jobs where the employee reports to work at the subject property shall be included in this calculation.
 - (2) As used in Subsection (D), "timely" means:

accordance with the Clackamas County Roadway Standards (*cities substitute their own guidelines*);

- (c) Estimated to have a minimum construction cost of \$500,000 (year 2001 dollars); and
- (d) Completed, or the developer shall provide the county (*city*) with a deposit, letter of credit, performance bond or other surety satisfactory to staff, prior to:
 - (i) Issuance of a certificate of occupancy in the case of a multifamily, commercial or industrial development; or
 - (ii) Recording of the final plat in the case of a subdivision or partition.

ZDO-183 Proposed Comprehensive Plan Amendment (Draft 11/13/01)

Text to be added is **bolded and underlined**. Text to be deleted is ~~struck through~~.

Chapter 4
Land Use
Urbanization

Future Urban Study Area Policies

8.0 The following policies apply to Future Urban Study Areas:

- 8.1 Conduct a planning process consistent with the policies of Chapter 11 of this Plan, that coordinates with affected service providers, agencies, and jurisdictions, and meets pertinent state, regional and local requirements.
- 8.2 In the Portland Metropolitan Urban Area, develop comprehensive plan designations that are consistent with requirements of the Region 2040 Urban Growth Management Functional Plan, including Title 11, "Urban Growth Boundary Amendment Area Comprehensive Plan Requirements."
- 8.3 Develop and adopt urban comprehensive plan designations that meet applicable state planning requirements and balance County planning goals adopted in the Comprehensive Plan. This will convert Future Urban Study Areas to Future Urban or Immediate Urban areas.
- 8.4 **During development of comprehensive plan provisions pursuant to Title 11 of the Urban Growth Management Functional Plan, consider the feasibility of providing and funding adequate infrastructure.**

Chapter 5
Transportation
Roadways

Functional Classifications and Roadway Standards

- 9.0 Designate and develop roadways according to the functional classifications and guidelines listed in Tables V-2 and V-3 while allowing flexibility to accommodate characteristics of terrain, scenic qualities, and existing development.
- 10.0 Designate freeways, arterials, collectors and connectors as shown on Maps V-2a and V-2b. Roadways that do not presently exist but are shown on these maps are shown in approximate locations.

11.0 Limit zone change approvals to those that will not require a roadway as planned in the Capital Improvement Plan to be redesigned or increased to a higher functional classification in order to maintain the minimum acceptable performance evaluation Level-of-Service standard. State transportation facilities shall be evaluated according to the Oregon Highway Plan.

124.0 The County shall consider the Regional Street Design Type Guidelines, as shown on Table V-4, when designing new county roads or redesigning existing county roads prior to construction or reconstruction. Map V-3 shows which roads are designated by each Design Type.

132.0 Design arterials and collectors to allow safe and convenient passage of buses in urban areas and, where necessary, rural areas.

Access Standards

143.0 Plan and control access onto roads within the County, as shown on Table V-5, for urban areas and according to the American Association of State Highway and Transportation Officials (AASHTO) guidelines for rural areas, for both new and existing uses, and coordinate with the Oregon Department of Transportation for access control on state highways. Access standards need to be applied in a flexible manner that maintains reasonable access to property when access cannot be denied.

Improvements to Serve Development

154.0 Require right-of-way dedication, on-site improvements to the applicable roadway standard as shown on Tables V-2 and V-3, and off-site improvements for new developments and land divisions necessary to handle expected traffic loads and travel by alternative modes.

16.0 Link development approval to the provision of adequate roadway facilities.

175.0 Require implementation of a local street network for undeveloped sites illustrated on Map V-4. Existing streets shall be extended to provide a direct, connected street system.

186.0 Developers of new developments and land divisions that will require construction of new streets shall provide the County with a conceptual street plan map and street cross sections responding to the other requirements of this section, and full street connections at intervals of no more than 530 feet. Exceptions may be made when a full street connection is prevented by barriers such as topography, railroads, freeways, pre-existing development or environmental constraints such as streams and wetlands.

197.0 Before an exception is granted to the above requirement, it shall be determined if, at a minimum, an accessway for pedestrians, bicyclists or emergency vehicles

may be constructed at intervals of 330 feet. Those accessways shall be constructed unless prevented by barriers or environmental constraints.

~~2018.0~~ Assess anticipated off-site traffic impacts caused by new developments and subdivisions. The developer or subdivider may be required to participate financially in the provision of off-site improvements required to handle traffic generated by the development.

~~2119.0~~ Where appropriate, develop and implement neighborhood traffic circulation plans intended to improve circulation while minimizing neighborhood disruption and environmental problems.

~~220.0~~ Encourage a relationship between land use and roadways which decreases average trip length.

~~234.0~~ Discourage through trips on local, connector and collector roadways.

~~242.0~~ Develop neighborhood traffic calming policies that will enable the County to address inappropriate travel patterns and speeds.

~~253.0~~ Allow flexible roadway criteria and standards for local streets that are less than 200 feet in length, are expected to carry very low traffic volumes, and are not capable of being extended.

~~264.0~~ Private streets may be appropriate in areas with topographic constraints that make construction of a road to County standards not feasible. Private roads are not classified as local streets and are not maintained by the County, and don't necessarily provide connectivity.

Operating Standards

~~275.0~~ Evaluate capacity needs for regional roadways within Metro's boundaries using the Regional Motor Vehicle Performance Measures. The use of these measures is limited to network analysis, and priorities for funding through Metro; they are not for designing individual road improvements.

~~286.0~~ All arterials and collectors not in Regional Centers shall be evaluated for performance to Level-of-Service "D" as the acceptable operating standard, with the following exception. Review of high-employment developments and developments proposed on property with a Comprehensive Plan designation of Campus Industrial, Business Park, Light Industrial, General Industrial or Rural Industrial shall use a performance evaluation operating standard of Level-of-Service "E." All capital construction shall be designed to achieve Level-of-Service "D" or better.

~~29.0~~ Limit zone change approvals to those that will not reduce the Level of Service of a roadway as planned in the Capital Improvement Plan below the

minimum acceptable performance evaluation Level-of-Service standard.
State facilities shall be evaluated according to the Oregon Highway Plan.

Building Roads

3027.0 County road capital improvement projects outside UGBs may be designed and constructed to improve safety and bring the roads up to County standards. When projects are located within current rights-of-way, no conflicts with Goals 3 or 4 are anticipated. If the design of a project requires expansion of right-of-way into lands planned for Forest or Agricultural use, a goal exception may be necessary.

3128.0 Road projects located outside UGBs shall be planned to support the existing development pattern and through traffic needs, and are not planned to support or promote urbanization. Such projects will comply with Goal 11 (Transportation) to provide a safe and efficient transportation system meeting the needs of the rural area.

3229.0 Streets and roads are an allowed use in all zoning districts. All state and County policies relating to roads shall be considered when widening or constructing new roads.

330.0 Consider all types of interchange designs when developing a freeway interchange project to maximize traffic flow, safety and efficiency.

341.0 Consider all transportation modes when building new roads or widening existing roads to maximize efficiency and safety for all users of the road.

Scenic Roads

352.0 Implement a County Scenic Road System.

352.1 The Scenic Road designation is intended to protect recreation values, scenic features, and an open, uncluttered character along the roadway. Developments adjacent to scenic roads shall be designed with sensitivity to natural conditions. The following policies are intended to accomplish these ends:

- a. Scenic roads shall have strict access control on new developments.
- b. Scenic roads should have shoulders wide enough for pedestrians or bicycles.
- c. Turnouts should be provided where appropriate for viewpoints or recreational needs.
- d. Design review of developments adjacent to scenic roads shall require visual characteristics and signing appropriate to the setting.

- e. Buildings should be set back a sufficient distance from the right-of-way to permit a landscaped or natural buffer zone.
- f. Parking areas adjacent to scenic roads should be separated from the right-of-way by a landscaped buffer.
- g. Frontage roads, if any, adjacent to scenic roads should be separated by a vegetative buffer.
- h. Encourage underground placement of utilities.

352.2 The following shall be designated scenic roads: (See Map V-5).

- I-205 west of the Willamette River
- Stafford Road from Lake Oswego to Mountain Road
- Mountain Road, Canby Ferry, Locust, 37th, and Holly Street
- Schaeffer Road
- Pete's Mountain Road from Schaeffer Road to Tualatin River
- Oregon City Bypass-Newell Creek Canyon segment
- Highway 99E from Oregon City to New Era Road
- Canby-Marquam Highway from Canby to Highway 211
- Highway 211 from Canby-Marquam Highway to Estacada
- Highway 224 from Carver to Barton and from Estacada south
- Redland Road
- Clackamas River Drive
- Fischers Mill Road
- Springwater Road from Clackamas River Drive to Hayden Road
- Hayden Road
- Highway 26 east of Sandy
- Highway 35
- Old Highway 35/FS 386
- Timberline Road and West Leg Road
- Marmot/Barlow Trail Road
- Lolo Pass Road
- Salmon River Road
- Still Creek Road
- Wilsonville Road

352.3 Designate that portion of the Mt. Hood Loop in Clackamas County (Dodge Park Road, Lusted Road, Ten Eyck Road, US 26, and OR 35) as an official Oregon Scenic Byway.

PUBLIC FACILITIES

GOALS

- Maintain and improve the quality of Clackamas County's streams, lakes, waterways and groundwater.
- Provide for the location and development of sanitary sewage treatment, collection and reuse facilities to support existing and future land use development in all urban areas of the County.
- Provide for the location and development of drinking water facilities to support existing and future land development.
- Protect the quantity and quality of drinking water supplies.
- Coordinate the location and size of drinking water facilities with appropriate water purveyors.
- Minimize stormwater runoff, water pollution, siltation, soil erosion and flooding.
- Improve fish habitat and support recovery of aquatic species.
- Link development approval in areas that require public sanitary sewer, water and/or storm drainage service to the concurrent provision of adequate service facilities.
- Provide a systematic control for the collection, transport, storage, separation, processing, recycling, resource recovery and disposal of solid waste.
- Minimize the impact on air, land and water quality and neighborhoods when siting sanitary landfills.

POLICIES

Clackamas County adopts as supporting documents to this Plan the public facilities plans titled, "Transportation Element", "Sanitary Sewerage Services", "Water Systems", and "Storm Drainage Element", including the public facility project titles contained therein. The public facility projects' locations or service areas are shown on maps contained within the above reports. Additional supporting documents are the master plans for Cow and Sieben Creeks, Kellogg/Mt. Scott Creek, and Rock and Richardson Creeks.

Sanitary Sewage Treatment

- 1.0 Recognize County responsibility for operating, planning and regulating wastewater

systems as designated in the approved Sewerage Facilities Master Plan.

- 2.0 Recognize that Clackamas County Service District No. 1, Tri-City Service District, Oak Lodge Sanitary District, the Unified Sewerage Agency and the City of Portland have responsibility for operating, planning, and regulating wastewater systems as designated in the approved Sewerage Facilities Master Plan.
- 3.0 Require all agencies that provide sewer treatment and collection services in Clackamas County to be consistent with a DEQ approved Sewerage Facilities Master Plan.
- 4.0 Ensure that sewerage facilities in Clackamas County are developed and maintained by the appropriate sanitary district, county service district or city.
- 5.0 Require, if necessary, provision of sanitary sewers prior to development in areas identified as "health hazards" by the State of Oregon.
- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.
- 7.0 Require the timely and orderly provision of sanitary sewers in all Immediate Urban areas except those identified as Floodplain and other hazard areas.
- 8.0 Prohibit new on-site sewage disposal systems within Urban Growth Boundaries except for:
 - a. A lot of record outside of a sewerage service district, legally recorded prior to January 31, 1980, or
 - b. Parcels of ten acres or larger in Future Urban areas inside the Metro Urban Growth Boundary (UGB), or
 - c. Outside the Metro UGB on lots that conform to the minimum lot size of the zone, or
 - d. Parcels inside a sewerage service district having unique topographic or other natural features that make sewer extension impractical as determined on a case by case basis by the sewer service provider.
- 9.0 Allow sewerage systems in "Rural" designated areas only to alleviate a public health hazard or water pollution problem that has been identified by the State of Oregon or Clackamas County.
- 10.0 Allow sewerage systems in the Wildwood/Timberline Rim, Zigzag Village, Rhododendron, Wemme/Welches, Government Camp and Boring Rural

Communities, provided such systems are not allowed to expand outside the boundaries of these communities.

- 11.0 Allow DEQ approved sewage disposal systems in "Agricultural" and "Forest" designated areas if:
 - a. Necessary to alleviate a public health hazard or water pollution problem that has been identified by the State of Oregon.
 - b. Necessary for parks or recreation lands when consistent with the protection of forests and agriculture, or for housing necessary for the conduct of forest or agriculture related activities.
- 12.0 Coordinate the review of development applications with the appropriate sanitary sewer service provider to ensure that approval is not granted in the absence of adequate sanitary sewer facilities or a mechanism to provide them concurrently with development.**

Water

- ~~132.0~~ Develop a Countywide program for domestic water source development.
- ~~143.0~~ Require all public water purveyors to design the extension of water facilities at levels consistent with the land use element of the Comprehensive Plan. Capacity suitable for fire protection needs to be included.
- ~~154.0~~ Require water purveyors in urban areas to coordinate the extension of water services with other key facilities, i.e., transportation, sanitary sewers, and storm drainage facilities, necessary to serve additional lands.
- ~~165.0~~ Encourage development in urban areas where adequate urban water facilities already exist.
- ~~176.0~~ Require water service purveyors to provide water services for non-urban areas at levels appropriate for non-urban use.
- 18.0 Coordinate the review of development applications with the appropriate water service provider to ensure that approval is not granted in the absence of adequate water facilities or a mechanism to provide them concurrently with development.**

Storm Drainage

- ~~197.0~~ Require all new developments to meet the development standards of the appropriate service provider.

- ~~2018.0~~ Require submission of storm drainage, water quality and erosion control plans prior to approval of all new development, and implementation of such plans.
- ~~2119.0~~ Require that urban stormwater runoff be minimized by nonstructural controls, where feasible, to maintain the quality and quantity of runoff in natural drainage ways. These areas may be calculated as part of the required open space.
- ~~220.0~~ Require runoff from impervious surfaces to be collected and treated, as required by the appropriate service provider, prior to discharge to a natural drainage way capable of accepting the discharge.
- ~~231.0~~ Require control measures to minimize erosion and sedimentation during construction. The method of retention and control shall be approved by the appropriate service provider.
- ~~242.0~~ Stabilize drainage ways as necessary below drainage and culvert discharge points for a distance sufficient to minimize erosion created by the discharge.
- ~~253.0~~ Determine the responsibility for installation of storm drainage systems prior to final approval of all new developments.
- 26. Coordinate the review of development applications with the appropriate storm drainage service provider to ensure that approval is not granted in the absence of adequate storm drainage facilities or a mechanism to provide them concurrently with development.**

Solid Waste

- ~~274.0~~ Coordinate with Metro in the proper siting and operation of solid waste facilities in Clackamas County.
- ~~285.0~~ Require future sanitary landfill sites to meet appropriate State and regional siting criteria and regulations.
- ~~296.0~~ Ensure that the operation of solid waste facilities and services is consistent with County Solid Waste and Waste Management Ordinances.
- ~~3027.0~~ The guiding policy for waste management in the County should be based on the following priorities:
 - a. Reduce the amount of solid waste generated.
 - b. Reuse material for the purpose for which it was originally intended.
 - c. Recycle material that cannot be reused.

- d. Compost material that cannot be reused or recycled.
- e. Recover energy from solid waste that cannot be reused, recycled, or composted so long as the energy recovery facility preserves the quality of air, water, and land resources.
- f. Dispose of, by landfilling, any solid waste that cannot be reused, recycled, composted or from which energy cannot be recovered.

Street Lighting

3128.0 Encourage provision of street lighting for all new and existing developments inside the Urban Growth Boundary.

3229.0 Outside Urban Growth Boundaries, discourage installation of street lighting except in Rural Communities and in subdivisions with lots of one (1) acre or less. This policy is not intended to prevent installation of individual lights necessary for security or public safety.

ZDO-183 Proposed Ordinance Amendment (Draft 11/13/01)

Text to be added is bolded and underlined.

1022 CONCURRENCY1022.01 PURPOSE

The purpose of this Section is to ensure that sanitary sewer, surface water management, water and transportation infrastructure is provided concurrent with the new development it is required to serve or, in the case of transportation infrastructure, within a reasonable period of time following the approval of new development.

1022.02 AREA OF APPLICATION

This Section shall apply to developments that are subject to design review, subdivisions, partitions and conditional uses.

1022.03 SANITARY SEWER SERVICE

Approval of a development that requires public sanitary sewer service shall be granted only if the applicant provides a certificate from the sanitary sewage treatment service provider and the collection system service provider. The certificate shall verify that sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or will be made available through improvements completed by the developer or the system owner. The certificate need not reserve sanitary sewer system capacity for the development.

1022.04 SURFACE WATER MANAGEMENT SERVICE

Approval of a development that requires public surface water management service shall be granted only if the applicant provides a certificate from the surface water management service provider. The certificate shall verify that adequate surface water treatment and conveyance is available to serve the development or will be made available through improvements completed by the developer or the system owner. The certificate need not reserve surface water treatment and conveyance system capacity for the development.

1022.05 WATER SERVICE

Approval of a development that requires public water service shall be granted only if the applicant provides a certificate from the water system service provider. The certificate shall verify that water service, including fire flows, is available in levels appropriate for the development and that adequate water

system capacity is available in source, supply, treatment, transmission, storage and distribution. Alternatively, the certificate shall verify that such levels and capacity will be made available through improvements completed by the developer or the system owner. The certificate need not reserve water system capacity for the development.

1022.06 TRANSPORTATION FACILITIES

A. Approval of a development shall be granted only if transportation facilities are adequate or will be made adequate in a timely manner.

B. As used in Subsection 1022.06A, "adequate" means a minimum of Level-of-Service (LOS) D, except as identified below.

1. LOS designations shall have the definitions given to them by the latest edition of the *Highway Capacity Manual*.

2. Minimum LOS standards established by this Subsection shall apply to all roadways and intersections.

3. LOS shall be evaluated for motor vehicle traffic only.

4. Except as identified below, LOS shall be calculated at the A.M. peak hour and the P.M. peak hour using the methodology set forth in the latest edition of the *Highway Capacity Manual*.

5. Portions of 82nd Avenue and Sunnyside Road located within the Clackamas Regional Center boundary as identified on Map X-CRC-1 of the Comprehensive Plan shall be subject to the following minimums:

<u>Mid-Day one-hour</u>	<u>LOS E</u>
<u>Peak two-hour</u>	<u>LOS F, first hour; LOS E, second hour</u>

6. Portions of 82nd Avenue, Sunnyside Road and Johnson Creek Boulevard located within the Clackamas Regional Center Design Plan Area and outside the Regional Center boundary as identified on Map X-CRC-2 of the Comprehensive Plan shall be subject to the following minimums:

<u>Mid-Day one-hour</u>	<u>LOS D</u>
<u>Peak two-hour</u>	<u>LOS E, first hour; LOS E, second hour</u>

7. LOS E shall apply to roadways—other than 82nd Avenue and Sunnyside Road—within the Clackamas Regional Center boundary.

8. LOS E shall apply to developments proposed on property with a zoning designation of Campus Industrial, Light Industrial, General Industrial, Rural Industrial, Campus Industrial Park or Business Park.
9. LOS E shall apply to high-employment developments. A high-employment development is one that provides a minimum of 50 FTE per acre. Only jobs where the employee reports to work at the subject property shall be included in this calculation.

C. As used in Subsection 1022.06A, “timely” means:

1. Necessary improvements are scheduled and fully funded in the Five-Year Capital Improvement Plan and scheduled to be under construction within three years of the date land use approval is issued; or
2. Necessary improvements will be constructed by the developer or through another mechanism, such as a local improvement district. Necessary improvements shall be completed, or—pursuant to Section 1104—the developer shall provide the County with a deposit, letter of credit, performance bond or other surety satisfactory to County staff, prior to:
 - a. Issuance of a certificate of occupancy in the case of a development subject to design review or a conditional use; or
 - b. Recording of the final plat in the case of a subdivision or partition.

D. As used in Subsection 1022.06C, “necessary improvements” are:

1. Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1022.06B. Roads to be reviewed for adequacy shall be those identified in a transportation impact study as being within the impact area of the proposed development.
 - a. A determination regarding whether submittal of a transportation impact study is required shall be made based on the *Clackamas County Roadway Standards*, which also establish the minimum standards to which a transportation impact study shall adhere.
2. If a transportation impact study is not required, county traffic engineering or transportation planning staff shall identify necessary improvements or the applicant may opt to provide a transportation impact study.

E. In the absence of compliance with Subsection 1022.06A, land use approval shall be granted if the developer voluntarily makes a substantial contribution to the transportation system.

1. As used in this Subsection, "substantial contribution" means construction of a roadway or intersection improvement that is all of the following:

a. A complete project or a segment of a roadway identified in Table V-1 of the Comprehensive Plan. For a segment of a roadway to qualify as a substantial contribution, the roadway shall be on or abutting the subject property, no less than the entire segment that is on or abutting the subject property shall be completed and there shall be a reasonable expectation that the entire roadway will be completed within five (5) years;

b. Located within the impact area of the proposed development. The impact area shall be defined by a transportation impact study submitted in accordance with the *Clackamas County Roadway Standards*;

c. Estimated to have a minimum construction cost of \$500,000. The minimum construction cost shall on January 1st of each year be adjusted to account for changes in the costs of acquiring and constructing transportation facilities. The adjustment factor shall be based on the change in average market value of undeveloped land, except resource properties, in Clackamas County according to the records of the County Tax Assessor, and the change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index; and shall be determined as follows:

$$\begin{aligned} & \text{Change in Average Market Value X 0.50} \\ + & \text{Change in Construction Cost Index X 0.50} \\ = & \text{Minimum Construction Cost Adjustment Factor} \end{aligned}$$

d. Completed or, pursuant to Section 1104, the developer shall provide the County with a deposit, letter of credit, performance bond or other surety satisfactory to County staff, prior to:

1. Issuance of a certificate of occupancy in the case of a development subject to design review or a conditional use; or

2. Recording of the final plat in the case of a subdivision or partition.

F. Where there is a conflict between Chapter 10 of the Comprehensive Plan and Subsection 1022.06, the provisions of Chapter 10 shall take precedence.

ZDO-183 Proposed Ordinance Amendment (Draft 11/13/01)

Text to be added is **bolded and underlined**. Text to be deleted is ~~struck through~~.

1202 ZONE CHANGE (~~7/15/81~~)

1202.01 The Hearings Officer shall allow a zone change, after a hearing conducted pursuant to Section 1300, provided that the applicant provides evidence substantiating the following, unless otherwise provided for in this Ordinance: (~~7/15/81~~)

A. Approval of the request is consistent with the Comprehensive Plan;

B. If development has a need for public sanitary sewer, surface water management and/or water service, a zone change may be approved if development under the new zoning designation can be accommodated with the implementation of service providers' existing capital improvement plans. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.

~~B. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.~~

C. The zone change will not impact the transportation system such that a roadway as planned in the Capital Improvement Plan:

- 1. Must be redesigned or increased to a higher functional classification in order to maintain the minimum acceptable performance evaluation Level-of-Service standard identified by the Comprehensive Plan; or**
- 2. Will operate at a performance evaluation Level-of-Service standard below the minimum acceptable level identified in the Comprehensive Plan.**
- 3. For the purpose of these criteria, the cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.**
- 4. State transportation facilities shall be evaluated pursuant to the Oregon Highway Plan rather than the Comprehensive Plan.**

D. The transportation system is adequate from a safety standpoint to serve the level of development anticipated by the zone change.

E. Development based on a zone change granted pursuant to this Section shall

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be subject to Section 1022.

1202.02 Alternate recommendation for zoning map change may be substituted by the Hearings Officer for the applicant's petition request subject to the following:

- A. The alternative district implements the same plan category, as indicated on the land use plan map for the property, and (7/15/81)
- B. Public Hearings Notice shall include notification of additional consideration as required by Section 1300.

ZDO-183 Proposed Ordinance Amendment (Draft 10/10/01)

Text to be added is **bolded and underlined**. Text to be deleted is ~~struck through~~.

1203 CONDITIONAL USE (2/10/94)

- 1203.01 The Hearings Officer may allow a conditional use, after a hearing conducted pursuant to Section 1300, provided that the applicant provides evidence substantiating that all the requirements of this Ordinance relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:
- A. The use is listed as a conditional use in the underlying district.
 - B. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.
 - C. The ~~site and~~ proposed development is **consistent with Section 1022, and the transportation system is adequate from a safety standpoint to serve the proposed development** ~~timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.~~
 - D. The proposed use will not alter the character of the surrounding area in ~~a~~ the manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district.
 - E. The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use.
- 1203.02 Conditional use approvals shall expire in the event the approval is not implemented within two (2) years from the date of the final written decision unless a lesser time period is specified as a condition of approval or a time extension is approved pursuant to Subsection 1203.03. The conditional use approval is implemented when all necessary permits for development have been secured and are maintained. Public roads, public schools, and public parks are exempt from these expiration provisions unless specified in a condition of approval. (2/10/94)
- 1203.03 A one (1) year time extension may be granted once by the Planning Director pursuant to Subsection 1305.02 subject to the following provisions: (2/10/94)
- A. The time extension request must be in writing, on forms provided by the Planning Division, at least thirty (30) days prior to the expiration of the approval. (2/10/94)
 - B. The request is consistent with all ordinance provisions in effect at the time of

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the time extension request. (2/10/94)

- C. There is reasonable expectancy the necessary development permits will be secured within the one (1) year extension period. (2/10/94)

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MEMORANDUM

TO: Mike Swanson, City Manager, City of Milwaukie

FROM: Gary Firestone, City Attorney's Office

DATE: December 3, 2001

RE: County Service Districts

BACKGROUND

Clackamas County is proposing a County Service District for parks or parks and libraries.

ISSUES AND SHORT ANSWERS

1. **Can the authority of the County Board of Commissioners to operate and control the County Service District be limited by the language of the ballot measure forming the district?**

Probably not. The issue possibly cannot be included in the ballot measure and even if it could, it may not overcome the clear statutory grant of authority to the Board of Commissioners.

2. **If not, is there any other structure that would generate revenues but not leave the County in control?**

The County Service District structure may be useable, but with a limitation created by intergovernmental agreement rather than by inclusion in the ballot measure.

Memorandum re: County Service Districts
December 3, 2001
Page 2

ANALYSIS

1. **Including the allocation of funds in the ballot measure establishing the district does not appear to be a viable means of limiting the authority of the County Board of Commissioners.**

County Service Districts, which are authorized by ORS Chapter 451, are formed under the provisions of ORS 198.705 to 198.955. ORS 451.435. If the district is to have a permanent tax rate,¹ ORS 198.815(4)(a) provides:

When the proposal for formation includes a permanent rate limit for operating taxes for the proposed district, the ballot title shall clearly indicated that a single question is being proposed, which is:

(A) Whether the proposed district shall be formed; and

(B) Whether the permanent rate limit specified in the ballot title shall be adopted as the maximum rate of operating taxes for that district.

This provision appears to exclude any other question from the ballot measure on formation. Therefore, ORS 198.815(4)(a) appears to preclude the inclusion of language in the ballot measure that would permanently allocate expenditures of the district.

Even if the matter could be included in the ballot measure, ORS 451.485 explicitly gives the County Board of Commissioners the authority to determine which facilities are to be constructed, maintained and operated, how to finance the construction maintenance and operation, and how to allocate costs. Nothing in the statute suggests that this authority can be limited by the election forming the district. The decisions by the County determining which facilities are to be operated, how they are to be financed and how costs are to be allocated are subject to referendum. Except for the referendum right, the County's authority to decide these issues is unfettered. Even if the ballot measure did include some provisions for distribution of funds, that would only be a legislative act that could be undone by a later legislative act of the County Board of Commissioners.

¹If a permanent tax rate is not proposed and an insufficient number of people request an election, no election is required.

Memorandum re: County Service Districts

December 3, 2001

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2. **Alternatives are possible**

Alternative restrictions on the County's authority are possible. The district could be set up as a County Service District, but the County could, by intergovernmental agreement, set up a system that would limit the County's ability to reallocate funds. An intergovernmental agreement may explicitly provide for an allocation of funds and commit the County to continue the same allocation unless the other parties to the agreement agree to a change in the allocation.

As an alternative to County Service Districts, a parks district or a library district (or both) could be formed. *See* ORS Chapters 266 and 357. Both these types of districts can generate revenue through taxes or bonds. ORS 266.410, 266.480, 357. 261. However, these districts would be independent districts governed by their own boards and it would not be possible to set up a restriction on allocation of funds prior to formation. ORS 266..310, ORS 357.226.

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