

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
FEBRUARY 4, 1997**

The one thousand seven hundred and sixtieth meeting of the Milwaukie City Council was called to order by Mayor Lomnicki at 7:00 p.m. in the Council Chambers at Milwaukie City Hall. The following Councilmembers were present:

Craig Lomnicki
Mayor
Carolyn Tomei

Jean Schreiber
Rob Kappa
Don Trotter

Also present:

Dan Bartlett,
City Manager
Charlene Richards,
Assistant to the
City Manager
Paul Elsner,
City Attorney
Angus Anderson,
Finance Director

Maggie Collins,
Community Development Director
Jim Brink,
City Engineer
JoAnn Herrigel,
Program Services Coordinator
Rafael Cruz,
Civil Engineer
Jay Saatkamp,
Operations Supervisor -- Water

CONSENT AGENDA

It was moved by Councilmember Kappa and seconded by Councilmember Tomei to adopt the Consent Agenda that consisted of the City Council minutes of January 21, 1997, and drafting revisions to the Center/Community Advisory Board bylaws. Motion passed unanimously.

AUDIENCE PARTICIPATION

Bruce Conachan, 12223 SE 22nd, Milwaukie, addressed the City Council on a drainage issue on his property. He was experiencing a water problem in his basement that he felt was a direct result of development on an adjacent property. He indicated his dissatisfaction that no measures had been taken by the City to help solve this problem. He said he had been in contact with the City Engineer and the City Manager on the issue.

The process started several months ago when the property next to his was divided for development. **Conachan** indicated he attended Planning Commission meetings in which the development was discussed. Included in the written material **Conachan** distributed to Council was a letter dated August 22, 1996, to Building Official Kenworthy outlining the problem. **Conachan** said he also submitted photographs of the construction site with this letter to illustrate his erosion control concerns. A large amount of dirt was pushed up against a cyclone fence and left there without any attempt to retain it. In addition, three large fir trees were removed from parcel 3 in July 1996. **Conachan** indicated his main concern was that the final grade would force water runoff to the north instead of to the west. He showed the City Council additional photos of the construction site, but these were not entered as an exhibit.

Mayor Lomnicki asked **Conachan** to indicate his property on the map. **Conachan** said his lot was 5200. He pointed out in the copy of his fax to Civil Engineer Roeger and Building Official Bennett that this was the first time in nineteen years he has had to clean up water in his basement. The new home acts as a dam, and the water flows north onto his property.

Conachan discussed his meeting with Roeger regarding the installation of a swale to direct water runoff. He understood from City staff the letter and photographs he sent to Kenworthy in August were lost. **Conachan** said he was not satisfied with Bartlett's response and noted the City's insurance carrier sent him a letter dated January 24, 1997. He read the letter from the Northland claims examiner indicating there would be an investigation.

After his December 26, 1996, conversation with Bartlett, **Conachan** contacted Gary Michael and Councilmember Tomei who suggested he address his concerns before the City Council. He reviewed his discussions with Roeger regarding a swale, but on January 14, 1997, the property was regraded with no swale. He and staff continued discussing the swale concept, but on February 2, 1997, Roeger told him that concept had been abandoned because the water ran that way naturally. City Engineer Brink agreed that the topology did not indicate the need for a swale.

Councilmember Tomei asked for clarification if the Schaeffer house had water in its basement before the new construction. **Conachan** said it had been dry until the new house was built. He walked the property with Roeger and Brink, and the driveway acted as a trough to carry the water. Staff decided the site needed more review, and they did not discount installing a swale that would empty onto 21st Street. He discussed the builder's responsibility.

Conachan felt very frustrated with staff since part of the Planning Commission agreement was drainage onto 21st Street. He was also concerned about taxpayers having to pick up costs for things the contractor should have done.

Mayor Lomnicki said he understood from Conachan's comments that staff's most recent recommendation was to construct a swale. **Conachan** said that was what Roeger told him today.

Mayor Lomnicki said the City's insurance carrier had contacted Conachan. **Conachan** said he received a letter, but he has not been in verbal contact with Northland. He said he was complaining about the lack of communication between City departments.

Councilmember Tomei said Conachan expressed his concerns at the Planning Commission variance hearing, and staff assured him this problem would not happen. **Conachan** said he was concerned about the dirt piled against the cyclone fence, but his main concern at this point was water runoff. He just wanted an operable swale collecting runoff to 21st Street and a way to get the water off his property.

Councilmember Kappa asked if water was still coming in his basement. **Conachan** said it does when there is a heavy rain or snow melt.

Councilmember Kappa asked if there was anything currently in place. **Conachan** said the contractor had done the final grading, and there was no swale construction. There were several hay bales between his and lots 9 & 10.

Bartlett said there is an open citizen request for service on Conachan's issue. Not being a civil engineer himself, he was unable to respond to some of the questions. The City of Milwaukie contracts with Northland Insurance to investigate and determine responsibility and any necessary compensation. The Northland letter is part of the standard process when the City receives a claim. City staff is to make no commitments from that point forward. City Council may meet in executive session to discuss the issue with legal counsel and the insurance carrier. These are mistakes that took place in the past, and now a drainage system must be installed in the neighborhood.

Councilmember Tomei asked the City's responsibility and what could be done to make sure the builder followed through. There seemed to be no problem before the new home was built.

Elsner responded his initial analysis was that the City had no liability. In this case, Conachan can identify the builder as the source of the problem. It is now an issue between the residents and the builder. The City is responsible for making sure the builder complies with the code. He assumed Northland would come to the same conclusion. Initially, he saw the City as not liable, and Conachan may have action against the developer.

Conachan said he did not understand why he needed to seek legal counsel if the City agreed a swale was necessary. He felt staff may have been swayed by the builder.

Bartlett said the Northland claims adjuster could best deal with the issue.

Mayor Lomnicki stated the insurance carrier investigates the facts to determine if there is a liability. City Council will hear Northland's conclusions in executive session. The City relies on engineers to make decisions, and if an individual disagrees with a decision or action, the insurance carrier acts as arbitrator.

Bartlett discussed a similar situation on Lake Road, and the work Northland was doing to solve the problem. Northland will consider what was said by Wade, Roeger, and Bartlett, and the adjuster will determine if the City is liable or if the resident should seek counsel. At this point, no determination can be made to remedy the problem.

Councilmember Tomei said she presumed none of this precludes agreements made with Brink and Roeger today. **Bartlett** said City staff cannot put in a swale. If staff agrees a swale is the solution, then it will send a letter to the developer to that effect and also let him know the insurance carrier is also working on the situation.

Conachan said staff decided on January 23 no swale was needed, but he did not find out until February. He indicated he was before the City Council on the advice of Councilmember Tomei and Gary Michael. He felt it was ridiculous the City cannot respond to what it says it will do.

Mayor Lomnicki explained the City Council would not take an action tonight and directed staff to keep it informed.

Conachan asked how long he would expect this situation to continue. **Mayor Lomnicki** felt the issue would be addressed as quickly as possible.

Councilmember Kappa asked if the City would be admitting liability if it assisted at this time. **Bartlett** said he did not feel the City should assist on private property.

Mayor Lomnicki said the City would send letters to the builder to clarify the situation. The City will continue to work through its insurance carrier and come to a conclusion as soon as possible.

Conachan asked how long he could expect to wait. **Mayor Lomnicki** suggested he continue to communicate with Brink or the City Manager. **Bartlett** said he would take responsibility for the contact.

PUBLIC HEARING

Transfer of Milwaukie Cable Television System from Jones Intercable to TCI

Mayor Lomnicki called the public hearing on the transfer of Milwaukie's cable television system from Jones Intercable to TCI at 7:55 p.m.

The purpose of the hearing was to consider public comment on the proposed transfer. He reviewed the conduct of the hearing.

Staff Report: **Herrigel** presented the staff report. The City of Milwaukie received an application for franchise authority consent to transfer the cable television franchise from Jones Intercable to TCI on November 15, 1996. The City has 120 days in which to take action. The purpose of the hearing is to get public input from which staff will notify Jones and TCI of any additional concerns. The current agreement expires June 1998, and, until that time, the current franchise is binding on the City of Milwaukie and the system operator. She noted the issues of providing a public access facility and giving senior discounts.

Councilmember Kappa asked when the City would begin negotiating a new franchise agreement. **Herrigel** responded the process began about eighteen months ago.

Councilmember Kappa commented there are issues outside the City's control at this time. **Herrigel** said that was correct, and these issues would be part of the franchise renewal process coming before the City Council at a future date. These issues would come before the City Council in the future as that process continues.

Correspondence: There was no additional correspondence other than that included in the packet. **Herrigel** received four phone calls mainly asking what transferring to TCI would mean to local service.

Audience Testimony: **Yvonne Haddix**, 20101 SE Fairway Drive, Boring, addressed the seniors' needs for a public access facility. The Milwaukie Center has enjoyed a good relationship with Jones over the past ten years, and she urged the City Council to consider senior needs for a local production site. She thanked the Jones staff for all the help and encouragement it has provided to area seniors.

Staff Comments: None.

Questions of Clarification: **Mayor Lomnicki** asked if there was anything in the current contract that stated the studio had to be within the City limits. **Herrigel** said she believed there was, and TCI indicated they did not plan to move the studio.

Councilmember Kappa asked if TCI maintained any other studios like this. **Herrigel** said she understood TCI contributed funds to studio operators as part of its franchise agreements. Staff is looking at the existing franchise to determine if Jones has been meeting its obligations for the past twelve years before the transfer takes place.

Councilmember Schreiber said from the wording it sounded like a "done deal." **Herrigel** said the City has 120 days in which to deny or approve the transfer. If the City takes no action, the transfer will be automatically approved.

Mayor Lomnicki said, in working out the details of the potential transfer, the City wants to make sure the obligations within the agreement are being met before transfer is approved.

Close Hearing: **Mayor Lomnicki** closed the public testimony portion of the hearing at 8:07 p.m.

Discussion among Councilmembers: None.

OTHER BUSINESS

Findings of Fact and Conclusions of Law Regarding File VR-96-07

Collins presented the staff report describing the findings of fact and conclusions of law relating to file VR-96-07 as directed by the City Council on January 21, 1997. These findings include Exhibit A, a map; and Exhibit B, a memo from Public Works. The City Attorney has reviewed the findings, and staff requested they be adopted.

Mayor Lomnicki said the findings before the City Council at this meeting were amended from those in the original packet. He asked **Collins** to review these changes. **Collins** noted three changes: (1) in the original version, the section on exceeding the 120-day limit was a finding, but the attorney amended it to a footnote; (2) the language regarding the 120-day limit was deleted from the "Conclusion" introductory paragraph; and (3) the City Attorney added language to the same paragraph stating, "As appropriate, these conditions shall be considered as additions to any final decision approving a subdivision application affecting this property."

Mayor Lomnicki said all parties will have the opportunity to express their concerns during the Planning Commission's subdivision hearing process.

Councilmember Kappa said he felt the comment on the 120-day limit was confusing as a footnote since exceeding that limit was part of the decision for granting the variance.

Elsner said the 120-day limit was not a finding of fact. The findings of fact should reflect the code. That was the purpose for making it parenthetical and rephrasing it.

Councilmember Trotter felt item 2, *Pending Subdivision Application*, made the situation much clearer.

Marshall said he was told the City Council overturned the variance denial because of the 120-day clock. He asked if that was correct. **Mayor Lomnicki** responded the elements of the City Council discussion were put into findings of fact and conclusions of law to be considered and adopted at this meeting.

Collins said the City Council made its motion based on the staff report with the conditions.

Councilmember Trotter commented he concurred with the City Attorney's comments. Later in the January 21, 1997, Council discussion, he asked about adding language regarding the 120-day limit, and this document was in keeping with the manner in which he asked the question.

Councilmember Schreiber asked the City Attorney if she should vote since she was not at the previous meeting. **Elsner** recommended she not vote at this time since the issue was whether these findings and conclusions of law were an accurate reflection of that Council discussion.

It was moved by Councilmember Trotter and seconded by Councilmember Tomei to adopt the findings of fact and conclusions of law regarding file VR-96-07. Motion passed 4 - 0 - 1 with the following vote: Mayor Lomnicki, Councilmember Tomei, Councilmember Kappa, and Councilmember Trotter aye; no nays; Councilmember Schreiber abstained.

Mayor Lomnicki announced the decision could be appealed to LUBA within a 21-day time limit from the time it was signed and mailed.

Fiscal Year 1997 - 1998 North Clackamas Parks and Recreation District (NCPRD) Budget Priorities for the City of Milwaukie -- Resolution

Richards presented the staff report. The City Council was asked to adopt a resolution communicating Milwaukie neighborhood funding priorities for fiscal year 1997 - 1998. She discussed the role of the Milwaukie Park and Recreation Board (PARB) and the process in which the Board established its priorities. Page two of the resolution was revised based on discussion at the City Council work session.

Jeff Marshall, 9901 SE 53rd, Milwaukie, addressed the City Council as PARB chair. The group recommended the following priorities: acquire land; upgrade existing facilities; maintain existing facilities and programs; develop youth facilities through partnerships; and improve communications with residents. The PARB requested City Council approve the proposal for fiscal year 1997 - 1998.

Councilmember Kappa and **Councilmember Tomei** commended the PARB and staff.

Councilmember Trotter said, for clarification, within the land acquisition recommendation, PARB and City Council wanted to target the Hector Campbell, Lewelling, and Island Station neighborhoods. The upgrading of facilities included completing the next phase of the Furnberg Park Master Plan; completing the first phase of Water Tower Park Master Plan; developing a Dogwood Park Master Plan with the Historic Milwaukie Neighborhood District Association (NDA); evaluating the best use of the Century Park Tennis Courts with the Lake Road NDA; developing a Wichita Park Master Plan with the Linwood NDA; and working with the Island Station NDA on the Spring Park facility.

Mayor Lomnicki commented on the previous goal of acquiring riverfront property as a regional facility. **Marshall** said the PARB did not discuss the riverfront since it was understood a Riverfront Master Plan was in process.

Richards said, for background, the PARB funding priorities were neighborhood parks, community parks, and finally regional parks. The PARB targeted those neighborhoods most in need of park facilities because the riverfront plan was well-covered through City Council goals and existing obligations.

Councilmember Kappa said he did not see regional facilities expenses coming out of neighborhood funds.

Councilmember Schreiber said she understood from the original agreement that a certain amount of money would be set aside for developing infill parks in Milwaukie elementary school attendance areas. She understood the PARB looked at individual neighborhood needs. The Board also indicated its support, but not funding, to the development of regional park facilities.

Councilmember Kappa responded he did not want to limit future possibilities. He wanted to send the message that the riverfront was a regional project, and the City did not necessarily want to use its parks funds.

Councilmember Trotter said as the Milwaukie Neighborhood representative to the NCPRD he would present these regional items as something the City Council feels strongly about but does not wish to fund from neighborhood money. He was comfortable with the recommendation as written since it provided both budgeting and Milwaukie Neighborhood information.

Mayor Lomnicki said he was also satisfied as long as it set the tone and message. The City of Milwaukie supports regional facilities but not from neighborhood parks funds.

Councilmember Kappa said skateboard parks and a community center are two examples of regional projects.

Councilmember Tomei said this is a priority list, and does not preclude the City's putting money into a regional project.

Councilmember Schreiber said a resolution expresses direction, and it is not a law.

Mayor Lomnicki felt the resolution as written set an appropriate tone.

Councilmember Trotter cautioned this was information for the NCPRD budget process, and some, all, or none of the money may be adopted in the District's fiscal budget. He felt the language was appropriate.

Bartlett added the City of Milwaukie is no longer a "protected class" since the five-year period has passed. We now must lobby for our projects with the other five neighborhoods.

It was moved by Councilmember Schreiber and seconded by Councilmember Kappa to adopt the resolution establishing fiscal year 1997 - 1998 North Clackamas Parks and Recreation District Budget.

Councilmember Trotter asked if the City Council had the authority to say it shall receive or recommend. **Councilmember Schreiber** said she would like it stated in the strongest possible language.

Motion passed unanimously.

RESOLUTION NO. 6-1997:

**A RESOLUTION OF THE CITY OF MILWAUKIE, OREGON,
ESTABLISHING FISCAL YEAR 1997 - 1998 NORTH CLACKAMAS
PARKS AND RECREATION DISTRICT (NCPRD) MILWAUKIE
NEIGHBORHOOD PARKS FUNDING.**

Purchase Patrol Vehicles for Police Department

Bartlett presented the staff report in which the City Council was requested to authorize the expenditure of \$80,291 to purchase and equip three police patrol vehicles. He reminded the City Council of the Police Department budget and the City Council direction to continue with the purchase of the three patrol cars. The Chief of Police has identified funds to cover the amount over the allocation.

It was moved by Councilmember Kappa and seconded by Councilmember Tomei to authorize the expenditure of \$80,291 to purchase and equip three police patrol vehicles. Motion passed unanimously.

Award Bid for School Zone Flashing Yellow Signals

Cruz presented the staff report in which the City Council was requested to consider awarding the bid for the flashing yellow signal installation project to Tice Electric in the amount of \$29,312. He discussed an earlier work session in which the staff was directed to continue with the process. The City received two bids for the project. Clackamas County informed the City it could not do the project until July, and the cost was only \$200 per pole less than Tice.

Mayor Lomnicki said the bid is lower than anticipated. If City Council feels the project and location of the flashing yellow light is appropriate, it can vote to award the bid.

Councilmember Tomei asked why it was important to install the signals by July. **Cruz** said Tice could schedule the work immediately, and the project would be completed prior to the end of this school year. **Councilmember Schreiber** said she saw a benefit in that both the school children and the drivers could become accustomed to the signals.

It was moved by Councilmember Trotter and seconded by Councilmember Kappa to award the bid for the flashing yellow signal installation to Tice Electric in the amount of \$29,312.

Councilmember Kappa asked if Rowe Jr. High would be included under the School Trip Safety Program. **Bartlett** said it was decided at a work session that this would be more appropriately addressed in the Lake Road Multi-Modal Project. **Mayor Lomnicki** added the City Council identified elementary schools in the School Trip Safety Program, and he agreed Rowe would more appropriately work into the Multi-Modal Project.

Councilmember Trotter said he appreciated staff's expediting the project. **Cruz** said preliminary results of the 32nd Avenue traffic counts indicate flashing yellow lights have a positive impact on vehicle speeds.

Motion passed unanimously.

Purchase Standby Generators

Saatkamp presented the staff report in which the City Council was requested to authorize the City Manager to sign a purchase order to Christenson Electric, Inc., in the amount of \$119,755 for furnishing and installing standby generators for the Johnson Creek facility and Well #6 in the third pressure zone. These were combined to get a better price on the generators. Well #6 is one of the major storage sites and serves a major portion of the City. The City received five bids, and Christenson Electric, Inc., was the low bidder at \$119,755.

Councilmember Kappa asked if this was in the CIP, and **Saatkamp** indicated it was.

It was moved by Councilmember Kappa and seconded by Councilmember Tomei to award the bid to Christenson Electric, Inc., in the amount of \$119,755 for furnishing and installing standby generators for the Johnson Creek facility and Well #6. Motion passed unanimously.

Advance Refunding for 1990 Water Revenue Bonds and 1991 General Obligation Bonds -- Resolutions

Anderson presented the staff report in which the City Council was requested to adopt two resolutions authorizing advance refunding of two outstanding debt issues. One month ago the City Council directed staff to work with Securities Northwest. These were resolutions to actually authorize the action to take place. He discussed the current market situation.

He pointed out the differences between the draft resolutions in the original City Council packet and the final resolutions prepared by bond counsel. If City Council approves these resolutions, the final draft preliminary offering statement will be issued. The savings should be approximately \$110,000.

It was moved by Councilmember Tomei and seconded by Councilmember Kappa to adopt the resolution authorizing issuance and sale of general obligation refunding bonds, series 1997. Motion passed unanimously.

RESOLUTION NO. 7-1997:

A RESOLUTION AUTHORIZING ISSUANCE AND SALE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 1997.

It was moved by Councilmember Tomei and seconded by Councilmember Kappa to adopt the resolution amending and restating Resolution 25-1990 adopted July 10, 1990, authorizing the advance refunding of outstanding water revenue bonds, and providing the terms under which future revenue bonds may be issued. Motion passed unanimously.

RESOLUTION NO. 8-1997:

A RESOLUTION AMENDING AND RESTATING CITY RESOLUTION NO. 25-1990 ADOPTED JULY 10, 1990, AUTHORIZING THE ADVANCE REFUNDING OF OUTSTANDING WATER REVENUE BONDS, AND PROVIDING THE TERMS UNDER WHICH FUTURE REVENUE BONDS MAY BE ISSUED.

Appoint Center/Community Advisory Board Member

Mayor Lomnicki put forth Audrey Parsons' name as appointee to Center/Community Advisory Board position #6. Motion passed unanimously.

Information

1. **Councilmember Kappa** discussed the Regional Water Purveyors group.
2. **Councilmember Schreiber** announced she was no longer on the Board of Ratio Review.
3. **Councilmember Kappa** said he had not been able to attend the Clackamas Town Center Planning Committee meetings.
4. **Mayor Lomnicki** noted a Budget Committee meeting on February 5, 1997, at 7:00 p.m. in the Public Safety Building.
5. **Mayor Lomnicki** discussed an upcoming JPACT nomination.
6. **Bartlett** pointed out the Police Department annual report and particularly noted a 79% increase on DUII and a 140% increase of basic rule violation arrests. He also noted decreases in other areas.
7. **Councilmember Schreiber** said earlier this month she observed an incident with sixteen vehicles responding. She asked why there were so many. **Bartlett** said this was a pursuit and injury accident that included wreckers and ambulances.

ADJOURNMENT

Mayor Lomnicki adjourned the meeting at 9:40 p.m.

Pat DuVal
Pat DuVal, Recorder/Secretary

**CITY OF MILWAUKIE
CITY COUNCIL AGENDA
FEBRUARY 4, 1997**

MILWAUKIE CITY HALL
10722 SE Main Street

1760th MEETING

WORK SESSION

- 4:30 - Council Information Sharing
- 4:45 - Sherrett Street Sanitary Sewer Project (Jim Brink)
- 5:15 - Park and Recreation Board Regarding Work Plan and Recommendations to NCPRD from the City for fiscal Year 1997 - 1998 Budget (Charlene Richards)
- 6:00 - Interview Center/Community Advisory Board Applicant
- 6:15 - Report of Senior Center Standards Self-Assessment and Identified Issues (Joan Young)

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 January 21, 1997**
 - B. **Drafting Revisions to Center/Community Advisory Board Bylaws**

- 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.)*

Transfer of Milwaukie Cable Television System from Jones Intercable to TCI (JoAnn Herrigel)

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. Findings of Fact and Conclusions of Law Regarding File VR-96-07 (Maggie Collins)
- B. Fiscal Year 1997 - 1998 North Clackamas Parks and Recreation District Budget Priorities for the City of Milwaukie -- Resolution (Charlene Richards)
- C. Purchase Patrol Vehicles for Police Department (Brent Collier)
- D. Award Bid for School Zone Flashing Yellow Signals (Jim Brink)
- E. Award Bid for Standby Generator (Jay Saatkamp)
- F. Advance Refunding for 1990 Water Revenue Bonds and 1991 General Obligation Bonds -- Resolutions (Angus Anderson)
- G. Appoint C/CAB Member (Mayor Lomnicki)

VII. INFORMATION

- A. Planning Commission Minutes of January 14, 1997 (draft)
- B. Correspondence from Chief Bruegman Regarding Fire Services
- C. Milwaukie Fire and Rescue Year-End Report
- D. Milwaukie Police Department Annual Activity Report
- E. Finance Department Quarterly Report

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.

CITY OF MILWAUKIE
CITY COUNCIL MEETING
JANUARY 21, 1997

DRAFT

The one thousand seven hundred and fifty-ninth meeting of the Milwaukie City Council was called to order by Mayor Lomnicki at 7:00 p.m. in the Council Chambers at Milwaukie City Hall. The following Councilors were present:

Craig Lomnicki, Mayor	Rob Kappa
Carolyn Tomei	Don Trotter

Absent: Jean Schreiber

Also present:

Dan Bartlett, City Manager	Maggie Collins, Community Development Director
Charlene Richards, Assistant to the City Manager	Stacy Lawson, Assistant Planner
Paul Elsner, City Attorney	JoAnn Herrigel, Program Services Coordinator
Jim Brink, City Engineer	

Troop 144 performed the flag ceremony and led the Pledge of Allegiance.

Oath of Office

Ron Gray, Municipal Court Judge, administered the Oath of Office to **Councilmember Carolyn Tomei**.

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Mayor Lomnicki read a proclamation naming the week of February 2 - 8, 1997, as *Scouting Anniversary Week*. He acknowledged pack 561.

CONSENT AGENDA

It was moved by Councilmember Kappa and seconded by Councilmember Tomei to adopt the Consent Agenda that consisted of the City Council minutes of January 7, 1997. Motion passed unanimously among the members present.

AUDIENCE PARTICIPATION -- None

DRAFT

PUBLIC HEARING

Appeal of Planning Commission Denial of File VR-96-07 -- Walters

Mayor Lomnicki called the Public Hearing to order at 7:17 p.m.

The purpose of the hearing was to consider the appeal of a Planning Commission denial of VR-96-07. The applicant proposed a minor variance to allow reduced lot sizes in an eight-lot subdivision to accommodate the development of a through street between Logus Road and the future Mullan Street.

Mayor Lomnicki reviewed the order of business and conduct of the hearing.

Conflicts of Interest: **Councilmember Tomei** stated, for the record, that she was a Planning Commission member at the time the application was considered. She voted, based on information in the staff report and public testimony at the Planning Commission public hearing. She said she was not biased and would be open-minded enough to decide the issue. She was prepared to say she was wrong if evidence at this hearing indicated.

Site Visits and Ex-Parte Contacts: **Mayor Lomnicki** and **Councilmembers Tomei, Kappa, and Trotter** announced they had visited the site but saw nothing different from the information in the staff report. **Councilmember Kappa** announced he had spoken with Planning Commissioners Lent and LaRocque on January 20, 1997, to clarify statements regarding the property boundaries and Mullan Street. **Elsner** said Councilmember Kappa's disclosure of his discussion with Planning Commissioners was sufficient for the record.

Challenges to Impartiality: **Jeff Marshall**, 9901 SE 53rd, technically challenged Councilmember Tomei's impartiality because she was the chair person of the Planning Commission at the time the decision to deny the application was made. She voted in favor of the applicant. **Councilmember Tomei** said she felt she could be impartial as a member of the City Council. She assumed she would hear new evidence at this hearing.

Mayor Lomnicki said both the applicant and the opponent could present new information not presented to the Planning Commission since this was a *de novo* hearing.

Staff Report: **Lawson** presented the staff report. She distributed the following material: a memorandum referred to in the staff report from Paul Roeger of the Public Works Department to Community Development dated November 8, 1996, regarding right-of-way alternatives; and clearer copies of staff report pages 43, 44, and 45 with calculations of various alternative lot sizes. The purpose was to provide more readable exhibits.

Councilmember Kappa commented that he and **Councilmember Trotter** had discussed these three maps because the initial copies were unreadable. There was no discussion beyond that.

Lawson explained the applicant requested a variance in order to reduce the size of six lots in an eight-lot subdivision. This would accommodate a through street between Logus Road and the future Mullan Street. The Planning Commission denied the application, and Walters filed an appeal to the City Council.

She referred to page two of the staff report containing information on the lot sizes of the initial submittal and two alternatives. The Planning Commission asked the applicant to consider alternatives after the first hearing. At the second hearing the applicant returned with Alternatives 1 and 2. Alternative 1 proposed to reduce the street width by eliminating the sidewalk on one side of the street. The result would be a minor lot size variance for lots 2, 3, 4, 6, 7, and 8. The second alternative increased lot sizes by incorporating what would be dedicated land for sidewalks and curbs into private properties through access easements. In the scenario, only lots 6, 7, and 8 would require minor variances.

The Planning Commission denied the application on the basis that it did not meet Variance Criteria A or B. The property was not unusual enough, and viable alternatives did exist. The Commission felt reducing the number of lots from eight to six or reducing the rear yard of Lot 5 were both viable alternatives. Furthermore, it did not see the property as being unusual for the neighborhood. The applicant said reducing the number of lots would result in at least 8,000 square foot lots in an R-7 zone.

The first issue addressed was unusualness as it relates to Criteria A. The property is unusual in relation to other properties within the R-7 zone which are large enough to subdivide. The property is long and narrow and can easily accommodate the eight units within the density of the Comprehensive Plan. The unusual circumstance was the amount of property required to be dedicated for public right-of-way. The Public Works Department has required dedication of a street at 39 feet extending from the north line of the property to the south line. The total dedication of Logus and the future Mullan Street right-of-way is 27%. **Lawson** said the standard in the Comprehensive Plan was 25%, and in the Pennywood subdivision, for example, there was a 12% dedication.

The second issue was the argument that the homes on the subject property were not located any further back from the right-of-way of Logus Road on the south side than were any other homes in relationship to Logus Road. She identified the location of homes in relationship to Logus Road. Staff found the property at 5400 Logus Road was setback further than the average of other homes in the area. This could impact the design of the subdivision, lot sizes, and location and orientation of the road.

The third issue related to Criteria B regarding use of the property in substantially the same manner as other properties in the area. The applicant submitted information on lot sizes in the surrounding area. She indicated the locations of various lot sizes on a map.

Councilmember Kappa asked her to identify those lots within the notification area.

Councilmember Trotter commented on the difference in shape of the proposed site. It did not appear to have the same configuration as it did on other maps he had seen.

Lawson responded one map included a portion of property to the east of the site which the applicant proposed to purchase. She noted that Planning Commissioner Pat Lent and City Engineer Jim Brink were present to respond to questions.

Lawson pointed out the Planning Commission's position on staff report pages 3 and 54. She outlined City Council's possible actions that included: upholding the Planning Commission's denial; reversing the Commission's decision; or concluding either of these with further findings and conditions based on testimony at this hearing.

Councilmember Trotter asked the status of the 120-day clock. **Lawson** said staff would like time to respond to the question.

Councilmember Trotter asked for information on the 25-foot dedication requirement on Mullan. He asked why Public Works was requiring this. **Brink** responded the developed portion of Mullan has a 50-foot right-of-way to the west of the project site. The City plans some day to extend Mullan Street through from Stanley to 43rd. He indicated on a map the existing Mullan Street as it relates to the proposed development. That is the purpose for the 25-foot dedication from the applicant.

Councilmember Trotter asked the purpose of a 50-foot right-of-way when that is not the current City standard. **Brink** responded the current right-of-way standard could be 50-feet depending on the terrain. The municipal code requires a minimum 39-foot right-of-way which includes the paved street, curb, and two sidewalks that may or may not have a planting strip. The criteria used for this application was the width of the existing, developed portion of Mullan Street.

Councilmember Trotter asked if the 30 feet on westbound Stanley was existing right-of-way. **Brink** responded that was correct.

Councilmember Trotter referred to the initial plan and asked if the existing driveway locations were evaluated and determined appropriate. **Brink** said he would respond to the question after determining from engineering if that level of detail was done.

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Councilmember Trotter referred to a memo dated November 8, 1996. He asked for confirmation that the 10-foot easements on both sides were easements and not dedicated right-of-way. **Brink** responded that these were easements and not part of the dedicated right-of-way.

Councilmember Kappa asked if there was discussion of constructing the street to King Road and, if so, was the information included in the general notices to the public.

Lawson said there was no specific notification that this could result. It was not under consideration as part of the proposal.

Collins added it was not advertised as a requirement of the subdivision. The additional right-of-way was a discussion topic, but it was determined to be legally not necessary at that point. The Planning Commission made its decision without coming back and requesting an extra variance process begin again having to do with right-of-way dedication.

Councilmember Kappa said there is discussion of the spirit of the draft Milwaukie Transportation System Plan (TSP) and the Oregon Transportation Plan. **Collins** said the draft TSP is being used as a general guide, and the Oregon Transportation Plan has an even more peripheral effect on Milwaukie's transportation policy. Staff goes back to the Comprehensive Plan for legal policies on transportation.

Councilmember Kappa referred to the newly distributed maps and a discussion in the Planning Commission minutes regarding a possible revision to the 40-foot setback of the northernmost lot.

Lawson pointed out the rear setback on the property is 47.87 feet. She then referred to the Planning Commission's alternative of reducing the size of Lot 5. The Planning Commission suggested this as a viable option when they evaluated the criteria, but it was not a request of the applicant.

Councilmember Trotter referred to page 76 of the staff report in which Mike Smith asked about the lot sizes indicated in Alternative 2. He asked for clarification of the comment regarding the eight feet belonging to an adjacent property owner. **Lawson** explained Mr. Casey spoke about trying to obtain an additional eight feet from an adjoining property owned by the Tarrs. The preliminary plan does indicate this additional acquisition, but the eight feet is irrelevant at this point.

Lawson responded to the question about the 120-day clock. The application became complete on September 3, 1996, and the Planning Commission took action within 70 days on November 12, 1996. She believed the application was at 140 days. **Elsner** said he would discount certain allowable time periods in his calculations.

Councilmember Trotter said he was concerned the application was very close to the 120-day period. He asked what options the City Council had.

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Correspondence: None.

Applicant's Presentation: **Wayne Walters**, 18235 S. Grasle Rd., Oregon City, Oregon 97045. He indicated he had been working on the application for fifteen months, and all the steps were documented. He invited questions from the City Council.

Councilmember Trotter asked Walters to address the second variance criteria regarding feasible alternatives. He asked which of the three alternatives were acceptable to the applicant. **Walters** said he preferred the initial submittal, but alternative 2 which incorporated the sidewalk into the private property through access easements was also acceptable. He did not feel the livability factor would change as a result. The smallest lot is within 3% of the 7,000 square feet. He stated his concern with the amount of property required for dedication since 39 feet was standard. He added he would make flaglots on the property if this application was denied.

Councilmember Trotter said the Planning Commission saw two feasible alternatives and asked if anything could be done about the rear yard setback on Lot 5. **Walters** said the Tarrs were only willing to sell the additional eight feet of property, so beyond that, nothing was feasible. That is not a feasible alternative.

Councilmember Trotter asked the applicant if decreasing the number of lots was feasible. **Walters** responded doing this would create wide, 8,000 square foot lots with 110 foot frontages, and he did not believe this was feasible. The 3% difference would not even be noticeable to the naked eye. Two of the lots in the proposal are over 10,000 square feet.

Councilmember Kappa asked if there was any other viable proposal. **Walters** said you cannot be too creative with this shape of property. He understood lots over 6,500 square feet fit into the 7,000 square foot requirement. The applicant said if the 6 feet taken out for Mullan could be added back, no variances would be needed.

Testimony in Support: **John Casey**, John L. Scott Realty, 11410 90th Ave, Portland. He referred to page 77 of the staff report in which Jeff Marshall, Lewelling Neighborhood Association representative, made the following comment to the Planning Commission on November 12, 1996: "Though not part of the criteria, this street will dump as many as 12 cars onto Logus Road, a narrow road with no sidewalk at the intersection of the entrance into Lewelling Grade School. This subdivision road will be of no help to Lewelling Grade School and will cause endangerment to the children as they try to get to school." He felt this had some weight with one of the Commissioners. **Casey** then referred to the following statement by Planning Commissioner Lent on page 79 of the staff report: "She is not convinced that the criteria is met, and after testimony tonight, she does feel there are adverse effects to the community by this proposed development."

Casey discussed the current status of Logus Road in front of Lewelling School. There is one driveway to enter and one to exit the elementary school. There is no sidewalk, and the existing crosswalk ends at a residential driveway. The owner of that property has two trucks. If the subdivision is approved, there will be an appropriate area with a sidewalk that will make a much safer situation for the children.

Casey addressed the current non-consistent zoning of the block. He pointed out the following areas in the adjacent neighborhood: the location of three, 6,466 square foot lots approved by the Planning Commission in June 1996; adjacent properties with 50-foot widths; an almost contiguous R-5 zone; a multi-family development; and a retirement center. **Casey** also referred to Metro's 2040 plan which proposed 4 - 6 dwelling units per acre. He told City Council if it believed the 2040 Plan was a solution to regional growth problems, it would approve this variance application. Walters' only option will be to develop flaglots if this appeal was denied.

Councilmember Kappa asked the difference between this development and the one Casey indicated as being approved by the Planning Commission in June. **Casey** referred to the June 18, 1996, notice of decision. He said his first thought was that the developer was not required to construct a through street, and Walters was required to do so. He could not think of any reason beyond that.

Opponent's Presentation: **Jeff Marshall**, 9901 SE 53rd, Milwaukie, spoke as the Lewelling Neighborhood Land Use Chair. He and a majority of the people living in that area chose it because of the neighborhood characteristics. Many of these people are long-term residents. He spoke as the elected Lewelling Neighborhood Land Use Committee Chair representing 1,200 households.

The neighborhood is not opposed to growth, but it is opposed to unplanned growth. Seventy-five percent of the lots in the proposed subdivision do not meet minimum square footage in an R-7 zone. The lot sizes are substandard to both the code and the neighborhood. He discussed the future extension of Mullan to King Road and the property needed to make the connection.

Marshall expressed his concern with creating an intersection at the entrance to the elementary school. The municipal code requires developers to provide streets that appropriately continue existing streets in the area and conform to the current neighborhood. He discussed the size of a turnaround that would be required for emergency vehicle services.

There are 43 tax lots between Logus/King and Stanley/51st Avenue. He referred to Variance Criteria A and noted none of these lots are developed at less than 7,000 square feet. The average in the area is 35,000 square feet. Addressing Variance Criteria B, **Marshall** said the development must be in a "manner the same as others in the surrounding area." The applicant stated there were lots near Logus and Stanley under 7,000 square feet, but these have not been developed. The site is currently used

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as a church parking lot. The applicant's references are to smaller lots not located near the proposed subdivision and which cannot be seen as comparable. The examples used by the applicant are beyond the 250-foot radius usually identified as the "neighborhood" for public notification.

Marshall discussed setbacks in the neighborhood. The average setback on that side of Logus Road is 74 feet. Of the 43 tax lots in the area, 14 are of the same size boundary and configuration. He noted staff's comment on page 40 of the packet stating "the parcel is not unusual in relation to its immediate neighbors ..." He felt the applicant had not met Variance Criteria A and the appeal should be denied.

Marshall referred to Criteria B. The applicant should be required to show why other alternatives are not feasible. On staff report page 9, staff writes that a variance would not be necessary if existing homes were demolished. Lawson stated on staff report page 60 that developing four new lots instead of six was a viable alternative. Commissioner Havel stated on staff report page 64 that 7,000 square foot lots could be achieved with an adjustment of the property line between Lots 5 and 6. Further, he noted on page 14 the discussion of flaglots and how the configuration could be achieved. **Marshall** stated there were at least five alternatives the applicant could carry out. He felt reducing the subdivision from eight to six lots was feasible and would maintain the neighborhood characteristics.

Marshall addressed Variance Criteria C regarding adverse effects on other properties. Lots under 7,000 are not in keeping with the neighborhood, and reducing the number of lots would be more in keeping with the neighborhood characteristics. He noted the applicant's proposal would result in the removal of 30-40 trees. If there were more flexibility in the home site location, fewer trees would be destroyed. He did not feel Criteria C had been met.

Marshall discussed the relationship of the applicant's proposal to the Metro 2040 Plan which is conceptual in nature. He referred to comments made by Councilmember Trotter in September 1995 in which he stated the following: (1) the Comprehensive Plan is conceptual and outlines goals and policies; and (2) the Zoning Ordinance applies to property and determination of land use actions. The 2040 Plan is conceptual, but the Zoning Ordinance is adopted.

He reviewed the "Overriding Management Policies" of the Comprehensive Plan he believed should be addressed. These were: the preservation of existing natural resources and developments of character; and preservation and enhancement of local neighborhoods. **Marshall** addressed the issues of preservation and enhancement of local neighborhood quality and identity; consideration of the needs of existing residents; conservation of existing areas; and housing densities to support transportation and major commercial centers.

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Marshall concluded his testimony by stating he did not believe any of the variance criteria had been met by the applicant. He stressed the Lewelling Neighborhood and the Land Use Committee were not opposed to development, but they were opposed to unplanned development. Speaking as Lewelling Land Use Chair, Marshall suggested the City Council recommend the applicant meet with the neighborhood to develop a feasible alternative to take to the Planning Commission.

Mayor Lomnicki asked if the developer had met with the Neighborhood Association. **Marshall** responded the developer did not contact the Land Use Committee. After the first Planning Commission hearing, the Realtor attended an association meeting at which he, Marshall, had not been present. He understood the real estate agent was trying to tell the association what good this development would bring the neighborhood.

Councilmember Trotter asked Marshall to repeat his comments about the 6,000 square foot difference on the roadway. **Marshall** said his point was a developer is required by code to construct a roadway or turnaround. He discussed the minimum street width of 39 feet or 16,000 square feet on property such as this. The staff report states the developer would have to dedicate 22,000 square feet. The applicant is being asked for an additional 6,000 square feet above the standard.

Councilmember Trotter said the 6,000 is over what would be required. **Marshall** discussed his calculations for the amount of square feet needed for a turnaround if the street did not go through. **Councilmember Trotter** said the estimate was based on ending the road shortly after the last driveway and constructing a turnaround. He asked how this related to the requirement to connect with the future Mullan Street right-of-way. **Marshall** indicated he used information from the staff report regarding a right-of-way dedication of 39 feet to construct a roadway. He took the road 3/4 of the way in and then estimated a turnaround for emergency vehicles. **Councilmember Trotter** said the 6,000 square feet is the difference between the City's requirement for a 22,000 right-of-way dedication and a hypothetical roadway going all the way through.

Councilmember Trotter asked about the terminology of "neighborhood character." He understood from Marshall's comments the proposal is not compatible with other properties with 35,000 square foot lots, but a subdivision composed of six, 9,000 square foot lots is more compatible. **Marshall** stated lots in an R-7 zone must be a minimum of 7,000 square feet. **Councilmember Trotter** said this implies the neighborhood character is based on under-developed properties in an R-7 zone.

Councilmember Trotter asked Marshall to explain how he was given the authority to represent 1,200 households. **Marshall** said he was elected to the position of Lewelling Land Use Committee Chair as an arm of the Neighborhood District Association. His point was he was not speaking as an individual. He indicated he had no fewer than three discussions with a representative group of residents of the association on this issue.

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Mayor Lomnicki asked if there had been a motion or action taken in the Land Use Committee or the Neighborhood Association. **Marshall** said the Land Use Committee members took a vote, and it was unanimous among the eight people on the Committee.

Councilmember Kappa asked Marshall to indicate on the map the locations of the 35,000 square foot lots and asked how the subject property did not fit with the neighborhood character. **Marshall** said the neighborhood character is large lots. Changing a two-lot area into an eight-lot area is a substantial change.

Councilmember Tomei asked Marshall the size of his own lot and to indicate its location on the map. **Marshall** said his lot measures 80' x 129'. **Councilmember Tomei** commended Marshall on his research. She asked Marshall if he felt the development would be substandard. **Marshall** said the Land Use Committee feels the proposed subdivision is substandard in that the lots are under the 7,000 square foot minimum of an R-7 zone. There are large lots in the area, and none have been developed at the 6,300, 6,400, or 6,500 square foot range the applicant is proposing.

Staff Comments: **Lawson** said she had no additional comments at this time and asked if there were any remaining questions.

Questions of Clarification: **Councilmember Kappa** referred to staff report page 23 and the parcel near the church. He asked what the difference was between this and the proposed subdivision. **Mayor Lomnicki** indicated these parcels belonged to the church. **Lawson** said the Planning Commission approved that development in June with half-street improvements. It was approved with reduced lot sizes. She added from the staff's perspective the issues were similar. **Councilmember Kappa** said it was confusing for the Planning Commission to approve one application and deny another that was identical.

Councilmember Tomei said membership of the Planning Commission had changed, and it was a judgment call. **Councilmember Kappa** commented the criteria should be the same.

Councilmember Tomei asked about the applicant's statement that the right-of-way dedication in the Pennywood subdivision was only 12%. **Lawson** said that was a correct statement. The north/south street on the east side did not require a dedication. Pennywood is under the average for this reason. **Councilmember Tomei** asked the width of the street dedication. **Lawson** responded she believed the street dedication throughout Pennywood was 32 feet, and she thought the application was prior to sidewalk requirements.

Councilmember Tomei asked if the statement that 27% of the proposed subdivision would be dedicated was accurate. This seems a large percentage. **Lawson** said the percentage was correct and added the Comprehensive Plan calls for 25%.

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Councilmember Tomei asked, if the street dedication were 39 feet as stated in the code, would the lots then be 7,000 square feet in this proposed subdivision. **Lawson** responded she did not believe they would. The 39-foot right-of-way corresponds to the initial proposal.

Mayor Lomnicki said staff indicates it supports both alternatives 1 and 2 but prefers the initial submittal. He asked for the reasoning. **Lawson** said staff prefers the initial submittal because the sidewalks would be on public rather than private property, but the effect would essentially be the same. **Mayor Lomnicki** said it seems to be an issue of ownership of the sidewalk.

Mayor Lomnicki asked if there would be any problems if the City Council supported Alternative 2. **Brink** said precedent is a primary concern. There is only one example in the City in which the curb or some structure outside the paved roadway is on a private easement. The City would not have control and flexibility; although in the short-term, there would probably be no difference. Since the sidewalk would be on private property, any future action would require purchasing that property. He discussed additional setback requirements for garages on a private easement.

Councilmember Kappa asked if drywells would be sufficient to handle storm water runoff. **Brink** responded the street runoff would go to drywells, and private drywells would handle structural runoff. There is no storm sewer system in the area, and this would be a short-term solution. The subdivision would not add to runoff problems in that neighborhood since the drywells would be designed to meet the needs of the impervious surface to be constructed.

Councilmember Kappa discussed the issue of increased traffic and impact to the neighborhood. He asked for input from an engineering point of view and if it would be appropriate criteria to address. **Brink** said if 54th and Mullan were developed, there would be additional traffic. He felt with sufficient roadway width, radius, and signage the road would be equally as safe as 36th Avenue in the Ardenwald neighborhood. If the road is constructed as planned, he did not consider the traffic issue appropriate criteria at this time.

Councilmember Tomei asked Brink for additional clarification on Alternative 2 and utility easements. **Brink** said there would have to be a private easement for utilities. The five-foot utility easement is for maintenance purposes, and it would be the same for the sidewalks. We do not want utilities under the sidewalk. **Councilmember Tomei** asked if other municipalities had sidewalks on private property. **Brink** said staff was not aware of any City that had this as a policy unless on an exception basis.

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Applicant's Rebuttal: **Walters** asked the City Attorney if he knew of any municipalities that allowed private sidewalks. **Elsner** responded he knew of some. **Walters** said it is not an uncommon thing. Alternative 2 was the most simple and would gain square footage for the lots. The lots approved June 1996 was done by a different Planning Commission with a different set of rules. He added he had not been approached by any citizen committees, and the meeting Casey attended had six residents present. **Walters** said the fifty-foot easement was the cause of the problem. If the dedication were only 39 feet as required by City code, there would be no problem, and the lots would be approximately 8,000 square feet.

Councilmember Trotter commented according to his calculations, if five and one-half feet were taken from the dedication of Lots 4 and 8, the square footage would still be under 7,000. **Walters** said he was speaking to Alternative 2 and not the initial submittal.

Councilmember Tomei stated for clarification that of the two Planning Commission meetings in which this application was considered, there was a vote taken at only one.

Casey said Marshall was not present when he attended the Lewelling Neighborhood Association meeting, but there were 10 - 15 others present. He wanted the corrected information to be in the record. He attended the meeting after the Planning Commission denial of the variance application with the attitude of finding out what the neighborhood feelings were. Four people expressed opinions: concern about potential runoff; dislike of any type of development; concern about taking care of people moving into the area; and how to bring others into the discussion. **Casey** indicated neither he nor Walters had been contacted about the meeting and the discussion. He got a lot of mixed responses from the people he contacted by phone in the neighborhood.

Councilmember Kappa said both he and Mayor Lomnicki were at that meeting but left when discussion about the application began.

Councilmember Trotter asked Brink about Alternative 2 and said it was difficult to read the square footage on the maps in the packet. **Lawson** referred Councilmember Trotter to staff report page two. **Councilmember Trotter** said he was confused by Alternative 2 since he saw no lots listed at 7,000 square feet. Staff determined the maps were mislabeled, and the question was clarified.

Close of Hearing: **Mayor Lomnicki** closed the public testimony portion of the hearing on the appeal of the Planning Commission denial of VR-96-07 at 9:28 p.m.

Mayor Lomnicki announced an executive session pursuant to ORS 192.660 to consult with legal counsel regarding this hearing.

The meeting reconvened at 9:56 p.m.

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Mayor Lomnicki requested that the City Attorney discuss the process. **Elsner** explained during the course of the executive session, it was determined the City Council was meeting beyond the 120-day limitation imposed by statute. For that reason, Council options are more limited. It must approve the application, but it can be done with conditions. The City Council has three viable options before it.

Mayor Lomnicki summarized the options. These were the initial submittal and Alternatives 1 and 2.

Discussion among Councilmembers: **Councilmember Trotter** stated he did not support Alternative 1 because he felt eliminating the sidewalk on one side of the street near an elementary school was less safe. He felt the only difference between Alternatives 1 and 2 was semantics. It did not make sense to change a lot line to artificially change a number. He indicated his support of the initial proposal which was consistent with the staff-prepared findings. The property is unusual because of the above-average dedication of right-of-way caused by the future construction of Mullan Street. He referred to the "Conditions of Approval" on staff report page 21 and made the following recommendations: Condition 1 should be revised to reflect the lot configuration as originally submitted; and conditions 2, 3, 4, 5, 7 and 8 remain as proposed. He asked the rationale for requiring a wooden fence to protect the trees during construction as stated in Condition 6. **Lawson** said a wooden fence would be more difficult to knock down during construction. **Councilmember Trotter** said he would also agree, then, with Condition 6 as proposed.

Councilmember Tomei agreed with Councilmember Trotter and supported the initial submittal and the proposed conditions.

Councilmember Kappa also agreed. Based on what has taken place, he supported the initial proposal.

Mayor Lomnicki indicated his agreement with the initial submittal. He also supported Alternative 2 and Marshall's statement regarding substandard development because of lot sizes. If the neighborhood feels lot size is a major concern, Alternative 2 would get the subdivision closer to the comfort level of the area residents. He also agreed with Councilmember Trotter's comments about the need for two sidewalks and the Conditions of Approval. He discussed urban development concepts and indicated he had no problems with the initial submittal.

Councilmember Trotter asked staff if the hammerhead design had been reviewed and approved by the Fire Department. **Brink** said it had. **Councilmember Trotter** referred to the Public Works' recommendation that Mullan be constructed to its entire length with half-street improvements for an eventual 30-foot street. He asked for further clarification of the relationship between this figure and the 50-foot right-of-way. **Brink** said he would research the street width question.

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Councilmember Trotter suggested an additional condition. He suggested erecting barricades in locations to be determined by staff to keep traffic from using the partially graveled right-of-way. **Brink** said it would be no problem to install a barricade at the end of the hammerhead.

Determination of Findings and Decision:

It was moved by Councilmember Trotter and seconded by Councilmember Tomei to direct staff to prepare findings of fact and conclusions of law consistent with the City Council decision overturning the decision of the Planning Commission on VR-96-07.

Councilmember Trotter suggested including a statement in the findings that the 120-day period had been exceeded. **Elsner** concurred.

Councilmember Trotter as the maker of the motion and Councilmember Tomei as second accepted the additional language.

Councilmember Trotter said there was a lot of good testimony. He briefly commented that, although there was a lot of discussion about not having lots less than 7,000 square feet, that is why there are variance criteria.

Motion passed unanimously among the members present.

Marshall asked if the appeal was approved primarily because of the 120-day clock. **Mayor Lomnicki** responded the City Council's choices had become limited.

Marshall asked if the subdivision could be reduced from eight to six lots. **Mayor Lomnicki** said the reduction in number of lots would not be possible.

Mayor Lomnicki addressed the issue of the subdivision application re-hearing.

Collins explained the Planning Commission was the routine decision-making body for preliminary plats for subdivisions. When the Planning Commission denied the variance, the subdivision application could not go forward. Staff requested the City Council direct the Planning Commission to consider S-96-03 in line with the variance approval. That public hearing would be noticed to all interested parties. She also suggested, in light of public comments, that the applicant meet with the Land Use Committee to address neighborhood concerns.

It was moved by Mayor Lomnicki and seconded by Councilmember Kappa to redirect S-96-03 to the Planning Commission based on City Council action on VR-96-07.

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Councilmember Trotter said City Council has not approved the variance; it has asked staff to prepare findings to support the motion to approve. We can direct staff to move forward based on tentative approval of the variances. He recommended the Planning Commission pay special attention to the Mullan connection and coordinate with staff and developer for a more definitive explanation of that development.

Motion passed unanimously among the members present.

Mayor Lomnicki asked if there were other comments or questions of clarification.

Planning Commissioner Lent asked if the 120-day clock started again. **Elsner** said the applicant will have to resubmit the subdivision application. The 120-day clock will begin when the file is complete and eligible for Planning Commission consideration.

Councilmember Tomei wanted to make sure in the motion that the findings beginning on staff report page 19 and conditions of approval on page 21 were adopted. **Bartlett** said staff will take the findings from the original submittal and amend them for City Council approval at the next regular session.

Councilmember Kappa commended all parties for the work done. He discussed a design element within the Subdivision Ordinance and within the Comprehensive Plan.

Mayor Lomnicki said this type of application will become more prevalent as the City develops. Our City is full of very long lots such as these with streets that have not been connected very well. In previous hearings, residents told the City Council they did not like flaglots and preferred streets to create a more traditional development. He recommended that, as the Planning Commission and City Council deal with these applications, they should try to incorporate better connections of land use patterns and road systems. This type of development is more favorable than flaglot configurations, and a broad City-wide development perspective is needed.

Councilmember Kappa said he would like to consider the appropriateness of alleys in the future.

OTHER BUSINESS

Elect Council President

Councilmember Kappa nominated **Councilmember Schreiber**. **Councilmember Tomei** nominated **Councilmember Trotter**. The following vote was taken: **Councilmember Schreiber** one vote; **Councilmember Trotter** three votes.

Councilmember Trotter was elected **Council President**.

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Sherrett Street Sanitary Sewer Project

Brink presented the staff report in which the City Council was requested to consider adopting two resolutions pertaining to the Sherrett Street Sanitary Sewer Project. Staff has met with the affected property owners and discussed the issues. Staff is requesting approval of a resolution directing preparation of a preliminary engineering report regarding the feasibility of providing sanitary sewer improvements to seventeen tax lots in the Ardenwald neighborhood. If the City Council approves this resolution, staff is prepared to provide that report. The second resolution declared the intent to form a Local Improvement District (LID) to construct this project. He noted that there were seventeen affected properties in Milwaukie rather than the sixteen originally stated.

Councilmember Trotter asked if any language in the resolutions was changed due to the addition of one property. **Brink** said there were no changes in the resolutions before City Council at this time.

It was moved by Councilmember Kappa and seconded by Councilmember Tomei to adopt the resolution directing staff to prepare a preliminary engineering report regarding the feasibility of providing sanitary sewer improvements and a friendly amendment to delete item "g." Motion passed unanimously among the members present.

RESOLUTION NO. 3-1997:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DIRECTING STAFF TO HAVE PREPARED A PRELIMINARY ENGINEERING REPORT REGARDING THE FEASIBILITY OF PROVIDING SANITARY SEWER IMPROVEMENTS THROUGH THE FORMATION OF A LOCAL IMPROVEMENT DISTRICT IN THE AREA OF ARDENWALD.

Councilmember Trotter referred to exhibit "A" of the second resolution and asked which was the seventeenth lot. **Brink** responded the additional lot was 101.

It was moved by Councilmember Tomei and seconded by Councilmember Kappa to adopt the resolution declaring the intent to form a local improvement district to construct sanitary sewer improvements in the Ardenwald area. Councilmember Trotter referred to the inclusion of Tax Lot 101. Councilmember Tomei and Councilmember Kappa concurred. Motion passed unanimously among the members present.

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RESOLUTION NO. 4-1997:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE INTENT TO FORM A LOCAL IMPROVEMENT DISTRICT TO CONSTRUCT SANITARY SEWER IMPROVEMENTS IN THE AREA OF ARDENWALD ADOPTING THE PRELIMINARY ENGINEERING REPORT, CALLING FOR A PUBLIC HEARING, AND DIRECTING THAT NOTICE OF THE HEARING BE GIVEN.

Cable Television Transfer Review

Herrigel presented the staff report in which the City Council was requested to adopt a resolution that would allow the City to recover the costs for reviewing, analyzing, and processing TCI's application for transfer of the franchise. The City is currently in the fourteenth of a fifteen-year franchise and the renewal process has already begun. City staff is working with a consultant to negotiate the franchise and renewal.

She discussed the proposed purchase of the franchise system from Jones Intercable by TCI. The City has 120 days in which to approve or deny the application for consent. A public hearing is scheduled for February 4, 1997, at which time the public is invited to comment. A resolution approving the transfer is scheduled for the February 18, 1997, meeting.

Councilmember Kappa said he had concerns about maintaining current service and programming levels. **Herrigel** said staff is working on a condition of the transfer that TCI honor the existing franchise agreement and then continue the renewal process. Service and programming issues will be addressed during franchise renewal.

Councilmember Kappa also expressed concern the City might no longer have a public access studio. **Herrigel** said other sources in the community had expressed similar concerns.

Mayor Lomnicki said at the time of the regular renewal the City will be negotiating with the new owner, TCI. **Herrigel** said, during the transfer negotiations, the City can make TCI honor the current franchise agreement.

Mayor Lomnicki said it seems the City needs to be vigilant and make sure TCI provides the services in the current agreement. **Richards** responded TCI will sign an agreement saying it will abide by the existing agreement. She discussed the City's role in determining programming. The City cannot tell the cable company what programming to offer, but it can make sure there is compliance with FCC rules.

DRAFT

It was moved by Councilmember Tomei and seconded by Councilmember Kappa to adopt the resolution allowing the City to recover costs related to TCI's application for transfer of the cable television franchise. Motion passed unanimously among the members present.

RESOLUTION NO. 4-1997:

A RESOLUTION PROVIDING FOR THE RECOVERY OF COSTS FOR REVIEWING, ANALYZING, AND PROCESSING APPLICATIONS FOR FRANCHISE TRANSFER.

Suspend Council Rules

It was moved by Councilmember Trotter and seconded by Councilmember Kappa to suspend City Council rules and extend the meeting beyond 11:00 p.m. Motion passed unanimously among the members present.

Cable Television Rates

Herrigel presented the staff report in which the City Council was requested to approve Jones Intercable's request to maintain existing rates for cable equipment and installation services. She reviewed the FCC permitted rates.

It was moved by Councilmember Kappa and seconded by Councilmember Trotter to approve Jones Intercable's request to maintain existing rates for cable equipment and installation services. Motion passed unanimously among the members present.

Regional Water Providers Consortium Designee

Bartlett presented the staff report in which the City Council was requested to designate a member and alternate to this group.

It was moved by Councilmember Trotter and seconded by Councilmember Tomei to nominate Councilmember Kappa as primary member and Councilmember Tomei as alternate to the Regional Water Providers Consortium. Motion passed unanimously among the members present.

Bartlett said at this point the South Fork Water Board will represent the City of Milwaukie on the technical committee.

DRAFT

Clackamas County Community Action Board

Mayor Lomnicki announced he was contacted by Clackamas County Community Action Board regarding an appointee to replace Rick Farley.

Councilmember Tomei was nominated as the Milwaukie City Council representative to the Clackamas County Community Action Board.

Fire Oversight Committees

Mayor Lomnicki discussed correspondence from Clackamas Fire District #1 regarding combining the oversight committees formed around battalion chiefs and the South Metro Fire Marshal's Office. This action would help consolidate time and effort.

Councilmember Trotter said he currently was serving as the City Council representative on the South Metro Group. He felt combining the two committees was a good idea.

City Council directed staff to go ahead with the proposal, and City Council will select a representative for the newly formed oversight committee.

Councilmember Kappa asked if the City of Milwaukie would have two representatives. **Councilmember Trotter** said there are two elected officials and three staff.

Mayor Lomnicki suggested staff prepare a report on the proposal to include the City's representation and the organizational structure.

Councilmember Kappa asked if the IGA would prohibit that type of organization. **Bartlett** said either the IGA could be modified or two meetings could be noticed.

INFORMATION -- None.

ADJOURNMENT

Mayor Lomnicki adjourned the meeting at 11:15 p.m.

Pat DuVal, Recorder/Secretary

DRAFT

EXECUTIVE SESSION

Mayor Lomnicki called the executive session to order. He stated the purpose of the session was to consult with legal counsel.

Attendance included the Council, City Manager Bartlett, Community Development Director Collins, Assistant Planner Lawson, and City Attorney Elsner.

Elsner advised the City Council of options concerning the so-call 120-day rule. He discussed potential liabilities. Councilmembers asked questions about the legal options. Elsner noted that all options posed risks. He noted the options with least risk.

The executive session adjourned, and the Council returned to the Public Hearing.

Dan Bartlett, City Manager



* * * MEMORANDUM * * *

January 23, 1997

To: Mayor and City Council
Through: Dan Bartlett, City Manager *DB*
From: Charlene Richards, Assistant to the City Manager *CR*
Subject: Center/Community Advisory Board Revised Bylaws

Action Requested:

Review and accept the attached revised Milwaukie Center/Community Advisory Board Bylaws.

Background:

The City Council approved the C/CAB bylaws that were edited and approved by the C\CAB and North Clackamas District Parks Advisory Board. Attached is a redlined copy of the bylaws to highlight the changes.

c:\council\96-97\ccabylw2.doc

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

MODEL BYLAWS

Article I. Name

The name of this board is the Center/Community Advisory Board (C/CAB).

Article II. Purpose, Authority, and Duties

- A. The purpose of this ~~Board~~ C/CAB is to be the primary policy advisor with regards to the activities and operations of the Milwaukie Center. The Board will advise the North Clackamas Parks and Recreation District (NCPRD), Milwaukie City Council, and Milwaukie Center staff regarding Center client/participant needs.
- B. The Board is established in the August 20, 1992, Intergovernmental Agreement between North Clackamas Parks & Recreation District and the City of Milwaukie.
- C. The ~~Board's~~ C/CAB's duties include addressing the programs and facilities of the Milwaukie Center concentrating on the problems, desires, and needs of the senior citizens and others within the boundaries of NCPRD; making decisions regarding capital improvements, programs, maintenance, and operations policies that will have to be approved by both the Milwaukie City Council (deedholders to the property and facilities) and the NCPRD Board, and providing the Board of Directors with budget recommendations.

Article III. Membership

- A. The C/CAB shall consist of eighteen members.
- B. Nine of the eighteen C/CAB members shall be appointed by the NCPRD Board and those members shall serve at the pleasure of that governing body. These nine members must reside within the NCPRD boundaries, but not within the City of Milwaukie. No member may be an NCPRD employee.
- C. Nine of the eighteen C/CAB members shall be appointed by the City of Milwaukie Mayor with the consent of Council, and those members shall serve at the pleasure of that ~~appointing~~ governing body. The nine City of Milwaukie appointees must reside within the Milwaukie City limits. No member may be a City of Milwaukie officer, agent or employee.
- D. Terms are for a period of three years. Board members shall serve no more than two, consecutive full terms. The body which appointed a particular C/CAB member (the Milwaukie City Council or the NCPRD Board as the case may be) may waive this limitation if it is in the public interest to do so.

- E. Vacancies are filled in the same manner as the original appointments and for the unexpired term of the vacant position.
- F. Upon failure of any member to attend two consecutive meetings without a valid excused absence, the C/CAB may recommend termination of that appointment to the governing body which made the appointment, and that governing body may remove the incumbent from the Board and declare the position vacant to be filled in the manner of a regular appointment. A valid excused absence requires that the C/CAB member notify a C/CAB officer or Milwaukie Center staff prior to the meeting to be missed except for the case of an emergency.
- G. All C/CAB members shall serve without compensation.

Article IV. Officers and Staffing

- A. Officers. The officers consist of a chair person, vice chair person, and secretary who shall be selected by the C/CAB membership by simple majority vote and who shall serve at the pleasure of the membership for one year. Elections shall be held yearly in January. Officers may be re-elected.
- B. Chair person. The chair person shall have general supervisory and directional powers over the Board. The chair person shall preside at all Board meetings, set Board agendas, and establish committees and appoint committee chair persons. The chair person shall also be an ex-officio member of all subcommittees and shall be the sole spokesperson for the Board unless this responsibility is delegated in writing.
- C. Vice Chair person. The vice chair person shall execute all powers of: ~~the~~ The chair person in the absence of the chair person; the secretary in the absence of the secretary.
- D. Secretary. The secretary shall keep records of all Board meetings, correspondence, and related documents.
- E. Temporary Appointments. The chair person may fill a vacancy in any office by a temporary appointment not to exceed two regular meetings. An election by the C/CAB must be held by the third meeting to fill the vacancy and that member so elected shall serve for the remainder of the term of that office.

Article V. Organizational Procedures

- A. The C/CAB shall meet at least once each month (a "regular meeting"). All members shall be subject to the requirements of the Oregon Public Meetings Law.
- B. Special meetings may be called by any two officers. Only business specified in the agenda for the special meeting may be considered.
- C. Fifty-one percent of the voting membership of the C/CAB shall constitute a quorum. The concurrence of a majority of the C/CAB members present shall be required to decide any matter.
- D. ~~These b~~ Bylaws may be amended at any regular C/CAB meeting ~~provided~~ providing written notice of the proposed amendment is submitted at a prior, regular meeting. In order to be effective, such amendments must also first be approved by the Milwaukie City Council and ~~the~~ NCPRD Board.
- E. The parliamentary authority for this board is *Robert's Rules of Order Revised* except where superseded by these bylaws or local, state, or federal laws.

| Adopted 8/9/96 by ~~the~~ Center/Community Advisory Board

| Adopted 9/3/96 by ~~the~~ City of Milwaukie City Council

| Adopted 9/12/96 by ~~the~~ District Parks Advisory Board



To: Mayor and City Council
 Through: Charlene Richards, Assistant to the City Manager *CR*
 Dan Bartlett, City Manager *DB*
 Fr: JoAnn Herrigel, Program Services Coordinator *JH*
 Subject: Public Hearing on Cable Transfer
 Date: January 24, 1997

Action Requested/Recommended

Allow the public to provide input into Council's decision on the proposed transfer of the cable television franchise from Jones Intercable to TCI.

Background

On November 15th, 1996 the city received an application for franchise authority consent to transfer of control of our cable television franchise from Jones Intercable to TCI. Staff, the city's attorney, and our cable consultant reviewed the original documents submitted. Subsequently, staff requested additional information from TCI which we received on January 23. These additional materials are currently under review.

According to FCC rules, we are allowed 120 days to approve or deny the application for consent. If the city does not take action within 120 days, the transfer is approved. Based on the date the City received the original FCC consent request forms, the city must take action before March 12 or the transfer will be approved regardless of any concerns the city might have.

The current franchise agreement does not expire until June of 1998. Both the City and the cable operator are bound by the terms of this franchise until the expiration of the franchise or such time as the franchise is renewed. TCI has stated that they do not anticipate that any modifications to the franchise will be requested during the remaining term of the franchise. Thus, the criteria which the city must use in considering the transfer of the existing franchise from Jones Intercable to TCI includes:

- The financial ability of TCI to purchase the existing system and to operate it to the standards established in the current franchise agreement.

- The general ability of TCI to meet the requirements of the existing franchise with respect to such things as the production studio, customer service and general operation of the system.
- The compliance of the current operator (Jones) with the existing franchise agreement in areas including, but not limited to, fee payments, customer service, satisfaction of the public, education and government access requirements, technical facilities and capabilities and compliance with outstanding orders of the local authority. (Staff is currently reviewing Jones' compliance with the existing franchise requirements and will work with Jones to finalize any compliance concerns before the transfer takes place.)

Issues that are outside the city's purview during the franchise transfer consideration include:

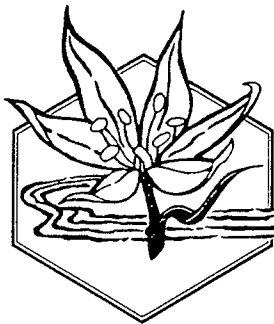
- Rates (planned modifications)
- Programming
- Additional services that TCI might provide the city in the future.
- Personnel issues not covered in the existing franchise
- Financial arrangements between TCI and Jones Intercable regarding sale of the franchise.

Issues that have been suggested as conditions of transfer include:

- Reimbursement by TCI for any costs incurred by the city related to the review and analysis of the transfer.
- Proof that TCI has authority to transact business in Oregon. (If not received before transfer approval).

Public Comments Received To Date

The city has received a letter from the Senior Center regarding the proposed cable system transfer. A copy of that letter is attached. Staff also received two phone calls within the past month or so regarding any changes in the senior discount that might result from the proposed transfer. The existing senior discount is in the current franchise agreement and would be honored by TCI. Any change in this requirement would take place during franchise renewal negotiations later this summer.



**NORTH
CLACKAMAS**
PARKS & RECREATION
DISTRICT
**MILWAUKIE
CENTER**

RECEIVED
CITY OF MILWAUKIE
'97 JAN 21 AM 11 10

January 17, 1997

Charlene Richards, Asst to the City Manager
Milwaukie City Hall
10722 Main Street
Milwaukie, OR 97222

Re: Cable Franchise
Services/Needs

Dear Charlene:

The attached comments and statement of needs relate to the proposed purchase, and/or transfer of the City of Milwaukie cable franchise to TCI, Inc. (Attachment 1)

As you know, senior volunteers from Milwaukie Center have worked with employees of Jones Intercable for more than eight years. In that time the Center has built and staffed an entire cablevision program unit— one that has produced hundreds of hours of cable programming and a one-of-a-kind activity among senior/community centers in the State of Oregon.

The Center's cooperative 'partnership' with Jones— initiated with full support of the City of Milwaukie— has grown to include numerous benefits to City residents and seniors throughout a much larger area. Last year senior volunteers produced more than thirty shows seen in the City of Milwaukie and beyond via the metro area Cable Access Network. We also introduced a community bulletin board that runs information on Milwaukie Center services and events six hours a day in the local viewing area.

Based on this performance and the program's potential for serving even greater portions of our steadily aging population, we hope that changes the City is negotiating will include continued support and technical assistance to empower citizens to use cablevision effectively.

Yvonne Haddix will attend next Tuesday's Council Meeting. Please let me know if we can be of further help as you proceed.

Sincerely,

Pat Kennedy, Program Coordinator
Milwaukie Center

cc/ Joanne Herrigal, Joan Young

Attachments (2)

COMMENTS AND STATEMENT OF NEEDS
Re: City of Milwaukie Cable Franchise Arrangements

Milwaukie Center CableVision Program - January, 1997

Services/activities provided at Milwaukie Center are administered by North Clackamas Parks & Recreation District (NCPRD) through intergovernmental agreement. The Milwaukie Center CableVision Program is one such activity— a senior volunteer program that recruits and trains older adults age 55+ to produce and distribute cable shows and information of interest to seniors and the community-at-large.

CURRENT BENEFITS In the past eight years the Center facility and CableVision Program have enjoyed the following helps/benefits from the current franchise holder:

- **Use of Local Production Studio**— including weekly access to a set and lighting plus professional quality taping, editing and post-production equipment
- **Technical Assistance** to tape, edit and distribute shows in and beyond the local area (provided by Richard Beck)
- **Informal Training** for use of studio equipment (provided by Richard Beck)
- **Cable Hook-ups / Live Programming Capability**— the latter now defunct in the absence of operable equipment (ie, self-contained 'mini-studio') located on-site
- **Cable Subscription Services** provided at no charge
- **Consultation** to establish and maintain an **on-site Cable Office** equipped with means to generate a running **community bulletin board** (funded by Oregon Community Foundation and Metro Councilor Don Morrisette)

CONTINUING NEEDS Besides maintaining cable subscription services and built-in physical amenities, we hope the City will consider the following needs in negotiating a transition of the franchise from Jones to TCI:

- **Continued Transmission of Senior Bulletin Board and Programming**
- **Near-by Production Facilities** Close proximity of a production site is essential to participation of senior volunteers, talent and audiences. (Note: if the local studio is closed, the Center Cable Office presents a natural alternative for placement of a self-contained mini-studio with taping/editing/ production capacity. See list of equipment costs and needs - Attachment 2.)
- **Improved Training** Funding for a regularly scheduled training sequence geared to recruit and empower self-sufficiency among volunteers is a critical need. (Note: again, the Center is well positioned to promote and stage such trainings in the absence of a local studio. An on-site training plan is available on request.)
- **Continued Production/Technical Assistance** Turn-over among senior volunteers creates the need for on-going oversight, assistance and consultation for a variety of technical issues.

1/14/97

to: Yvonne Haddix

from: Don Wiese

re: video/editing equipment suggestions.

* MINIMAL

2 Panasonic PV-S770-A Cameras	\$2,800.00
2 Bogen 3120 tripods	\$ 398.00
1 Videonics "Thumbs up" edit controller	\$ 145.00
1 Panasonic WJ-AVE55 mixer	\$1,299.00
1 Radio Shack SSM100 audio mixer	\$ 135.00
1 Videonics TM2000 title maker	\$ 479.00
2 Toshiba 13" video monitors	\$ 398.00
4 lapel mics	\$ 280.00
4 hand-held mics	\$ 200.00

total	\$6,126.00
	5,647-

* RECOMMENDED

2 Panasonic AG456 Cameras	\$4,400.00
2 Bogen 3120 tripods	\$ 398.00
2 Sony SLV-R1000 VCR	\$1,798.00
1 Videonics AB-1 edit controller	\$ 845.00
1 Panasonic WJ-AVE55 mixer	\$1,299.00
1 Radio Shack SSM100 audio mixer	\$ 135.00
1 Videonics TM2000 title maker	\$ 479.00
2 Toshiba 13" video monitors	\$ 398.00
4 lapel mics	\$ 280.00
4 hand-held mics	\$ 200.00

total	\$10,232.00
	9,753-

* NOTE 1

Additional costs for either system for cables, batteries, etc. should be less than \$400.00.

* NOTE 2

Either system could be built in stages.



MEMORANDUM

DATE: **January 30, 1997**

TO: **Milwaukie City Council**

FROM: **Community Development Staff**

THROUGH: **Dan Bartlett, City Manager** *Dan*

RE: **Findings of Fact and Conclusions of Law for Variance 96-07**

The attached document is the DRAFT for the Findings of Fact and Conclusions of Law which the City Council directed staff to develop. They have been sent to the attorney's office for review and a revised version with any changes will be available at the Council meeting on February 4, 1997.

cc Dan Bartlett, City Manager
 Maggie Collins, Community Development Director
 Stacy Lawson, Assistant Planner

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

DRAFT DRAFT DRAFT DRAFT **DRAFT** DRAFT DRAFT DRAFT DRAFT

**CITY OF MILWAUKIE CITY COUNCIL FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER GRANTING AN APPEAL OF THE PLANNING
COMMISSION'S DENIAL OF A VARIANCE (VR-96-07) FOR REDUCED LOT SIZE FOR SIX
LOTS IN PROPOSED SUBDIVISION S-96-03.**

I. GENERAL INFORMATION

File Number: VR-96-07

Appellants/Property
Owners: Wayne Walters

Decision Under
Review: Decision by the Planning Commission on November 12, 1996,
denying Variance 96-07, request to allow a reduced lot size
for six lots in proposed Subdivision S-96-03.

Zoning District: R-7, Residential, Single Family Dwelling - 7,000 square foot
minimum.

II. FACTS

Wayne Walters (Applicant and Appellant) has applied for a Minor Variance for reduced lot size, in conjunction with Subdivision S-96-03. The required criteria for a variance are found in Section 702.1(a-c). The Applicant proposes an 8 lot subdivision of a property which is comprised of one long, narrow property and the rear portion of the adjacent long, narrow property (Tax Lots R12E30DC1200 and 1300). The subject properties are within the R-7 Zoning District, which requires a minimum lot size of 7,000 square feet without a variance. The initial submittal of the subdivision proposes the following lot sizes:

Proposed Lot Number	Initial Submittal	
	Lot Size in Square Feet	Public Right-Of-Way Width
1	10,662 sq. ft.	39 feet
2	6,478 sq. ft.	39 feet
3	6,478 sq. ft.	39 feet
4	6,575 sq. ft.	39 feet
5	10,462 sq. ft.	39 feet
6	6,314 sq. ft.	39 feet
7	6,314 sq. ft.	39 feet
8	6,331 sq. ft.	39 feet

This initial submittal was heard at the Planning Commission meeting of October 8, 1996. The hearing was continued by the Planning Commission to allow the applicant to consider alternatives to the

original proposal. The applicant returned with two alternatives which were considered at the continued hearing on the item on November 12, 1996. At this hearing, the Planning Commission determined that the criteria for granting of a variance for reduced lot size could not be met in this case and denied Variance VR-96-07 and based on that decision denied Subdivision S-96-03. The Notice of Decision was issued on November 26, 1996 and an appeal of Variance VR-96-07 was received on December 10, 1996. Subsequently, the Milwaukie City Council held a public hearing on VR-96-07 on January 21, 1997.

III. CRITERIA FOR REVIEW

The sole criteria for approval of a variance is contained in the Milwaukie Zoning Ordinance, Section 702.1(A-C). This Section reads as follows:

- A. That the property in question has unusual conditions over which the applicant has no control. Such conditions may only relate to physical characteristics of the property, lot or boundary configurations, or prior legally existing structures.
- B. That there are no feasible alternatives to the variance and that the variance is the minimum variance necessary to allow the applicant the use of his/her property in a manner substantially the same as others in the surrounding area.
- C. That adverse effects upon other properties that may be the result of this variance shall be mitigated to the extent feasible.

The Planning Commission's denial of this issue was based on an inability to find conformance with criteria A and B. The Commission found that the subject properties did not have unusual conditions over which the applicant had no control and that there were feasible alternatives to the proposal. They expressed an opinion that a reduction in the rear yard of Lot 5 would allow for larger lot sizes and require less of a variance. In addition, they found that it would be feasible to eliminate two lots from the subdivision and thereby eliminate the need for a variance.

The Appellant argued that the setback from Logus Road of the existing homes on the subject site was unusually great, which required an uneven distribution of lot area in the proposed subdivision. The Appellant also argued that the proposed initial submittal was consistent with the Low Density designation

of the Comprehensive Plan and that if two lots were removed from the proposal, the resulting lots would be extremely long and narrow.

IV. SCOPE OF THE APPEAL

The Appeal raises this issue:

1. The Planning Commission erred by failing to recognize the applicant's compliance with the criteria required and defined in Section 702 "CIRCUMSTANCES FOR GRANTING VARIANCES" as defined in the Community Development Director's Notice of Decision dated November 26, 1996.

V. FINDINGS OF FACT

Item No. 1 Compliance With Variance Criteria. The City Council finds that the Planning Commission erred in determining that the required criteria could not be met by Variance 96-07. The City Council adopts the following findings:

- A. There are unusual circumstances related to this property because of its limited width, location of homes and property lines in relation to other property boundaries and streets and the resulting requirement for a public right-of-way.
- B. The fact that the alternative to the variance (a reduction in the number of lots) is not feasible because of the need for the reduction in lot size caused by the City's requirement for through street access and improved circulation. The overall density of the project with the proposed eight lots would be consistent with the Low Density Comprehensive Plan designation of the two subject properties, and the sizes of the proposed lots are similar to properties within the surrounding area.
- C. No adverse effects are anticipated as a result of the granting of this variance. Rear yard setbacks adjacent to properties neighboring Lots 2, 3, 4, 6, 7, and 8 will be the same as if a lot of 7,000 square feet had been created. All setbacks for these lots comply with the R-7 requirements. The only change is that building envelopes for these lots will be smaller, but adequate.
- D. In addition, the City Council notes that the 120 day limit for processing an application (O.R.S. 215.428(1)), including appeals has been exceeded.

Item No. 2. The Alternative Actions. If the City Council determines the appropriate action to be approval of Variance 96-07, the second issue is which of the three alternative variances is approved, and what conditions should be applied to the variance. The City Council's discussion of this issue focused on the need for sidewalks on both sides of proposed 54th Place. Council members expressed a desire not to approve the two Alternatives which were designed to gain private square footage to reduce the variance requested, but which did not increase the area of the proposed project.

VI. CONCLUSION

The City Council concludes that the decision on this project is governed by the Criteria found in Section 702.1(a-c) and by O.R.S. 215.428(1). The Council finds that the Planning Commission erred in denying Variance 96-07. The Council further finds that the 120 day limit for processing an application and any local appeal was exceeded. Based on these facts, the Council hereby approves Variance VR-96-07, as initially submitted, subject to the following conditions, as amended by the City Council:

Conditions of Approval for VR-96-07

1. Lot configuration shall be as originally submitted on September 3, 1996.
2. The approval of this variance 96-07 shall be void after six months unless a revision to subdivision S-96-03 reflecting this action is submitted and complete.

The Council directs the Planning Commission to hear any revised application for Subdivision S-96-03, based on City Council action on VR-96-07.

3. The following are amendments and the Conditions of Approval for S-96-03:
 - A. Lot configuration shall be as originally submitted on September 3, 1996.
 - B. Submittal of the final plat shall follow all requirements of Section 17.20 of the City Subdivision Ordinance. The final plat submittal shall include timelines and plans for construction and completion of required improvements. This submittal must occur within one year of this preliminary plat approval.
 - C. The requirements identified in the Department of Public Works Memo (See addendum) shall be complied with, prior to recordation of the Final Map.
 - D. The requirements identified in the Fire Marshal's Memo dated 9-27-96 shall be complied with, prior to recordation of the Final Map.

E. If proposed, deed covenants shall be provided to City staff for review to insure that there are no conflicts with City Ordinances.

F. The Applicant shall preserve all trees possible. The applicant shall preserve the 38' Cedar (#9), 38" Cedar (#36) and 42" Cedar (#35) on Lot 5, the large Cedar located on the eastern property line of Lot 6, The 24" Maple (#20) located on Lot 4, and the 31" Cedar (#39) and 48" Fir (#7), located on Lot 2. The trees shall be protected by a wooden fence, located a minimum of 5 feet from the base of the tree and installed prior to any construction activity on the site. The trees to be preserved shall be identified by orange flagging around the base of the tree at 5 feet from grade. Any of the trees identified to be preserved which is removed or substantially damaged without prior approval of the Community Development Director shall be replaced by 3 trees per each tree damaged. Replacement trees shall be a minimum of 3 to 4 inch caliper. A petition for removal of any of the trees to be preserved may be made to the Community Development Director, based on their location in relation to the development as shown by a survey of the property, or their health as determined by a Certified Arborist.

G. The applicant shall obtain an erosion control and grading permit prior to any site clearing in preparation for development.

H. When building permits are applied for the applicants shall show the location of any tree identified to be preserved in condition 6 in relation to the proposed construction and identify proposed protection measures to be taken to protect the trees. These measures shall include the requirements found in condition 6, but may be more restrictive, if necessary.

I. Barricades shall be erected to keep traffic from using the partially graveled right-of-way of Mullan Street between 54th and Stanley Avenue. The exact location of the barricades shall be determined by the Public Works Department.

J. The applicant shall be required to plant street trees in the front yards of each new parcel and within the planter strip to be developed on Logus Road. Tree types shall be approved by the Community Development Department, prior to planting.

VII. ORDER

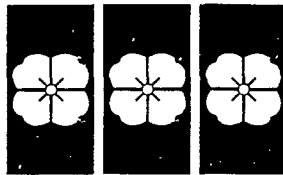
The City Council, by a vote of 4-1 adopts the findings and conclusions herein. It is so ordered this

____ day of February, 1997.



Craig Lomnicki, Mayor

MEMORANDUM

C I T Y O F



MILWAUKIE

Date: January 22, 1997
To: Honorable Mayor and City Council
Through: Dan Bartlett, City Manager 
From: Charlene Richards, Assistant to the City Manager 
Subject: PARB Recommendations for Milwaukie Neighborhood North
Clackamas Parks and Recreation District (NCPRD) Funding
Priorities for FY 97/98

Action Requested: Approve the attached resolution for communicating to the NCPRD the Milwaukie Neighborhood funding priorities for fiscal year 1997/98.

Background: The process for submitting funding requests to the NCPRD for the Milwaukie Neighborhood is for the PARB to recommend priorities, review the recommendations with the City Council in joint work session to prepare finalize the requests for approval by City Council and forward the City's recommendations to the NCPRD.

Last year, the Council sent the following priorities to NCPRD:

Fiscal Year 1995-1996: (revisions)

1. **Furnberg Park** -- Develop a master plan using funds assigned to Scott Park Master Plan construction completion. The Scott Park construction is delayed until it is known what the impact of the possible light rail alignment might have on the Scott Park Master Plan.
2. **Scott Park and Dogwood Park** -- Develop and implement a maintenance project to improve safety and reduce vandalism.

Fiscal Year 1996-1997:

1. **Furnberg Park** -- Construct park according to Master Plan.
2. **Century Park** -- Refurbish the tennis court.
3. **Park Activities** -- Promote through Neighborhood Associations.
4. **Water Tower Park** -- Develop a Master Plan.
5. **Land Acquisition**

After reviewing progress on the FY 96/97 projects and brainstorming new issues of concern and projects at the PARB's January 6 and 13, 1997, meetings, the following recommendations are presented for your review:

1. The first priority for funding is land acquisition with funding priorities; first to Neighborhood Parks, second to Community Parks, and third to Regional Parks.
 - 1.1. Acquire additional land for neighborhood park development.
2. Upgrade existing facilities to meet expanding needs.
 - 2.1. Furnberg Park -- complete next phase of master plan. (construction)
 - 2.2. Water Tower Park -- complete first phase of master plan. (construction)
 - 2.3. Dogwood Park/McLoughlin -- develop master plan.
 - 2.4. Century Park Tennis Court -- evaluation of best use by Lake Road Neighborhood Association.
 - 2.5. Wichita Park -- develop master plan.

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

3. Maintain existing facilities and programs.
4. Develop youth facilities through partnerships with citizens and public and private entities.
 - 4.1. Provide a skateboard/rollerblade park.
5. Improve communications to the community through intergovernmental cooperation, marketing, and promotional activities.
 - 5.1. Develop a plan for distribution of program and facility information through Neighborhood District Associations and other City-Wide communication tools such as the PILOT, IVBB, Home Page.

Attached are the draft PARB meeting minutes for January 6 and 13, 1997, and other hand-outs and documentation of process and results. PARB members will be present at the February 4, 1997, work session to present the enclosed information for discussion with Council.

Attachments: Draft Resolution
Draft Proposals for NCPRD Requests
Draft January 6 and January 13, 1997 Minutes, notes, handouts

c: PARB

council\96-97\memos\parb2-4.doc

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF MILWAUKIE, OREGON,
ESTABLISHING FISCAL YEAR 1997-1998 NORTH CLACKAMAS
PARKS AND RECREATION DISTRICT (NCPRD) MILWAUKIE
NEIGHBORHOOD PARKS FUNDING.**

WHEREAS, the City of Milwaukie has an intergovernmental agreement (IGA) with the NCPRD;

WHEREAS, such IGA provides for a total of between \$500,000 and \$800,00 (in 1990 dollars) funding and resources for land acquisition and the development of neighborhood parks facilities within the City of Milwaukie, between 1991 and 1996;

WHEREAS, the NCPRD may undertake improvements to parks currently under the jurisdiction of the City of Milwaukie subject to the approval of the City Council, or it's designee;

WHEREAS, the City of Milwaukie has existing master plans for Ardenwald and Scott Parks;

WHEREAS, in the IGA, the City of Milwaukie has listed as possible projects for neighborhood parks funding the acquisition of land for neighborhood or mini-parks, build neighborhood parks, build mini-parks or vest parks, improve or rehabilitate existing parks, expand existing parks facilities, etc.;

WHEREAS, the Milwaukie Parks and Recreation Board (PARB) is an advisory commission to the City Council;

WHEREAS, the PARB met on Monday, January 6 and 13, 1997, at 7:00 PM and developed and prioritized projects for funding for the NCPRD fiscal year 1997-1998 budget, for Milwaukie neighborhood parks;

WHEREAS, the City Council and the PARB met in a public work session on Tuesday, February 4, 1997, to discuss proposed projects for NCPRD funding in fiscal year 1997-1998;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Milwaukie that the following prioritized list of projects for 1997-1998 shall receive NCPRD neighborhood parks funds in fiscal year 1997-1998 in the listed priority order:

Fiscal Year 1997-1998:

1. Fund land acquisition prioritized as follows; first Neighborhood Parks, second Community Parks, and third Regional Parks.
 - 1.1. Acquire additional land for neighborhood park development.
2. Upgrade existing facilities to meet expanding needs.
 - 2.1. Furnberg Park -- complete next phase of master plan. (construction)
 - 2.2. Water Tower Park -- complete first phase of master plan. (construction)
 - 2.3. Dogwood Park/McLoughlin -- develop master plan.
 - 2.4. Century Park Tennis Court -- evaluation of best use by Lake Road Neighborhood Association.
 - 2.5. Wichita Park -- develop master plan.
3. Maintain existing facilities and programs.
4. Develop youth facilities through partnerships with citizens and public and private entities.
 - 4.1. Provide a skateboard/rollerblade park.
5. Improve communications to the community through intergovernmental cooperation, marketing, and promotional activities.
 - 5.1. Develop a plan for distribution of program and facility information through Neighborhood District Associations and other City-Wide communication tools such as the PILOT, IVBB, Home Page.

Introduced and adopted by the City Council on this 4th day of February, 1997.

Craig Lomnicki, Mayor

ATTEST:

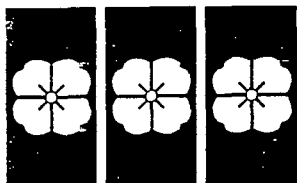
Pat DuVal, City Recorder

APPROVED AS TO FORM:
O'DONNELL, RAMIS, CREW, CORRIGAN & BACHRACH

City Attorney

council\rsln\9697\ncprdbud.doc

CITY OF



MILWAUKIE



Memorandum

To: Mayor Lomnicki and Milwaukie City Council
Through: Dan Bartlett, City Manager *DB*
From: Brent W. Collier, Chief of Police *B. Collier*
Date: January 20, 1997
Subject: Authorization to Purchase & Equip Three Police Patrol Vehicles

ACTION REQUESTED:

Authorize the expenditure of \$83,862 to purchase and equip three police patrol vehicles.

BACKGROUND:

\$152,000 was allocated in the 1996/1997 budget process to purchase four detective vehicles and three patrol vehicles. The four detective vehicles were purchased, with a remaining balance of \$83,862.

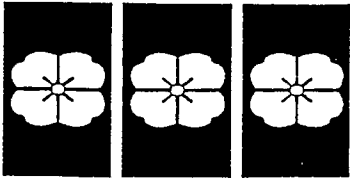
The State of Oregon bid has been awarded to Skyline Ford. The cost for three police package Ford Crown Victorias is \$60,157. Additional equipment and installation costs for the three vehicles is \$27,273.46. *Total purchase and installation costs for the three vehicles is \$87,430.46.*

This places us over budget by \$3,568.46. I have identified several areas within my existing budget to cover this amount. Thank you for your consideration.

CC: Angus Anderson

4

CITY OF



MILWAUKIE

PURCHASE ORDER REQUEST

VENDOR #: _____

VENDOR NAME: Motorola

ADDRESS: 4900 SW Meadows Rd, Suite 220

CITY/STATE: Lake Oswego OR

ZIP: 97035

TELEPHONE: _____

SHIP TO ADDRESS:

City Hall

Library

Public Safety Building

Johnson Creek

Other

Special Instructions: Blanket P.O. Confirming P.O. Amending P.O.

Other: _____

QTY	UNIT	DESCRIPTION	ACCOUNT NUMBER <small>FUND-DEPT-OBJECT- SUBOBJ</small>	UNIT PRICE	EXTENDED PRICE
3	ea	800Mhz radios E4 DE4ZX	71-7130	1,800.00	5,400.00
3	ea	Smart zone 071W		NC	NC
3	ea	Add field prog W992		NC	NC
3	ea	DVPXL W797		509.60	1,528.80
3	ea	Field EX W09		264.00	792.00
3	ea	160 Mode G394AASP		120.00	360.00
3	ea	VHF Midland radios 70-1336B	71-7130	424.00	1,272.00

ESTIMATED TOTAL \$ 9,352.80

REQUESTED BY: *B. Collier* DATE: 1/9/97

APPROVED BY: _____ DATE: _____



PURCHASE ORDER REQUEST

VENDOR #: _____
 VENDOR NAME: McLoughlin & Eardley
 ADDRESS: PO Box 91278
 CITY/STATE: Portland OR
 ZIP: 97291-0566
 TELEPHONE: _____

SHIP TO ADDRESS:

	City Hall
	Library
	Public Safety Building
XXX	Johnson Creek

Other _____

Special Instructions: Blanket P.O. Confirming P.O. Amending P.O.

Other: _____

QTY	UNIT	DESCRIPTION	ACCOUNT NUMBER <small>FUND-DEPT-OBJECT- SUBOBJ</small>	UNIT PRICE	EXTENDED PRICE
3	ea	Setina Push bumper. P/BUM12	71-7130	108.00	324.00
3	ea	Hide-Away strobe & cable, clear HA238C		32.85	98.55
3	ea	Headlight flasher FA5		42.00	126.00
3	ea	Grille light strobe & cable GRLSTR1		62.05	186.15
3	ea	Projector siren speaker. 100W SA122DBA		137.97	413.91
3	ea	concealed speaker mounting bracket BKGCV96		14.60	43.80
3	ea	strobe power supply, 4 O/LET UPS64C		219.00	657.00
3	ea	Littlite map light, 12" LF12ER		35.58	106.74
3	ea	Mission control base MCS-MCLEPPDL		120.00	360.00
3	ea	Setina veh prisoner partition #6S-LEXAN		266.00	798.00
3	ea	lower extension panel L/EXTN		33.60	100.80
3	ea	Pro-Straint rear prisoner seat 3S5000F		356.00	1,068.00
3	ea	super size trunk organizer 3C2805	71-7130	86.15	258.45

ESTIMATED TOTAL \$ 4,541.40

REQUESTED BY: [Signature] DATE: 1/7/97
 APPROVED BY: _____ DATE: _____

\$ 4,296.80
\$ 3,771.00



January 21, 1997

To: Mayor and City Council

Through: Dan Bartlett *DB*
City Manager

From: Rafael Cruz *RC*
Civil Engineer

Jim Brink *JB*
City Engineer

Subject: School Zone Flashing Yellow Signal Installation Project

Action Requested

Conduct a work session to discuss bid results for the School Zone Flashing Yellow Signal Installation Project. The attached spread sheet shows all the possible alternatives for completing the project. Because of the number of possibilities, it can be confusing. The recommended option is highlighted in yellow.

Background Discussion

Council directed staff to obtain quotes for the School Zone Flashing Yellow Signal Installation Project, and bring them back to Council for approval. Enclosed please find a tabulation of bids for the Project.

As requested, we asked Clackamas County about installing the system and they informed us that they could do the work after July 1997. The cost difference between the County and the apparent low bidder (Tice Electric) is approximately \$200 per pole cheaper, but Tice Electric can begin the project immediately. Tice Electric has installed similar systems for the City of Portland and other Cities in the Metro Area. The preliminary cost estimate for this project was approximately \$37,000. The total cost for Tice Electric is \$29,312 which means savings of \$7,688.

The Engineering Division recommends to award the bid to the apparent low bidder Tice Electric.

School Zone Flashing Yellow Signal
 Bid Result
 January 1997

(2)

	PGE Poles	Zebell	Tice Electric	Linnco Electric	Electrical Const. & Design	Total No. of Poles	Total Cost Tice Electric	Total Cost Linnco Electric
Cost/Pole Installing	N/A	N/A	\$2,750.00	\$3,550.00	No Bid	8	\$22,000.00	\$28,400.00
Cost/Pole w/o Installing	N/A	N/A	\$2,600.00	\$2,750.00	No Bid	8	\$20,800.00	\$22,000.00
Flasher	N/A	\$7,312.00	N/A	N/A	N/A	N/A	N/A	N/A
PGE Poles	\$6,938.86	N/A	N/A	N/A	N/A	N/A	\$6,938.86	\$6,938.86
Total Cost Tice Electric PGE Installing	N/A	N/A	N/A	N/A	N/A	N/A	\$35,050.86	N/A
Total Cost Linnco Electric PGE Installing	N/A	N/A	N/A	N/A	N/A	N/A	N/A	\$36,250.86
Total Cost Tice Electric Installing All	N/A	N/A	N/A	N/A	N/A	N/A	\$29,312.00	N/A
Total Cost Linnco Electric Installing All	N/A	N/A	N/A	N/A	N/A	N/A	N/A	\$35,712.00

TICE ELECTRIC CO.
P.O. Box 15009
Portland, OR. 97293-5009

3

"Electrifying the Pacific Northwest since 1934"

x No.: (503) 239-3911 Telephone: (503) 233-8801

FACSIMILE TRANSMISSION SHEET

TO: RAFAEL CRUZ

LOCATION: CITY OF MILWAUKIE PUBLIC WORKS DEPT. FAX No. 774-8236

FROM: GORDON GREGERSEN

Number of Pages: 1 (Including Transmittal Sheet)

JOB NAME: SCHOOL ZONE FLASHING BEACON SYSTEM AT 4 SCHOOLS

DATE: 1-15-97 TIME: 1:00 P.M.

MESSAGE:

We have developed a quotation for the work described by your dwg. C-002 which we discussed on January 9, 1997. This quote is based on the City of Milwaukee furnishing the 3-section vehicle signals, complete with lenses, visors, and internal paging device, as well as furnishing the complete "SCHOOL SPEED LIMIT etc" signs.

ALTERNATE 1: TICE TO FURNISH SPECIFIED WOOD POLES
4 SCHOOLS @ \$ 4,200 EACH = \$ 16,800

ALTERNATE 2: CITY OF MILWAUKEE TO FURNISH WOOD POLES
4 SCHOOLS @ \$ 3,900 EACH = \$ 15,600

ALTERNATE 3: SYSTEMS TO BE INSTALLED ON EXISTING UTILITY COMPANY POLES
4 SCHOOLS @ \$ 4,100 EACH = \$ 16,400

We have assumed that the service enclosure may be a Square D "QO2-4L70RB". If an ODOT-style 6" X 8" X 12" "SC-1" service cabinet is required, the sum of \$ 1,200 per school must be added to the bid.

These quotes include all necessary signal mounting hardware. At the City's option the signal can be mounted close to the pole or offset from the pole at any distance (< 18") desired by the City. No price change.

We have assumed that the "manual override switch" will be located within the same housing as the Code-required service breaker. If the City desires the manual override switch in a separate housing, please add \$ 100 per school.

Thank you for requesting the Tice Electric Co. to present this proposal !

LINCO ELECTRIC COMPANY
32758 Old Hwy 34 SE
PO Box 925
Albany, Oregon 97321
(541) 926-4266
(541) 926-4268 Fax

FACSIMILE TRANSMISSION SHEET

TO: CITY OF MILWAUKIE
ATTN: RAFAEL CRUZ
FROM: BILL COBURN JR.
DATE: JAN. 8, 1997
RE: SCHOOL ZONE FLASHING YELLOW SIGNALS

OF PAGES (including this sheet) 1

MESSAGE:
PRICE COMPLETE = \$3,550.00 EACH
PRICE WITHOUT POLE = \$2,750.00 EACH
PLEASE CALL IF YOU HAVE ANY QUESTIONS.
THANKS BILL

Monday 12th 1996

Paul Zebell
3108 SE 62nd Avenue
Portland, Oregon 97206
323-6927

Rafael,

As per your request, here is a proposal for 3 section polycarb signal heads containing all necessary components to be compatible with the Westlink paging system for control.

Qty	Description	Price	Ext Price
8	Pager controlled warning beacons	\$914	\$7312

Please Call should you have any questions.

Sincerely,

Paul Zebell

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**Portland General Energy Services
Distribution Product Resources
7831 SW Mohawk Street
Tualatin, Oregon 97062**


Dec.20-1996
CMS-086-96

Rafael Cruz
City of Milwaukie
6101 SE Johnson CR.
Portland, Or.

Dear Mr. Cruz:

This letter forwards a proposal prepared by Portland General Energy Services (PGES, Oregon State General Contractor #117589) for providing and installing (8) 30 foot treated wood poles. This price includes material and labor. The price quotation in the enclosed proposal is valid for 30 days from the date of this letter.

Rafael, Again thank you for engaging PGES for your construction needs. We value long-term customer/vendor relationships and we supply a top-quality product with a customer satisfaction guarantee. Your signature below indicates your approval for PGES to proceed with services described in the enclosure. Please fax this letter with your signature of approval to my attention at (503) 612-3963. If PGES can be of further assistance, please contact me at (503) 612-3973

Sincerely,

Butch Carlon
Supervising Project Manager,
PGES Distribution Product Resources

Enclosure

Please acknowledge concurrence for PGES to proceed with the activities as described in the enclosure to this letter:

Concurrence Signature: _____ Date: _____

Purchase Order Number: _____

Please fax this letter with your concurrence signature to Butch Carlon at (503) 612-3963.

Portland General Energy Services (PGES)
Proposal for the Installation of Eight Treated Wood Poles

Scope of Work:

- Provide and install (8) 30' treated wood poles at various locations around the city of Milwaukie.
- Provide labor, construction equipment, and materials.
- Customer is responsible for providing locates of underground facilities and staking of the pole locations.

Estimated Commitment:

Portland General Energy Services can complete this scope of work for an estimated investment of \$6,938.86.

The costs of services indicated above will be invoiced to the customer following completion of work. Payment will be due within 10 days of the invoice date.

Butch Carlson
Supervising Project Manager

12/20/96
Date



Enclosure to CMS-086-96

Dec. 20-, 1996

Page 2 of 2

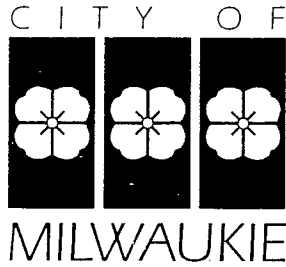
Subcontractors:

PGES may at times use agents, contractors, or subcontractors of its choice to perform any or all services under this agreement, but such use will in no manner alter PGES duties and obligations under this agreement.

Limits of Liability and Indemnification:

Performance of the described services does not guarantee future performance of said customer's electrical distribution system and/or critical equipment served by this system; nor does this agreement serve as an insurance policy binding PGES to said customer for damages suffered due to failure of all or portions of the facility electrical distribution system and/or critical equipment served by this system.

All information contained in this proposal is of a proprietary nature and is provided for the exclusive use of City of Milwaukie and PGES.



MEMORANDUM

TO: Mayor and City Council

THRU: Dan Bartlett, City Manager *Dan*

FROM: Kelly Somers, Fleet/Facility Manager *Kelly*

SUBJECT: Purchase of stand-by generators for JCB and Well #6

DATE: January 24, 1997

Recommendation/Action Requested

Authorize the City Manager to sign the purchase order to Christenson Electric Inc. in the amount of \$119,755.00 for furnishing and installing stand-by generators for the Public Service Building and Well #6.

Background

The Public Service Building houses the Public works field operations that respond to any and all emergencies that we have in the City. It is very crucial that we have electric power to operate our facility during these critical times. Council may recall the storm last February the Public Service Building was with out power for three days. This generator would prevent this from happening during future emergencies.

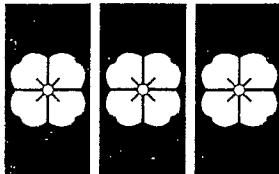
Well #6 is one of our major well sites as it is also the location of our largest reservoir and the third pressure station. We do not have back up power to run the major part of this site. Once the generator is installed at this site we will have all well sites backed-up with generators or power units.

Discussion

Staff received bids from five vendors to furnish and install stand-by generators for the Public Service Building and Well #6. The bid specifications called for an 80 kW generator for the Public service Building and a 200 kW generator for well site #6. The sizing was determined from the past history of the two sites. The project will include complete installation including the switch gear. The bids range from the low bid of Chistenson Electric to the high bid of \$135,800.00.

The generators are budgeted for the current year, in the Street, Water, Sewer, and Storm funds.

CITY OF



MILWAUKIE

MEMORANDUM

TO: Mayor and City Council

THROUGH: Dan R. Bartlett, City Manager *Dan*

FROM: Angus M. Anderson, Finance Director *Angus*

DATE: January 27, 1997

RE: Advance Refunding:
 1990 Water Revenue Bonds (packed towers)
 1991 General Obligation Bonds (PSB)

RECOMMENDATION:

Consider Resolution authorizing advance refunding of the two outstanding debt issues in order to take advantage of lower market interest rates resulting in interest savings.

BACKGROUND INFORMATION:

On January 7, 1997 City Council, in regular session, directed staff to pursue the advance refunding of the two remaining debt issues outstanding. Those debt issues are:

1990 Water Revenue Bonds issued to construct the packed towers. The original issue was \$1,300,000 for a term of twenty years at interest rates varying from 6.0% to 7.1%, averaging 7.05%. Payments of principal and interest are made in April and an additional interest payment is made in October of each year. The remaining principal balance on that issue is now \$1,180,000.

1991 General Obligation Bonds issued to construct the Public Safety Building. The original issue was \$5,000,000 for a term of twenty-five years at interest rates varying from 4.7% to 6.25%, averaging 6.18%. Payments of principal and interest are made in December and an additional payment of interest is made in June of each year. The remaining principal balance on that issue is now \$4,500,000.

In that meeting it was explained that the City would issue new bonded debt to replace the existing debt. However, since the existing debt has a call date in the future, a simple replacement is not possible. To accomplish this repayment in advance of the call date, what is referred to as a "defeasance" is performed. This means that the proceeds of the new issue are first transferred to an escrow agent who then uses them to purchase U.S. government securities. These securities are purchased in an amount and with maturities staggered such that the maturing securities plus the interest earned on them are sufficient to pay the debt service on the existing underlying debt. Then when the call date for that existing debt is reached, the balance of those securities pays off the old debt. The City only pays the debt service on the new debt issue. The existing debt is removed from our

accounts as it has been defeased. The advantage to the City is the interest cost savings that result from the difference in what we would pay in interest costs over the life of the existing issue subtracted from the net interest cost on the new issue. That net interest cost is the difference between the actual interest paid and the interest earnings on the funds in escrow which purchased interest earning U.S. government securities.

Since that January 7, 1997 meeting interest rates have increased making the feasibility of refinancing the 1991 General Obligation Bond somewhat questionable at this time. However, the market for Oregon revenue bonds is still quite good resulting in the same savings as originally projected. In the current (as of January 27, 1997) market, the City would definitely want to refinance the 1990 Water Revenue but hold for better rates on the 1991 GO. Naturally that picture can change daily. Because the picture can change daily, the City would like to be in a position to proceed with the utmost haste to take advantage of the lowered interest rates.

In summary, staff recommends Council approve the attached resolution to approve advance refunding for both the 1990 Water Revenue Bonds and the 1991 General Obligation Bonds. If Council so approves, the City will then proceed with the refunding issue for the 1990 Water Revenue Bond. In addition, we would also then be in the best position to take advantage of the interest rate market if it improves for refunding the 1991 GO Bonds.

DRAFT

**City of Milwaukie
Clackamas and Multnomah Counties, Oregon**

Resolution No. _____

Authorizing General Obligation Refunding Bonds, Series 1997

Adopted February 4, 1997

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DRAFT
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Exhibit A Form of Bond

Exhibit B Form of Escrow Deposit Agreement

DRAFT

RESOLUTION NO.

A RESOLUTION AUTHORIZING ISSUANCE AND SALE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 1997.

Section 1. Findings.

The Council of the City of Milwaukie, Oregon (the "City") resolves:

1.1. The City has previously issued and has outstanding its General Obligation Bonds, Series 1991, which are dated October 1, 1991 (the "1991 Bonds" or the "Refundable Bonds").

1.2. The City is authorized pursuant to Chapter 288 of the Oregon Revised Statutes to issue advance refunding bonds to achieve debt service savings or a favorable reorganization of the City's permanent debt structure.

1.3. Issuing advance refunding bonds to refund the 1991 Bonds will reduce total debt service.

1.4. The approval of the State Treasurer is required before advance refunding bonds may be issued, and a refunding plan must be submitted to the State Treasurer demonstrating that the refunding will produce debt service savings before the State Treasurer may approve the refunding.

1.5. Seattle-Northwest Securities Corporation has prepared an advance refunding plan for the 1991 Bonds.

1.6. The City Council adopts this Resolution to authorize submission of the advance refunding plan, to authorize the issuance of the City's General Obligation Refunding Bonds, Series 1997, and to advance refund the 1991 Bonds.

1.7. If the State Treasurer approves the issuance of advance refunding bonds in accordance with the advance refunding plan proposed by Seattle-Northwest Securities Corporation, the City authorizes the issuance of advance refunding bonds in a principal amount sufficient to pay the cost of refunding the Refundable Bonds and the costs incident to the authorization, sale and issuance of the Refunding Bonds pursuant to this Resolution.

1.8. For the proposed issue of advance refunding bonds, the firm of Preston Gates & Ellis LLP is designated as bond counsel, First Trust National Association is designated as Escrow Agent and Paying Agent, and the firm of Seattle-Northwest Securities Corporation is designated as Underwriter.

DRAFT

Section 2. Bonds Authorized.

For the above purpose, the City shall issue its General Obligation Refunding Bonds, Series 1997. The Finance Director or his designee (the "Finance Director"), on behalf of the City, and without further action by the City Council, may:

2.1. Participate in the preparation and authorize the distribution of a preliminary official statement or other disclosure document for the Refunding Bonds;

2.2. Appoint an independent expert to provide services in connection with the Refunding Bonds;

2.3. Negotiate the terms of, and execute, a bond purchase agreement with the underwriter;

2.4. Establish the principal amount, interest rates, redemption terms, payment dates and other terms of the Refunding Bonds, provided that the Refunding Bonds produce debt service savings having a present value of not less than three percent of the principal amount of the Refunding Bonds and are sold at a true interest cost of not to exceed 8%;

2.5. Execute and deliver an escrow deposit agreement (the "Escrow Deposit Agreement"), in substantially the form attached as Exhibit B, with such changes as the Finance Director finds are in the best interests of the City, and authorize the purchase of securities to be held under the Escrow Deposit Agreement; and

2.6. Issue, sell and deliver the Refunding Bonds, and execute and deliver any related certificates or documents which are reasonably required to refund the Refundable Bonds in accordance with this resolution.

Section 3. Refunding Bond Book-Entry Form.

3.1. The Refunding Bonds shall be initially issued in book-entry form, with no Refunding Bonds being made available to the Bondowners. The Finance Director shall execute and deliver letters of representations to The Depository Trust Company, New York, New York ("DTC") for the Refunding Bonds, in form and substance satisfactory to DTC. So long as the Refunding Bonds are in book-entry form:

3.1.1. Ownership of the Refunding Bonds shall be recorded through entries on the books of banks and broker-dealer participants and correspondents that are related to entries on the DTC system. The Refunding Bonds shall be initially issued in the form of a global bond. Each global bond shall be registered in the name of Cede & Co. as nominee of DTC as the owner of the Refunding Bond, and such global bonds shall be lodged with DTC until early redemption or maturity of the Refunding Bond issue.

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3.1.2. The Registrar shall remit payment for the maturing principal and interest on the Refunding Bonds to DTC as owner of the Refunding Bonds for distribution by the nominee to the beneficial owners by recorded entry on the books of DTC participants and correspondents. While the Refunding Bonds are in book-entry form, the Refunding Bonds will be available in denominations of \$5,000 or any integral multiple thereof

3.2. In the event DTC determines not to continue to act as securities depository for the Refunding Bonds, or the City determines that DTC shall no longer so act; then the City will discontinue maintaining the Refunding Bonds in the book-entry form with DTC.

3.3. Notwithstanding the provisions regarding exchange and transfer of Refunding Bonds set forth in this resolution, while the Refunding Bonds are in book-entry form they may not be transferred or exchanged on the registration books maintained by the Paying Agent except:

3.3.1. to any successor depository designated by the City as provided below;

3.3.2. to any successor nominee designated by a depository; or

3.3.3. if the City elects to discontinue maintaining the Refunding Bonds in book-entry form, the City shall cause the Paying Agent to authenticate and deliver replacement Refunding Bonds in fully registered form in authorized denominations in the names of the beneficial owners or their nominees; thereafter the provisions set forth herein, regarding registration, transfer and exchange of Refunding Bonds shall apply.

3.4. Upon the resignation of any institution acting as depository hereunder, or if the City determines that continuation of any institution in the role of depository is not in the best interests of the beneficial owners, the City shall attempt to identify another institution qualified to act as depository hereunder or shall discontinue maintaining the Refunding Bonds in book-entry form by resolution or ordinance. If the City is unable to identify such successor depository prior to the effective date of the resignation, the City shall discontinue maintaining the Refunding Bonds in book-entry form as provided above.

3.5. With respect to Refunding Bonds registered in the registration books maintained by the Paying Agent in the name of the nominee of DTC, the City and the Paying Agent shall have no responsibility or obligation to any participant or correspondent of DTC or to any beneficial owner on behalf of which such participants or correspondents act as agent for the beneficial owner with respect to:

3.5.1. the accuracy of the records of DTC, the Nominee or any participant or correspondent with respect to any beneficial owner's interest in the Refunding Bonds;

3.5.2. the delivery to any participant or correspondent or any other person of any notice with respect to the Refunding Bonds, including any notice of prepayment;

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3.5.3. the selection by DTC of the beneficial interest in Refunding Bonds to be redeemed prior to maturity; or

3.5.4. the payment to any participant, correspondent, or any other person other than the registered owner of the Refunding Bonds as shown in the registration books maintained by the Paying Agent, of any amount with respect to principal or interest on the Refunding Bonds.

3.6. So long as the Refunding Bonds are in book-entry form, the Paying Agent will give any notice of redemption or any other notices required to be given to registered owners of Refunding Bonds only to DTC or its nominee registered as the registered owner thereof. Any failure of DTC to advise any of its participants, or of any participant to notify the beneficial owner, of any such notice and its content or effect will not affect the validity of the redemption of the Refunding Bonds called for redemption or of any other action premised on such notice. Neither the City nor the Paying Agent is responsible or liable for the failure of DTC or any participant to make any payment or give any notice to a beneficial owner in respect of the Refunding Bonds or any error or delay relating thereto.

3.7. The City shall pay or cause to be paid all principal and interest on the Refunding Bonds only to or upon the order of the owner, as shown in the registration books maintained by the Paying Agent, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligation with respect to payment thereof to the extent of the sum or sums so paid.

3.8. Upon delivery by DTC to the City and to the owner of written notice to the effect that DTC has determined to substitute a new nominee in place of the nominee, then the word "nominee" in this resolution shall refer to such new nominee of DTC, and upon receipt of such notice, the City shall promptly deliver a copy thereof to the Paying Agent. DTC shall tender the Refunding Bonds it holds to the Paying Agent for reregistration.

3.9. The provisions of this Section may be modified without the consent of the beneficial owners in order to conform this Section to the standard practices of DTC for bonds issued in book-entry form.

Section 4. Optional Redemption.

4.1. The City reserves the right to redeem all or any portion of the Bonds as authorized in the Bond Purchase Agreement.

Section 5. Notice of Redemption of Bonds.

5.1. Notice of Redemption (DTC). So long as the Refunding Bonds are in book-entry form, the Paying Agent shall notify DTC of any early redemption not less than 30 days prior to the date fixed for redemption, and shall provide such information in connection therewith as required by a letter of representations submitted to DTC in connection with the issuance of the Refunding Bonds.

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5.2. Notice of Redemption (No DTC). During any period in which the Refunding Bonds are not in book-entry form, unless waived by any Owner of the Refunding Bonds to be redeemed, official notice of any redemption of Refunding Bonds shall be given by the Paying Agent on behalf of the City by mailing a copy of an official redemption notice by first class mail postage prepaid at least 30 days and not more than 60 days prior to the date fixed for redemption to the Owner of the Refunding Bond or Bonds to be redeemed at the address shown on the bond register or at such other address as is furnished in writing by such owner to the Paying Agent. The City shall notify the Paying Agent of any intended redemption not less than 45 days prior to the redemption date. All such official notices of redemption shall be dated and shall state:

5.2.1. the redemption date,

5.2.2. the redemption price,

5.2.3. if less than all outstanding Refunding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Refunding Bonds to be redeemed,

5.2.4. that on the redemption date the redemption price will become due and payable upon each such Refunding Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date, and

5.2.5. the place where such Refunding Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal office of the Paying Agent.

5.2.6. Prior to any redemption date, the City shall deposit with the Registrar an amount of money sufficient to pay the redemption price of all the Bonds or portions of Bonds which are to be redeemed on that date.

5.2.7. Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Bond or Bonds of the same maturity in the amount of the unpaid principal. All Bonds which have been redeemed shall be canceled and destroyed by the Registrar and shall not be reissued.

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Section 6. Authentication, Registration And Transfer.

6.1. No Refunding Bond shall be entitled to any right or benefit under this resolution unless it shall have been authenticated by an authorized officer of the Paying Agent. The Paying Agent shall authenticate all Refunding Bonds to be delivered at closing of the Refunding Bonds, and shall additionally authenticate all Refunding Bonds properly surrendered for exchange or transfer pursuant to this resolution.

6.2. The ownership of all Refunding Bonds shall be entered in the bond register maintained by the Paying Agent, and the City and the Paying Agent may treat the person listed as owner in the bond register as the owner of the Refunding Bond for all purposes.

6.3. While the Refunding Bonds are in book-entry form, the Paying Agent shall transfer Refunding Bond principal and interest payments in the manner required by DTC.

6.4. If the Refunding Bonds cease to be in book-entry form, the Paying Agent shall mail each interest payment on the interest payment date (or the next business day if the payment date is not a business day) to the name and address of the Refunding Bondowners as they appear on the bond register as of the fifteenth day of the month preceding an interest payment date (the "Record Date"). If payment is so mailed, neither the City nor the Paying Agent shall have any further liability to any party for such payment.

6.5. Refunding Bonds may be exchanged for an equal principal amount of Refunding Bonds of the same maturity which are in different denominations, and Refunding Bonds may be transferred to other owners if the Refunding Bondowner submits the following to the Paying Agent:

6.5.1. written instructions for exchange or transfer satisfactory to the Paying Agent, signed by the Refunding Bondowner or attorney in fact and guaranteed or witnessed in a manner satisfactory to the Paying Agent; and

6.5.2. the Refunding Bonds to be exchanged or transferred.

6.6. The Paying Agent shall not be required to exchange or transfer any Refunding Bonds submitted to it during any period beginning with a Record Date and ending on the next following payment date; however, such Refunding Bonds shall be exchanged or transferred promptly following that payment date.

6.7. The Paying Agent shall note the date of authentication on each Refunding Bond. The date of authentication shall be the date on which the Refunding Bondowner's name is listed on the bond register.

6.8. For purposes of this section, Refunding Bonds shall be considered submitted to the Paying Agent on the date the Paying Agent actually receives the materials described in Section 5.

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6.9. The City may alter these provisions regarding registration and transfer by mailing notification of the altered provisions to all Refunding Bondowners. The altered provisions shall take effect on the date stated in the notice, which shall not be earlier than 45 days after notice is mailed.

Section 7. Security For Refunding Bonds.

Pursuant to ORS 288.160 the City may issue general obligation bonds to refund general obligation bonds which were issued for capital construction or improvements, upon compliance with the provisions of that statute. The Refundable Bonds were issued with approval of the voters for capital construction and improvements, and the Refunding Bonds shall be issued in compliance with ORS 288.160. Accordingly, the Refunding Bonds shall replace the Refundable Bonds which are refunded by the Refunding Bonds, and the full faith and credit of the City are pledged to the successive owners of each of the Refunding Bonds for the punctual payment of such obligations, when due. The City shall levy annually, as provided by law, a direct ad valorem tax upon all of the taxable property within the City in sufficient amount, after taking into consideration discounts taken and delinquencies that may occur in the payment of such taxes and other moneys available for the payment of debt service on the Refunding Bonds, to pay the Refunding Bonds promptly as they mature. The City covenants with the owners of the Refunding Bonds to levy such a tax annually during each year that any of the Refunding Bonds, or bonds issued to refund them, are outstanding.

Section 8 Refunding Bond Insurance.

The Finance Director may apply for municipal bond insurance for the Refunding Bonds, and may expend Refunding Bond proceeds to pay any bond insurance premium.

Section 9. Form of Refunding Bonds.

The Refunding Bonds shall be in substantially the form attached hereto as Exhibit A, with such changes as may be approved by the Finance Director. The Refunding Bonds may be printed or typewritten, and may be issued as one or more temporary Refunding Bonds which shall be exchangeable for definitive Refunding Bonds when definitive Refunding Bonds are available.

Section 10. Execution.

The Refunding Bonds shall be executed on behalf of the City with the facsimile signatures of the Mayor and the Recorder.

Section 11. Tax-Exempt Status.

11.1. The City covenants to use the proceeds of the Refunding Bonds, and the facilities financed with the Refundable Bonds, and to otherwise comply with the provisions of the Internal Revenue Code of 1986, as amended, (the "Code") so that interest paid on the

Refunding Bonds will not be includable in gross income of the bondowners. The City specifically covenants:

11.1.1. to comply with the "arbitrage" provisions of Section 148 of the Code, and pay any rebates due to the United States on the gross proceeds of the Refunding Bonds;

11.1.2. to yield restrict and pay any rebates due to the United States on any unexpended proceeds of the Refundable Bonds; and

11.1.3. to operate the facilities which were financed with the proceeds of the Refundable Bonds, and any facilities which are financed with the unexpended proceeds of the Refundable Bonds, so that the Refunding Bonds are not "private activity bonds" under Section 141 of the Code.

11.2. The Finance Director may enter into covenants on behalf of the City to protect the tax-exempt status of the Refunding Bonds.

Section 12. Designation of Bonds as Qualified Tax-Exempt Obligations.

The City designates the Bonds as qualified tax-exempt obligations pursuant to Section 265(b)(3) of the Code. The City covenants not to so designate tax-exempt obligations in the current calendar year in an aggregate amount of more than \$10,000,000. The City (and all subordinate entities thereof, if any) does not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations during the current calendar year.

Section 13. Escrow.

The net proceeds of the Refunding Bonds shall be placed in irrevocable escrow, pursuant to the Escrow Deposit Agreement. The Escrow Agent or the Finance Director are hereby authorized to subscribe for and purchase the government obligations to be placed in the escrow, on behalf of the City.

Section 14. Redemption Of Refundable Bonds.

Contingent solely on the issuance of the Refunding Bonds and the deposit of the net proceeds with the escrow agent, the City hereby irrevocably calls for redemption all of the Refundable Bonds on June 1, 2001, which is the earliest date on which they are subject to redemption.

Section 15. SEC Disclosure.

The Finance Director is hereby authorized and directed on behalf of the City to execute the Continuing Disclosure Certificate (the "Certificate"). The Certificate is being executed for the benefit of the holders of the Bonds and to assist the underwriter of the bonds in complying with Securities and Exchange Commission Rule 15c2-12 (17 C.F.R. § 240.15c2-12),

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(the "Rule"). The City shall comply with the provisions of the Certificate and the Rule and shall enforce the provisions of the Certificate on behalf of the holders of the Bonds.

Section 16. Defeasance.

If the City:

16.1. irrevocably deposits money or noncallable Government Obligations in escrow with an independent trustee or escrow agent which are calculated to be sufficient for the payment of Refunding Bonds which are to be defeased; and,

16.2. files with the escrow agency or trustee an opinion from an independent, certified public accountant to the effect that the money and the principal and interest to be received from the Government Obligations are calculated to be sufficient, without further reinvestment, to pay the defeased Refunding Bonds when due; and,

16.3. files with the escrow agent or trustee an opinion of nationally recognized bond counsel that the proposed defeasance will not cause the interest component of the Refunding Bonds to be includable in gross income under the Code;

then the City shall be obligated to pay the defeased Refunding Bonds solely from the money and Government Obligations deposited with the escrow agent or trustee, and the City shall have no further obligation to pay the defeased Refunding Bonds from any source except the amounts deposited in the escrow. For purposes of this section, "Government Obligations" means direct obligations of the United States, or obligations the principal of and interest on which are fully and unconditionally guaranteed by the United States.

ADOPTED by the unanimous vote of the Council, with a quorum in attendance, this 4th day of February, 1997.

APPROVED by the Mayor this 4th day of February, 1997.

CITY OF MILWAUKIE
CLACKAMAS AND MULTNOMAH
COUNTIES, OREGON

Mayor

Executed this 4th day of February, 1997.

ATTEST:

Recorder

**EXHIBIT A
(Form of Bond)**

No. R- _____

\$ _____

United States of America
State of Oregon
City of Milwaukie
Clackamas and Multnomah Counties, Oregon
General Obligation Refunding Bonds
Series 1997

Dated Date: <<dated date>>
Interest Rate: _____ %
Maturity Date: _____ 1, _____
CUSIP Number: _____ - _____
Registered Owner: -----Cede & Co.-----
Principal Amount: ----- Dollars-----

City of Milwaukie, Clackamas and Multnomah Counties, Oregon (the City"), for value received, acknowledges itself indebted and hereby promises to pay to the registered owner hereof, or registered assigns, the principal amount as indicated above on the above maturity date together with interest thereon from the date hereof at the rate per annum indicated above, computed on the basis of a 360-day year of twelve 30-day months. Interest is payable semiannually on the first day of _____ and the first day of _____ in each year until maturity or prior redemption, commencing _____ 1, 199_. Principal and interest payments shall be received by Cede & Co., as nominee of The Depository Trust Company, or its registered assigns, on each payment date. Such payments shall be made payable to the order of "Cede & Co."

This bond is one of a duly authorized series of bonds aggregating \$ _____ in principal amount designated as General Obligation Refunding Bonds, Series 1997 (the "Bonds"). The Bonds are issued for the purpose of refunding portions of the City's outstanding General Obligation Bonds, Series 1991. The Bonds are issued under and pursuant to resolution No. _____ (the resolution") of the City adopted on February 4, 1997 and in full and strict accordance and compliance with all of the provisions of the Constitution and Statutes of the State of Oregon and the Charter of the of the City.

The Bonds are initially issued as a book-entry-only security issue with no certificates provided to the Bondowners. Records of Bond ownership will be maintained by the Registrar and The Depository Trust Company and its participants.

Should the book-entry only security system be discontinued, the Bonds shall be issued in the form of registered Bonds without coupons in the denominations of \$5,000 or any

integral multiple thereof. Such Bonds may be exchanged for Bonds of the same aggregate principal amount, but different authorized denominations, as provided in the Bond Resolution.

Any transfer of this Bond must be registered, as provided in the resolution, upon the bond register kept for that purpose at the principal corporate trust office of the Registrar. This Bond may be registered only by surrendering it, together with a written instrument of transfer which is satisfactory to the Registrar and which is executed by the registered owner or duly authorized attorney. Upon registration, a new registered Bond or Bonds, of the same series and maturity and in the same aggregate principal amount, shall be issued to the transferee as provided in the resolution. The City and the Registrar may treat the person in whose name this Bond is registered on the bond register as its absolute owner for all purposes, as provided in the resolution.

[insert term bond provisions, if applicable]

Notice of any call for redemption shall be given as required by the Letter of Representations to The Depository Trust Company, as referenced in the Bond Resolution. Interest on any Bond or Bonds so called for redemption shall cease on the redemption date designated in the notice. The Issuer's paying agent and registrar, which is currently First Trust National Association, in Portland, Oregon (the "Registrar"), will notify The Depository Trust Company promptly of any Bonds called for redemption.

Unless this certificate is presented by an authorized representative of The Depository Trust Company to the issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

IT IS HEREBY CERTIFIED, RECITED, AND DECLARED that all conditions, acts, and things required to exist, to happen, and to be performed precedent to and in the issuance of this bond have existed, have happened, and have been performed in due time, form, and manner as required by the Constitution and Statutes of the State of Oregon; and that the issue of which this bond is a part, and all other obligations of such City, are within every debt limitation and other limit prescribed by such Constitution and Statutes; and that the City has covenanted to levy a tax upon all taxable property within the City in an amount sufficient, with other available funds, to pay when due the interest on and the principal of the bonds.

IN WITNESS WHEREOF, the City Council has caused this bond to be signed by facsimile signature of its Mayor and attested by facsimile signature of its Recorder as of the date indicated above.

City of Milwaukie
Clackamas and Multnomah Counties, Oregon

Mayor

Recorder

This Bond shall not be valid unless properly authenticated by the Registrar in the space indicated below.

Dated: _____

Certificate of Authentication

This is one of City's \$ _____ General Obligation Refunding Bonds, Series 1997, issued pursuant to the resolution described herein.

First Trust National Association, as Registrar

Authorized Officer

Assignment

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto: _____

(Please insert social security or other identifying number of assignee)

this bond and does hereby irrevocably constitute and appoint _____
_____ as attorney to transfer this bond on the books kept for registration
thereof with the full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the registered
owner as it appears upon the face of this bond in every particular, without alteration or
enlargement or any change whatever.

Signature Guaranteed

(Bank, Trust Company or Brokerage Firm)

Authorized Officer

The following abbreviations, when used in the inscription on the face of this bond,
shall be construed as though they were written out in full according to applicable laws or
regulations.

- TEN COM -- tenants in common
- TEN ENT -- as tenants by the entireties
- JT TEN -- as joint tenants with right of survivorship and not as tenants in
common
- OREGON CUSTODIANS use the following:
_____ CUST UL OREG _____ MIN
as custodian for (name of minor)
- OR UNIF TRANS MIN ACT
under the Oregon Uniform Transfer to Minors Act

Additional abbreviations may also be used though not in the list above.

EXHIBIT B
Form of Escrow Deposit Agreement

**City of Milwaukie
Clackamas and Multnomah Counties, Oregon**

Resolution No. _____

Authorizing Advance Refunding Bonds, Series 1997

Adopted February 4, 1997

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RESOLUTION NO. _____

A RESOLUTION AMENDING AND RESTATING CITY RESOLUTION NO. 25-1990 ADOPTED JULY 10, 1990, AUTHORIZING THE ADVANCE REFUNDING OF OUTSTANDING WATER REVENUE BONDS, AND PROVIDING THE TERMS UNDER WHICH FUTURE REVENUE BONDS MAY BE ISSUED.

Section 1. Findings.

The Council of the City of Milwaukie, Oregon (the "City") resolves:

1.1 The City has previously issued and has outstanding its Water Revenue Bonds, Series 1990, which are dated August 1, 1990 (the "1990 Bonds" or the "Refundable Bonds") which have a senior lien on the net revenues of the City's water system. There are no other bonds or obligations outstanding to which the revenues of the water system have been pledged.

1.2 The City is authorized pursuant to Chapter 288 of the Oregon Revised Statutes to issue advance refunding bonds to achieve debt service savings or a favorable reorganization of the City's permanent debt structure.

1.3 Issuing advance refunding bonds to refund the 1990 Bonds will reduce total debt service.

1.4 The approval of the State Treasurer is required before advance refunding bonds may be issued, and a refunding plan must be submitted to the State Treasurer demonstrating that the refunding will produce debt service savings before the State Treasurer may approve the refunding.

1.5 Seattle-Northwest Securities Corporation has prepared an advance refunding plan for the 1990 Bonds.

1.6 The City Council adopts this Resolution to authorize submission of the advance refunding plan, to authorize the issuance of the City's Water Revenue Refunding Bonds, Series 1997, to advance refund the 1990 Bonds, and to provide the terms under which future Parity Obligations and Subordinate Obligations may be issued.

1.7 If the State Treasurer approves the issuance of advance refunding bonds in accordance with the advance refunding plan proposed by Seattle-Northwest Securities Corporation, the City authorizes the issuance of advance refunding bonds (the "Refunding Bonds") in a principal amount sufficient to pay the cost of refunding the Refundable Bonds and

the costs incident to the authorization, sale and issuance of the Refunding Bonds pursuant to this Resolution.

1.8 For the proposed issue of advance refunding bonds, the firm of Preston Gates & Ellis LLP is designated as bond counsel, First Trust National Association is designated as Escrow Agent and Paying Agent, and the firm of Seattle-Northwest Securities Corporation is designated as Underwriter.

Section 2. Bonds Authorized.

2.1 For the above purpose, the City shall issue its Water Revenue Refunding Bonds, Series 1997. The Finance Director or his designee (the "Finance Director"), on behalf of the City, and without further action by the City Council, may:

2.1.1 Participate in the preparation and authorize the distribution of a preliminary official statement or other disclosure document for the Refunding Bonds;

2.1.2 Appoint an independent expert to provide services in connection with the Refunding Bonds;

2.1.3 Negotiate the terms of, and execute, a bond purchase agreement with the underwriter;

2.1.4 Establish the principal amount, interest rates, redemption terms, payment dates and other terms of the Refunding Bonds, provided that the Refunding Bonds produce debt service savings having a present value of not less than three percent of the principal amount of the Refunding Bonds and are sold at a true interest cost of not to exceed 8%;

2.1.5 Execute and deliver an escrow deposit agreement (the "Escrow Deposit Agreement"), in substantially the form attached as Exhibit B, with such changes as the Finance Director finds are in the best interests of the City, and authorize the purchase of securities to be held under the Escrow Deposit Agreement; and

2.1.6 Issue, sell and deliver the Refunding Bonds, and execute and deliver any related certificates or documents which are reasonably required to refund the Refundable Bonds in accordance with this resolution.

Section 3. Definitions. As used in this Resolution, the following words shall have the following meanings:

3.1 "Bonds" means the Series 1997 Bonds and any Parity Obligations issued pursuant to this Resolution.

3.2 "Code" means the Internal Revenue Code of 1986, as amended.

3.3 "Construction Account" means the Water Construction Account established pursuant to Section 7 hereof by the City.

3.4 "City" means the City of Milwaukie in Clackamas and Multnomah Counties, Oregon, a municipal corporation of the State of Oregon.

3.5 "Council" means the governing body of the City.

3.6 "Default" means any event specified in Section 19.1 of this Resolution.

3.7 "Gross Revenues" means all fees and charges, including systems development charges, resulting from provision of water services, revenues from product sales, and other revenues required to be placed in the Water Fund and Water SDC Reserve Fund under this Resolution, and any interest earnings on the Water Fund which earnings are held in the Water Fund; however, Gross Revenues does not include: (i) any payments of assessments levied against benefited properties; (ii) the proceeds of any grants; (iii) the proceeds of any borrowing for capital improvements; (iv) the proceeds of any liability insurance, and (v) the proceeds of any casualty insurance which the City intends to utilize for repair or replacement of Water Facilities.

3.8 "Net Operating Revenues" means the Gross Revenues less the Operating Expenses.

3.9 "Operating Expenses" means all expenses incurred for operation, maintenance and repair of the Water Facilities, including but not limited to administrative expenses, financial and auditing expenses, insurance premiums, claims (to the extent moneys are not available from proceeds of insurance), taxes, legal and engineering expenses relating to operation and maintenance, payments and reserves for pension, retirement, health, hospitalization, and sick leave benefits, payments to reserve funds, and any other similar expenses to be paid to the extent properly and directly attributable to operations of the system.

3.10 "Parity Obligations" means any revenue bonds or other obligations of the City which comply with the provisions of Section 15 of this Resolution for the issuance of Parity Obligations.

3.11 "Redemption Account" means the debt service account previously established pursuant to Section 9 hereof by the City to hold funds to be used to pay Bond principal and interest

3.12 "Registrar" or "Bond Registrar" means that entity which is under contract with the City to serve as paying agent and registrar for the Bonds.

3.13 "Required Reserve" means an amount equal to the lesser of:

3.13.1 10 percent of the par value of the Bonds;

3.13.2 the maximum annual debt service on the Bonds, defined as the maximum amount in the aggregate of principal of and interest on the Bonds due in one fiscal year, or;

3.13.3 125 percent of the average annual debt service on the Bonds, defined as the average amount in the aggregate of principal of and interest on the Bonds due in one fiscal year.

3.14 "Reserve Account" means the Debt Service Reserve Account established pursuant to Section 9 hereof.

3.15 "Resolution" means this Resolution.

3.16 "Reserve Equivalent" means an insurance policy, surety bond or letter of credit issued by a municipal bond insurance company or a commercial bank having a credit rating (when the policy, bond, or letter of credit is issued) of at least Aa or AA as determined by Moody's Investors Services or Standard & Poor's Corporation, or their successors, in which the insurance company or commercial bank agrees unconditionally to provide the City with funds for the payment of debt service on the Series 1997 Bonds and any obligations issued on a parity therewith. Each Reserve Equivalent must be unconditional and irrevocable, and either be in effect until the final maturity date of a series of bonds, or if it expires sooner, the City shall provide a substitute Reserve Equivalent or fund the Reserve Account with cash prior to the expiration date of the Reserve Equivalent.

3.17 "Water Fund" means the Water Fund maintained by the City into which the Gross Revenues are deposited.

3.18 "Water Facilities," "water system," or "system" means all real and personal property now or hereafter owned, operated, used, or maintained by the City for water distribution, treatment and purification within or without the corporate limits of the City.

3.19 "Subordinate obligations" means any obligations of the City payable from Net Operating Revenues which comply with the provisions of Section 16 hereof.

3.20 "Underwriter" means Seattle-Northwest Securities Corporation.

Section 4. Refunding Bond Book-Entry Form.

4.1 The Refunding Bonds shall be initially issued in book-entry form, with no Refunding Bonds being made available to the Bondowners. The Finance Director shall execute and deliver letters of representations to The Depository Trust Company, New York, New York ("DTC") for the Refunding Bonds, in form and substance satisfactory to DTC. So long as the Refunding Bonds are in book-entry form:

4.1.1 Ownership of the Refunding Bonds shall be recorded through entries on the books of banks and broker-dealer participants and

correspondents that are related to entries on the DTC system. The Refunding Bonds shall be initially issued in the form of a global bond. Each global bond shall be registered in the name of Cede & Co. as nominee of DTC as the owner of the Refunding Bond, and such global bonds shall be lodged with DTC until early redemption or maturity of the Refunding Bond issue.

4.1.2 The Registrar shall remit payment for the maturing principal and interest on the Refunding Bonds to DTC as owner of the Refunding Bonds for distribution by the nominee to the beneficial owners by recorded entry on the books of DTC participants and correspondents. While the Refunding Bonds are in book-entry form, the Refunding Bonds will be available in denominations of \$5,000 or any integral multiple thereof.

4.2 In the event DTC determines not to continue to act as securities depository for the Refunding Bonds, or the City determines that DTC shall no longer so act; then the City will discontinue maintaining the Refunding Bonds in the book-entry form with DTC.

4.3 Notwithstanding the provisions regarding exchange and transfer of Refunding Bonds set forth in this resolution, while the Refunding Bonds are in book-entry form they may not be transferred or exchanged on the registration books maintained by the Paying Agent except:

4.3.1 to any successor depository designated by the City as provided below;

4.3.2 to any successor nominee designated by a depository; or

4.3.3 if the City elects to discontinue maintaining the Refunding Bonds in book-entry form, the City shall cause the Paying Agent to authenticate and deliver replacement Refunding Bonds in fully registered form in authorized denominations in the names of the beneficial owners or their nominees; thereafter the provisions set forth herein, regarding registration, transfer and exchange of Refunding Bonds shall apply.

4.4 Upon the resignation of any institution acting as depository hereunder, or if the City determines that continuation of any institution in the role of depository is not in the best interests of the beneficial owners, the City shall attempt to identify another institution qualified to act as depository hereunder or shall discontinue maintaining the Refunding Bonds in book-entry form by resolution or ordinance. If the City is unable to identify such successor depository prior to the effective date of the resignation, the City shall discontinue maintaining the Refunding Bonds in book-entry form as provided above.

4.5 With respect to Refunding Bonds registered in the registration books maintained by the Paying Agent in the name of the nominee of DTC, the City and the Paying Agent shall have no responsibility or obligation to any participant or correspondent of DTC or

to any beneficial owner on behalf of which such participants or correspondents act as agent for the beneficial owner with respect to:

4.5.1 the accuracy of the records of DTC, the Nominee or any participant or correspondent with respect to any beneficial owner's interest in the Refunding Bonds;

4.5.2 the delivery to any participant or correspondent or any other person of any notice with respect to the Refunding Bonds, including any notice of prepayment;

4.5.3 the selection by DTC of the beneficial interest in Refunding Bonds to be redeemed prior to maturity; or

4.5.4 the payment to any participant, correspondent, or any other person other than the registered owner of the Refunding Bonds as shown in the registration books maintained by the Paying Agent, of any amount with respect to principal or interest on the Refunding Bonds.

4.6 So long as the Refunding Bonds are in book-entry form, the Paying Agent will give any notice of redemption or any other notices required to be given to registered owners of Refunding Bonds only to DTC or its nominee registered as the registered owner thereof. Any failure of DTC to advise any of its participants, or of any participant to notify the beneficial owner, of any such notice and its content or effect will not affect the validity of the redemption of the Refunding Bonds called for redemption or of any other action premised on such notice. Neither the City nor the Paying Agent is responsible or liable for the failure of DTC or any participant to make any payment or give any notice to a beneficial owner in respect of the Refunding Bonds or any error or delay relating thereto.

4.7 The City shall pay or cause to be paid all principal and interest on the Refunding Bonds only to or upon the order of the owner, as shown in the registration books maintained by the Paying Agent, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligation with respect to payment thereof to the extent of the sum or sums so paid.

4.8 Upon delivery by DTC to the City and to the owner of written notice to the effect that DTC has determined to substitute a new nominee in place of the nominee, then the word "nominee" in this resolution shall refer to such new nominee of DTC, and upon receipt of such notice, the City shall promptly deliver a copy thereof to the Paying Agent. DTC shall tender the Refunding Bonds it holds to the Paying Agent for reregistration.

4.9 The provisions of this Section may be modified without the consent of the beneficial owners in order to conform this Section to the standard practices of DTC for bonds issued in book-entry form.

Section 5. Optional Redemption.

5.1 The City reserves the right to redeem all or any portion of the Bonds as authorized in the Bond Purchase Agreement.

Section 6. Notice of Redemption of Bonds.

6.1 Notice of Redemption (DTC). So long as the Refunding Bonds are in book-entry form, the Paying Agent shall notify DTC of any early redemption not less than 30 days prior to the date fixed for redemption, and shall provide such information in connection therewith as required by a letter of representations submitted to DTC in connection with the issuance of the Refunding Bonds.

6.2 Notice of Redemption (No DTC). During any period in which the Refunding Bonds are not in book-entry form, unless waived by any Owner of the Refunding Bonds to be redeemed, official notice of any redemption of Refunding Bonds shall be given by the Paying Agent on behalf of the City by mailing a copy of an official redemption notice by first class mail postage prepaid at least 30 days and not more than 60 days prior to the date fixed for redemption to the Owner of the Refunding Bond or Bonds to be redeemed at the address shown on the bond register or at such other address as is furnished in writing by such owner to the Paying Agent. The City shall notify the Paying Agent of any intended redemption not less than 45 days prior to the redemption date. All such official notices of redemption shall be dated and shall state:

6.2.1 the redemption date,

6.2.2 the redemption price,

6.2.3 if less than all outstanding Refunding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Refunding Bonds to be redeemed,

6.2.4 that on the redemption date the redemption price will become due and payable upon each such Refunding Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date, and

6.2.5 the place where such Refunding Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal office of the Paying Agent.

6.3 Prior to any redemption date, the City shall deposit with the Registrar an amount of money sufficient to pay the redemption price of all the Bonds or portions of Bonds which are to be redeemed on that date.

6.4 Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Bond or Bonds of the same maturity in the amount of the unpaid principal. All Bonds which have been redeemed shall be canceled and destroyed by the Registrar and shall not be reissued.

Section 7. Authentication, Registration And Transfer.

7.1 No Refunding Bond shall be entitled to any right or benefit under this resolution unless it shall have been authenticated by an authorized officer of the Paying Agent. The Paying Agent shall authenticate all Refunding Bonds to be delivered at closing of the Refunding Bonds, and shall additionally authenticate all Refunding Bonds properly surrendered for exchange or transfer pursuant to this resolution.

7.2 The ownership of all Refunding Bonds shall be entered in the bond register maintained by the Paying Agent, and the City and the Paying Agent may treat the person listed as owner in the bond register as the owner of the Refunding Bond for all purposes.

7.3 While the Refunding Bonds are in book-entry form, the Paying Agent shall transfer Refunding Bond principal and interest payments in the manner required by DTC.

7.4 If the Refunding Bonds cease to be in book-entry form, the Paying Agent shall mail each interest payment on the interest payment date (or the next business day if the payment date is not a business day) to the name and address of the Refunding Bondowners as they appear on the bond register as of the fifteenth day of the month preceding an interest payment date (the "Record Date"). If payment is so mailed, neither the City nor the Paying Agent shall have any further liability to any party for such payment.

7.5 Refunding Bonds may be exchanged for an equal principal amount of Refunding Bonds of the same maturity which are in different denominations, and Refunding Bonds may be transferred to other owners if the Refunding Bondowner submits the following to the Paying Agent:

7.5.1 written instructions for exchange or transfer satisfactory to the Paying Agent, signed by the Refunding Bondowner or attorney in fact and guaranteed or witnessed in a manner satisfactory to the Paying Agent; and

7.5.2 the Refunding Bonds to be exchanged or transferred.

7.6 The Paying Agent shall not be required to exchange or transfer any Refunding Bonds submitted to it during any period beginning with a Record Date and ending on the next following payment date; however, such Refunding Bonds shall be exchanged or transferred promptly following that payment date.

7.7 The Paying Agent shall note the date of authentication on each Refunding Bond. The date of authentication shall be the date on which the Refunding Bondowner's name is listed on the bond register.

7.8 For purposes of this section, Refunding Bonds shall be considered submitted to the Paying Agent on the date the Paying Agent actually receives the materials described in Section 5.

7.9 The City may alter these provisions regarding registration and transfer by mailing notification of the altered provisions to all Refunding Bondowners. The altered provisions shall take effect on the date stated in the notice, which shall not be earlier than 45 days after notice is mailed.

Section 8. Disposition of Bond Proceeds. Interest accrued from the date of the Bonds until the date of closing shall be placed in the Redemption Account, and shall be used to pay interest on the Series 1997 Bonds. An amount equal to the Required Reserve or Reserve Equivalents shall be placed in the Reserve Account. Bond proceeds shall be placed in the Construction Account, previously created, and shall be disbursed only to finance the Project and costs incurred in connection with the issuance of the Series 1990 Bonds.

Section 9. Deposit and Use of Revenues. The City shall deposit all Gross Revenues into the Water Fund. As long as any Bonds remain issued and outstanding, moneys in the Water Fund shall be used solely to pay the following amounts in the following order:

- 9.1 To pay Operating Expenses,
- 9.2 To make payments to the Redemption Account to pay Bond principal and interest,
- 9.3 To make any payment required under a Reserve Equivalent,
- 9.4 To make payments to the Reserve Account to eliminate any deficiency in the Required Reserve, and
- 9.5 To pay for capital improvements to the Water System and for the repair, restoration and enlargements or for administrative expenses of the Water System.

Section 10. Accounts.

10.1 A debt service account was previously created by the City and is known as the Redemption Account. The City shall deposit into the Redemption Account, solely from

the Water Fund and the Reserve Account, money sufficient to make payments of Bond principal and interest in accordance with Section 10 of this Resolution.

10.2 A Debt Service Reserve Account was previously created. Immediately upon the sale and delivery of the Bonds, the City shall deposit to the Reserve Account an amount equal to the Required Reserve, if any.

10.2.1 The Reserve Account and the moneys therein are irrevocably pledged to the payment of the Bonds, and such funds may be applied upon the final maturity of the principal of and interest on the Bonds. In the event the balance in the Redemption Account is insufficient to pay the maturing principal of, or sinking fund installment, or interest on the Bonds, then the City shall withdraw from the Reserve Account for transfer to the Redemption Account sufficient moneys to make such payments when due. Thereafter, the City shall transfer from the next available deposits to the Water Fund sufficient moneys to restore the balance in the Reserve Account to the required amount.

10.2.2 The City covenants with the owners of the Bonds that it will, on each Bond payment date so long as any Bonds remain outstanding, deposit from the Net Operating Revenues into the Reserve Account an amount equal to any deficiency in the Required Reserve in accordance with Section 10 of this Resolution. In the event the amount on deposit in the Reserve Account is less than the Required Reserve, the deficiency shall be eliminated solely from payments for such purpose available from the Water Fund. In the event the amount on deposit in the Reserve Account is more than the Required Reserve, any such excess will be transferred, not less frequently than every three months, to the Construction Account, or, after completion of the Project, to the Water Fund.

10.3 Moneys in the Construction Account, the Debt Service Reserve Account, and the Redemption Account may be commingled with other moneys of the City, but shall be segregated for accounting purposes.

Section 11. Pledge and Disposition of Net Operating Revenues to Redemption Account.

11.1 Pursuant to ORS 288.660, the City hereby pledges the Net Operating Revenues to the payment of principal and interest on all Bonds and the payments of any amounts due under a Reserve Equivalent.

11.2 The City hereby covenants with the owners of the Bonds that it will, so long as any Bonds remain outstanding, deposit to the Redemption Account not later than five business days prior to the date in which a debt service payment is to be made:

11.2.1 an amount not less than the amount required to pay the interest due on the Bonds on the next interest payment date,

11.2.2 and a further amount not less than the amount required for the payment of principal of, or sinking fund installment of, the Bonds to be retired on the next principal maturity date.

Section 12. Rate Covenant.

12.1 The City covenants that it will charge fees in connection with the operation of the Water Facilities which are projected to generate Net Operating Revenues at least equal to 1.25 times the fiscal year annual debt service on all outstanding Bonds. If the Net Operating Revenues fail to meet this level, the City shall promptly increase its fees to a level so that Net Operating Revenues are projected to meet the required level; and

12.2 No free use of the Water System will be permitted, except as provided in Section 13.5 hereof.

Section 13. General Covenants. The City hereby covenants and agrees with the owners of all outstanding Bonds as follows:

13.1 That it will, to the extent the Net Operating Revenues are sufficient, promptly cause the principal and interest on the Bonds to be paid as they become due.

13.2 That it will maintain complete books and records relating to the operation of the Water System, the Water Fund, the Redemption Account, Operating Account, and the Reserve Fund, in accordance with generally accepted accounting principles, and will cause such books and records to be audited annually at the end of each fiscal year, and an audit report prepared and made available for the inspection of Bondowners.

13.3 That it will not issue Bonds or other obligations having a claim superior to the claim of the Bonds upon the Net Operating Revenues.

13.4 The City will promptly deposit into the Water Fund all sums required to be so deposited.

13.5 That it will operate the Water System in a sound, efficient and economic manner, and will not enter into any agreements to provide free service or services except for fire fighting, reservoir flushing, necessary municipal purposes or in case of emergency.

Section 14. Maintenance of Tax-Exempt Status. The City covenants for the benefit of the owners of the Bonds to comply with all provisions of the Code which are required for Bond interest to be exempt from federal income taxation (except for certain taxes on corporations), unless the City obtains an opinion of nationally recognized bond counsel that such compliance is not required for the interest paid on the Bonds to be so exempt. The City makes the following specific covenants with respect to the Code:

14.1 The City will not take any action or omit any action if it would cause the Bonds to become "arbitrage bonds" under Section 148 of the Code, and shall pay any rebates to the United States which are required by Section 148(f) of the Code.

14.2 The City shall operate the facilities financed with the Bonds so that the Bonds are not "private activity bonds" within the meaning of Section 141 of the Code.

14.3 The City shall comply with all reporting requirements.

The covenants contained in this section and any covenants in the closing documents for the Bonds shall constitute contracts with the owners of the Bonds, and shall be enforceable by them.

Section 15. Parity Obligations.

15.1 The City may issue additional obligations (the "Parity Obligations") on a parity with the Bonds, which shall be secured in all respects in the same manner as the Bonds and shall be issued for the purpose of making additions, enlargements, replacements, extensions and improvements to the System. Such Parity Obligations may be issued upon compliance with the following conditions:

15.1.1 No Default has occurred or is continuing;

15.1.2 At the time of the issuance of the Parity Obligations there is no deficiency in the Redemption Account and the Reserve Account;

15.1.3 Provisions shall be made to deposit to the Debt Service Reserve Account a sum equal to the Required Reserve in connection with the Parity Obligations;

15.1.4 The Resolution authorizing the issuance of the Parity obligations contains a covenant requiring the City to charge rates and fees projected to generate Net Operating Revenues equal to the amount described in Section 11 of this Resolution, including the proposed Parity Obligations.

15.1.5 Either: (A) the Net Operating Revenues for any 12 consecutive months during the 24 months preceding the date of issuance of the Parity Obligations were not less than 1.25 times the actual debt service of the Bonds for the immediately preceding 12 months, plus the average annual debt service for the proposed Parity Obligations as certified by a qualified engineering, auditing, or other qualified firm; or (B) the Net Operating Revenues as projected for the next ensuing three fiscal years and as certified by a qualified engineering, auditing, or other qualified firm (including any rate increases adopted by the Council) are not less than 1.25 times the actual debt

service for the ensuing three fiscal year's debt service on the Series 1990 Bonds plus the average annual debt service on the proposed Parity Obligations.

15.1.6 In determining whether the City complies with the conditions for the issuance of Parity Obligations, the following adjustments may be made to the Net Operating Revenues in the certificate as required in the paragraph above:

15.1.6.1 Any rate change that has taken place or previously has been approved and is effective may be reflected in the Net Operating Revenues of the twelve-month term;

15.1.6.2 Any increase in the Net Operating Revenues estimated to result from any additions, betterments and improvements to and extensions of the water system which become operational during such twelve-month period, or were under construction at the time of such certificate, may be included in the determination;

15.1.6.3 Additional revenues to be realized from water system users added to the water system during or subsequent to the twelve-month term;

15.1.7 The adoption of an ordinance by the City Council containing provisions incorporating and making binding upon the registered owners of the Parity Obligations all provisions of the Ordinance which describe the rights and obligations of the registered owners of the Bonds; and

15.1.8 The Parity Obligations, when issued in accordance with this section shall be secured on a parity with and equally and ratably with the Bonds and the Parity Obligations, without preference, priority or distinction because of the date of the issue of such Bonds or the Parity Obligations.

15.2 The City may issue Parity Obligations to refund all or any portion of the Bonds without meeting the requirements of Additional Parity Obligation requirements set forth above provided that the total debt service in each year of such refunding bonds does not exceed by more than \$5,000 the amount of the debt service in the respective year of the Bonds being refunded.

Section 6. Subordinate Obligations. The City may issue Subordinate Obligations to provide funds to finance the construction of the Water Facilities improvements, the repair and improvement of the existing Water Facilities, or the refunding of outstanding Bonds, provided no default has occurred and is continuing.

16.1 All Subordinate Obligations shall have a lien on the Net Operating Revenues which is subordinate to the lien of the Series 1990 Bonds and all Parity Obligations

issued in accordance with Section 15 of this Resolution. In the event of any insolvency or bankruptcy proceedings relative to the City or to its property, the holders of the Series 1990 Bonds and the Parity Obligations shall be entitled to receive payment in full of all principal, premium (if any) and interest thereon (including interest accruing after the commencement of any proceeding) before the holders of the Subordinated Obligations are entitled to receive any payment on account of principal, premium (if any) or principal upon the Subordinated Obligations.

Section 17. Default.

17.1 The following events shall constitute Default:

17.1.1 Failure to pay Bond principal or interest when due; or

17.1.2 Failure to perform any other obligation of the City imposed by this Resolution or the Bonds, but only if:

17.1.2.1 the failure continues for a period of more than ninety (90) days after demand has been made on the City to remedy the failure; and

17.1.2.2 the City fails to take reasonable steps to remedy the failure within that ninety-day period; or

17.1.2 Imposition of a receivership upon, or liquidation of, the Water Fund; or,

17.1.3 Written admission by the City that the City is unable to pay its debts as they become due.

17.2 Upon Default, any Bondowner may exercise any remedy available at law or in equity.

Section 18. Insurance. The City covenants to maintain insurance, or a reasonable system of self insurance, appropriate to the risks associated with operation of its Water Facilities.

Section 19. Sales, Leases and Encumbrances. The City may not sell or exchange or otherwise dispose of any property constituting a part of the Water Facilities unless such property is either worn out or obsolete or, in the opinion of the City, is no longer useful in the operation of the Water Facilities. Any proceeds of such sale, exchange or other disposition not used to replace the property so sold or exchanged shall be deposited in the Water Fund.

19.1 The City may mortgage, grant security interests in, or otherwise encumber the Water Facilities, provided that the aggregate annual payments required to be made by the Water Fund under all such mortgages, security interests, encumbrances and leases shall not in

any fiscal year exceed 1.5 percent of the Operating Expenses for such fiscal year. The City may also lease as lessor or make contracts or grant licenses for the operation of, or grant easements or other rights with respect to any part of the Water Facilities if such lease, contract, license, easement or right does not, in the opinion of the City, impede the operation of the Water Facilities.

Section 20. Amendment of Resolution.

20.1 This Resolution may be amended without the consent of any Bondowners for any one or more of the following purposes:

20.1.1 To add to the covenants and agreements of the City in this Resolution any other covenants and agreements thereafter to be observed by the City, or to surrender any right or power herein reserved to or conferred upon the City;

20.1.2 To cure any ambiguity or formal defect contained in this Resolution, if that cure does not, in the judgment of the Council, adversely affect the interests of the Bondowners.

20.1.3 To issue Parity Obligations in accordance with Section 15 hereof.

20.1.4 To issue Subordinate Obligations in accordance with Section 16 hereof.

20.2 This Resolution may be amended for any other purpose only upon consent of the Bondowners of not less than 67 percent in aggregate principal amount of the Bonds outstanding; provided, however, that no amendment shall be valid which:

20.2.1 Extends the maturity of any Bond, reduces the rate of interest upon any Bond, extends the time of payment of interest on any Bond, reduces the amount of principal payable on any Bond, or reduces any premium payable on any Bond, without the consent of the affected Bondowner; or

20.2.2 Reduces the percent of Bondowners required to approve amendatory resolutions and orders.

Section 21. Designation of Bonds as Qualified Tax-Exempt Obligations. The City hereby designates the Bonds as "qualified tax-exempt obligations" pursuant to Section 265(b)(3) of the Code. The City covenants not to so designate tax-exempt obligations in the current calendar year in an aggregate amount of more than \$10,000,000. The City does not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations during the current calendar year.

Section 22. Rebate Exemption. The City has general taxing powers. No portion of the Bond proceeds will be used to finance property which is used in the trade or business of nongovernments, or is loaned to nongovernments. None of the Bonds are "private activity bonds" within the meaning of Section 141 of the Code. At least ninety-five percent of the net proceeds of the Bonds will be used for public improvements which will be owned and operated by the City. The City (and all subordinate entities thereof, if any) does not reasonably expect to issue tax-exempt obligations in calendar year 1997 which have an aggregate face amount of more than \$5,000,000. Accordingly, under Section 148(f)(4)(c) of the Code, no rebates to the United States are required to be paid in connection with the Bonds.

Section 23. Series 1997 Bond Reserve Equivalent. The Finance Director may contract, on behalf of the City, for a Reserve Equivalent for the Series 1997 Bonds, and may enter into a financial guaranty or other agreement necessary or desirable to obtain the Reserve Equivalent and any Parity Obligations.

Section 24. SEC Disclosure. The Finance Director (the "Finance Director") is hereby authorized and directed on behalf of the City to execute the Continuing Disclosure Certificate (the "Certificate"). The Certificate is being executed for the benefit of the holders of the Bonds and to assist the underwriter of the bonds in complying with Securities and Exchange Commission Rule 15c2-12 (17 C.F.R. § 240.15c2-12) (the "Rule"). The City shall comply with the provisions of the Certificate and the Rule and shall enforce the provisions of the Certificate on behalf of the holders of the Bonds.

Section 25. Escrow.

25.1 The net proceeds of the Refunding Bonds shall be placed in irrevocable escrow, pursuant to the Escrow Deposit Agreement. The Escrow Agent or the Finance Director are hereby authorized to subscribe for and purchase the government obligations to be placed in the escrow, on behalf of the City.

Section 26. Redemption of Refundable Bonds.

26.1 Contingent solely on the issuance of the Refunding Bonds and the deposit of the net proceeds with the escrow agent, the City hereby irrevocably calls for redemption all of the Refundable Bonds on April 15, 1998, which is the earliest date on which they are subject to redemption.

Section 27. Defeasance.

If the City:

27.1 irrevocably deposits money or noncallable Government Obligations in escrow with an independent trustee or escrow agent which are calculated to be sufficient for the payment of Refunding Bonds which are to be defeased; and,

27.2 files with the escrow agency or trustee an opinion from an independent, certified public accountant to the effect that the money and the principal and interest to be received from the Government Obligations are calculated to be sufficient, without further reinvestment, to pay the defeased Refunding Bonds when due; and,

27.3 files with the escrow agent or trustee an opinion of nationally recognized bond counsel that the proposed defeasance will not cause the interest component of the Refunding Bonds to be includable in gross income under the Code;

then the City shall be obligated to pay the defeased Refunding Bonds solely from the money and Government Obligations deposited with the escrow agent or trustee, and the City shall have no further obligation to pay the defeased Refunding Bonds from any source except the amounts deposited in the escrow. For purposes of this section, "Government Obligations" means direct obligations of the United States, or obligations the principal of and interest on which are fully and unconditionally guaranteed by the United States.

ADOPTED by the unanimous vote of the Council, with a quorum in attendance, this 4th day of February, 1997.

APPROVED by the Mayor this 4th day of February, 1997.

CITY OF MILWAUKIE
CLACKAMAS AND MULTNOMAH
COUNTIES, OREGON

Mayor

Executed this 4th day of February, 1997.

ATTEST:

Recorder

**EXHIBIT A
(Form of Bond)**

No. R- _____

\$ _____

United States of America
State of Oregon
City of Milwaukie
Clackamas and Multnomah Counties, Oregon
Water Revenue Refunding Bonds
Series 1997

Dated Date: «DatedDate»
Interest Rate: _____ %
Maturity Date: _____ 1, _____
CUSIP Number: _____ - _____
Registered Owner: _____ -----Cede & Co.-----
Principal Amount: _____ Dollars-----

The City of Milwaukie, Clackamas and Multnomah Counties, Oregon (the "City"), for value received, acknowledges itself indebted and hereby promises to pay to the registered owner hereof, or registered assigns, the principal amount as indicated above on the above maturity date together with interest thereon from the date hereof at the rate per annum indicated above, computed on the basis of a 360-day year of twelve 30-day months. Interest is payable semiannually on the first day of _____ and the first day of _____ in each year until maturity or prior redemption, commencing _____ 1, 199_. Principal and interest payments shall be received by Cede & Co., as nominee of The Depository Trust Company, or its registered assigns, on each payment date. Such payments shall be made payable to the order of "Cede & Co."

This bond is one of a duly authorized series of bonds aggregating «PrincipalAmount» in principal amount designated as Water Revenue Refunding Bonds, Series 1997 (the "Bonds"). The Bonds are issued for the purpose of refunding portions of the City's outstanding Water Revenue Bonds, Series 1990. The Bonds are issued under and pursuant to Resolution No. _____ (the Resolution") of the City adopted on February 4, 1997 and in full and strict accordance and compliance with all of the provisions of the Constitution and Statutes of the State of Oregon and the Charter of the of the City.

This revenue bond is not a general obligation or liability of the City, and is payable solely from the Net Operating Revenues of the Water Facilities as provided in a Resolution. The City covenants and agrees with the owner of this bond that it will keep and perform all of the covenants in this bond and in the Resolution. The City has pledged the Net Operating Revenues of the Water Facilities to the payment of principal and interest on this bond.

The Bonds are initially issued as a book-entry-only security issue with no certificates provided to the Bondowners. Records of Bond ownership will be maintained by the Registrar and The Depository Trust Company and its participants.

Should the book-entry only security system be discontinued, the Bonds shall be issued in the form of registered Bonds without coupons in the denominations of \$5,000 or any integral multiple thereof. Such Bonds may be exchanged for Bonds of the same aggregate principal amount, but different authorized denominations, as provided in the Bond Resolution.

Any transfer of this Bond must be registered, as provided in the Resolution, upon the bond register kept for that purpose at the principal corporate trust office of the Registrar. This Bond may be registered only by surrendering it, together with a written instrument of transfer which is satisfactory to the Registrar and which is executed by the registered owner or duly authorized attorney. Upon registration, a new registered Bond or Bonds, of the same series and maturity and in the same aggregate principal amount, shall be issued to the transferee as provided in the Resolution. The City and the Registrar may treat the person in whose name this Bond is registered on the bond register as its absolute owner for all purposes, as provided in the Resolution.

[insert term bond provisions, if applicable]

Notice of any call for redemption shall be given as required by the Letter of Representations to The Depository Trust Company, as referenced in the Bond Resolution. Interest on any Bond or Bonds so called for redemption shall cease on the redemption date designated in the notice. The Issuer's paying agent and registrar, which is currently First Trust National Association, in Portland, Oregon (the "Registrar"), will notify The Depository Trust Company promptly of any Bonds called for redemption.

Unless this certificate is presented by an authorized representative of The Depository Trust Company to the issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

IT IS HEREBY CERTIFIED, RECITED, AND DECLARED that all conditions, acts, and things required to exist, to happen, and to be performed precedent to and in the issuance of this bond have existed, have happened, and have been performed in due time, form, and manner as required by the Constitution and Statutes of the State of Oregon and the Charter of the City; and that the issue of which this bond is a part, and all other obligations of such City, are within every debt limitation and other limit prescribed by such Constitution and Statutes.

IN WITNESS WHEREOF, the City Council has caused this bond to be signed by facsimile signature of its Mayor and attested by facsimile signature of its Recorder as of the date indicated above.

City of Milwaukie
Clackamas and Multnomah Counties, Oregon

Mayor

Recorder

This Bond shall not be valid unless properly authenticated by the Registrar in the space indicated below.

Dated: _____

Certificate of Authentication

This is one of City's \$_____ Water Revenue Refunding Bonds, Series 1997 issued pursuant to the Resolution described herein.

First Trust National Association, as Registrar

Authorized Officer

Assignment

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto: _____

(Please insert social security or other identifying number of assignee)

this bond and does hereby irrevocably constitute and appoint _____
_____ as attorney to transfer this bond on the books kept for
registration thereof with the full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the registered
owner as it appears upon the face of this bond in every particular, without alteration or
enlargement or any change whatever.

Signature Guaranteed

(Bank, Trust Company or Brokerage Firm)

Authorized Officer

The following abbreviations, when used in the inscription on the face of this bond, shall be
construed as though they were written out in full according to applicable laws or regulations.

- TEN COM -- tenants in common
- TEN ENT -- as tenants by the entireties
- JT TEN -- as joint tenants with right of survivorship and not as tenants
in common
- OREGON CUSTODIANS use the following:
_____ CUST UL OREG _____ MIN
as custodian for (name of minor)
- OR UNIF TRANS MIN ACT
under the Oregon Uniform Transfer to Minors Act

Additional abbreviations may also be used though not in the list above.

DRAFT

PLANNING COMMISSION MINUTES
TUESDAY, JANUARY 14, 1997

COMMISSIONERS PRESENT

Mike Smith, Chair
Bryan Cosgrove
Terry Havel
Tim LaRocque
Pat Lent

STAFF PRESENT

Maggie Collins,
Com. Dev. Dir
Dan Pava,
Senior Planner
Susan Heiser,
Senior Planner
Stacy Lawson,
Assistant Planner
Shirley Richardson
Hearings Recorder

COMMISSIONERS ABSENT

None

1.0 CALL TO ORDER

Chair Smith called the meeting to order at 6:32 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA

3.1 Planning Commission Minutes -- December 10, 1996

Tim Havel moved to approve the minutes of the December 10, 1996, as presented.
Terry LaRocque seconded. MOTION CARRIED 4-0 with one abstention. Pat
Lent was not at that meeting.

4.0 PUBLIC COMMENT -- None.

5.0 PUBLIC HEARINGS

5.1 Applicant: Kohring Construction Company
Property Owner: Kohring Construction Company
Location: 3436 SE Harvey

Proposal: Subdivide property into four residential lots to build a duplex on each of the resulting lots. A Transition Area Review to address the boundary with R-7 zoned property to the east.

File Numbers: S-96-05/TR-96-01

Chair Smith opened the public hearing on Subdivision, S-96-05 and Transition Area Review, TR-96-01. He then explained the hearing format. He asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. He asked if there were any Commissioners who visited the site; four hands were raised. None of the Commissioners who raised their hands noticed anything different from what is stated in the Staff Report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

STAFF REPORT

Stacy Lawson reviewed the Staff Report with the Commissioners. This Application is a four-lot subdivision. A Transition Area Permit is required to go through a Minor Quasi-Judicial process. The property is located on Harvey, just north of the hospital. It is bounded on three sides by R-3 zoning and one side by the R-7 zone.

The Applicant is proposing to divide the property into four separate parcels. Two lots at the front and flag lots at the rear of the property. The proposal is consistent with the Comprehensive Plan. The Applicant proposes to construct a duplex on each lot.

The proposal meets all of the requirements of the Zoning Ordinance with one exception. The building on lot 4 needs to be moved back to the 20-foot side setback line to allow for location of the uncovered patio in the Transition Area.

The Applicant is providing 20 feet of buffer for a transition zone. In addition, a fence and additional landscaping is proposed to buffer the duplex from the single-family residential area.

Staff was contacted by Tri-Met and they have asked that the branches be trimmed along Harvey. This has been addressed in the conditions. The Neighborhood Association was contacted and they do not have any concerns regarding this proposal. There have been some telephone inquiries, but no specific concerns have been expressed.

Requirements of the Fire Department and Public Works Department have been included in the conditions. Staff recommends approval of Subdivision, S-96-05 and Transition Review, TR-96-01.

QUESTIONS FROM THE COMMISSIONERS

Pat Lent stated that she did not see documentation that the Transition Area is required. **Stacy Lawson** explained that the Transition Area is a requirement of the Zoning Ordinance, Section 304-2 and not under Transitional Review. Staff has interpreted the Transition Area to apply to areas where the zoning change is between designations. This is not a multi-family project; originally it was an 8-unit project. After reviewing the Codes, the Applicant felt that splitting the lot into four lots was more economical.

If the Planning Commission feels a Transition Review is not needed, the Applicant will be refunded his fees. The application can still be approved with the same conditions.

Tim Havel asked if there are any processes or guidelines to ensure the trees are not over-pruned. **Stacy Lawson** explained the conditions require that any action on the remaining trees must be consistent with the Ordinance.

Terry LaRocque asked where the trees were located. **Stacy Lawson** pointed out the trees on the site plan and explained which ones were not to be removed.

Terry LaRocque voiced concern about the trees close to the bike rack, asking if an arborist could assess root damage of the trees before and after foundation excavation.

Pat Lent asked if the Commissioners were going to get a copy of the layout of the trees on the site. She also asked who will be responsible for the pruning/trimming of the shrubbery along Harvey. **Stacy Lawson** stated that the site map does show the trees on the site. There is a condition about pruning; the site has become overgrown and once trimmed back, there will be no further immediate need for scheduled maintenance.

Terry LaRocque stated that only two trees are shown that will be removed and five trees that need to be saved.

Tim Havel noted that the Public Works Department has requested a dedication of an additional 5 feet to allow for six-foot wide sidewalks. **Stacy Lawson** stated that is correct.

Tim Havel asked how the improvements for the common driveway be constructed? **Stacy Lawson** stated that at this point there are no construction drawings for the driveway. **Commissioner Havel** suggested that the Applicant be encouraged to consider radius pavement between the common drive and each driveway.

Staff stated that there was no additional correspondence received on this application since the Commissioner's packets were mailed out.

APPLICANT PRESENTATION

Speaking: Pam Evans, W. B. Wells, 4230 NE Fremont, Portland

Ms. Evans stated that they have worked very hard to meet the requirements for this proposal. In response to comments tonight, Ms. Evans stated that the 20-foot drive will probably be asphalt. Increased radius pavement for the drive makes sense. She likes the idea of only trimming the trees adjacent to the site on Harvey as opposed to Harvey Street.

Ms. Evans stated that the Applicants, Mr. and Mrs. Kerns, are present for questions. There were no questions from the Commissioners.

TESTIMONY IN FAVOR OF THE APPLICATION -- None.

QUESTIONS OR COMMENTS ABOUT THE APPLICATION

Speaking : Harold Gust, 3435 Harvey

Mr. Gust stated that he is directly across the street from the driveway. He voiced concern about the parking on Harvey. He would not like to have people parking in his frontage. There will only be 8 parking spaces required. If those spaces are occupied, people will be parking in front of his house.

It was asked if there were currently sidewalks and curbs in front of his house? He stated that there is curbing on both sides, no sidewalks.

Stacy Lawson stated that requirements for parking on single family residential lots are two 9x20 spaces and all of the parking requirements are met with this proposal. If there is a site distance problem, she suggested that he contact Public Works.

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF

Stacy Lawson recommended a change in the wording of Condition #5, "...If it is determined that a tree cannot be preserved or must be substantially trimmed, the Applicant shall submit a written request for removal or trimming and substantiating information as required..." This will allow for substantial trimming to be reviewed by a Certified Arborist.

Chair Smith asked if Tree #7 would be reviewed as part of Condition #5. Staff will review the site and make a decision.

QUESTIONS FROM COMMISSIONERS -- None.

APPLICANT'S CLOSING REMARKS

Speaking: Rick Kohring, P.O. Box 339, Gladstone, OR 97027

Mr. Kohring stated that he was one of the property owners. They will look into what can be done to provide additional parking for this site.

DISCUSSION AMONG COMMISSIONERS

Chair Smith closed the public testimony portion of the hearing and opened it to discussion among the Commissioners.

Tim Havel asked for rewording on Condition #6 to restrict tree trimming. A Certified Arborist should assess how much trimming can be done without detriment to the tree. **Pat Lent** voiced concern that the Condition should contain language as to how long the trimming of the trees along Harvey will go on. She cited "...to allow clear passage of Tri-Met buses along this route..." What happens when the trees grow out again and Tri-Met complains?

Maggie Collins stated that the tree issue will be left opened-ended so that Public Works can request trimming if public safety requires it from time to time. It would be prudent of the developer to ask the arborist to make a recommendation on trimming and verify that addresses Tri-Met's needs.

Stacy Lawson reworded the Condition to read, "Tree limbs along the frontage of Harvey Street shall be trimmed by the property owner to allow clear passage of Tri-Met buses along this route."

Bryan Cosgrove moved to approve Subdivision, S-96-05, and Transition Review, TR-96-01, based on the findings contained in the Staff Report and subject to the conditions in Exhibit 1, as amended. **Pat Lent** seconded. Motion carried 5-0.

Chair Smith then read the appeal process to the audience.

- 5.2 Applicant: City of Milwaukie
 Property Owner: Oregon Department of Transportation (ODOT)
 Location: West of McLoughlin Blvd, east of the Willamette River on
 Portland Traction Right-of-Way.
 Proposal: Construct approximately 850 foot multi-use path.
 File Number: WG-96-02

Chair Smith opened the public hearing on Willamette Green Conditional Use, WG-96-02 and Community Service Overlay, CSO-96-05, for an 800-foot multi-use path. He then explained the hearing format. He asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. He asked if there were any Commissioners who visited the site; four hands were raised. None of the Commissioners who raised their hands noticed anything different from what is stated in the Staff Report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

Pat Lent indicated that she has sat on the Riverfront Planning Commission which has discussed this site. **Maggie Collins** stated that it should be noted that the Planning Commission has reviewed the area in which this Application is located as members of the Regional Center Steering Committee. This will not prejudice or bias decisions on this issue. No one in the audience challenged the participation of any member of the Commission or jurisdiction to hear this action.

STAFF REPORT

Susan Heiser reviewed the Staff Report with the Commissioners. The Applicant is proposing to construct a 730-foot long multi-use path extending from the existing bike lanes at the intersection of SE 17th and McLoughlin and Harrison Street to the existing path south of the Jefferson Street boat ramp. The City has received a Congestion Mitigation and Air Quality (CMAQ) grant from the Federal Highway Administration for \$91,200 to design and construct this path. The path is proposed to be 11.5 feet wide with 9.9 feet wide asphalt surface and .89 foot soft shoulders on either side.

The path is intended to provide a connection between Milwaukie riverfront and the Springwater Corridor Trail as well as provide an alternate route for pedestrian and bicycle traffic off of McLoughlin Boulevard. The site is located within the Portland Traction Company Right-of-Way and a portion of the path extends onto the old Eastman Building sites. The site is above the 100-year flood plain and contains some natural vegetation along the west side of the path.

Currently there are no bike lanes on this portion of McLoughlin. There is a sidewalk that extends along the front of the commercial buildings along McLoughlin Blvd. The proposal has been found to be in compliance with the City's Comprehensive Plan and all relevant provisions including Historic Resources, Open Space, Land Use, and Recreation.

The proposal also provides a much-needed improvement to pedestrian and bicycle safety and pedestrian oriented linkages between the river and downtown Milwaukie. The proposal is located within the Limited Commercial and McLoughlin Corridor Zoning Districts. This District requires enhancement to views to the Willamette River as well as improvements to pedestrian circulation.

Additional landscaping other than what is currently existing at the site is not proposed at this time due to limits on CMAQ funding. Staff recommends that the project be conditioned to require the provision of landscaping with the next phase of improvements in this area.

The proposal complies with the Community Service Overlay standards for Public Facilities with the exception of Section 321.10A, which requires that all improvements necessary for this facility be provided by the agency constructing the use. Required landscaping is not provided with this proposal but must be provided by the agency constructing the use.

The proposed path is located within the Willamette Greenway Overlay Zone. This Zone requires that the proposal be reviewed as a Conditional Use. The proposal complies with the relevant provisions including compatibility with the scenic, natural, historic, economic, and recreational characteristics of the river. It allows for protection of scenic views, provision of open space, aesthetic enhancement, and landscaping to the maximum extent possible, provision of public access along the River, and protection of the natural environment. This project will provide additional recreational access and opportunities to view the Willamette River while preserving existing natural vegetation to the west.

The proposal has been reviewed by other departments and agencies. Their comments which support the proposal are included in the Staff Report. The Historic Milwaukie Neighborhood Association Land Use Committee responded that they could not make an intelligent recommendation on this proposal until the Riverfront Plan is completed. They do suggest that no construction be permitted which would later conflict with the final Riverfront Plan. Staff believes that this proposed path alignment is consistent with all drafts of the Riverfront Plan and this pathway would be compatible with any final riverfront plans.

Staff recommends approval of this Application, with an amendment to Condition #4 to comply with the Fire Department requests, "The Applicant shall provide an access which meets the Fire Department's width and weight requirements to the extent possible.

QUESTIONS FROM THE COMMISSIONERS

Terry LaRocque asked about CMAQ funding; how long will it be available and is there any chance of delaying construction until more riverfront planning can be accomplished? **Susan Heiser** stated that the approval length of the CSO requires that construction must start within six months. The Applicant has indicated that construction will not start within that six-month period, so an extension will have to be requested. The Applicant is available to answer the questions about the funding.

It was asked if there were concerns about someone going over the edge on the west side without destroying the vegetation? **Susan Heiser** stated that this question will be answered by the Applicant.

No other correspondence was received since the mailing of the Commissioner's packets.

APPLICANT PRESENTATION

Speaking: Chris Eaton, W & H Pacific, 8405 SW Nymbus Avenue, Beaverton, OR 97008.

Ms. Eaton stated that she is representing the City of Milwaukie as the project manager. A representative from the City of Portland, was also present who provided the design and preliminary engineering services of the project.

The City applied for and received a CMAQ Grant from ODOT in 1994. It was approved by the Oregon Transportation Commission in 1994. The Applicant is

getting pressure from ODOT to expend the funds based on how they need to allocate federal funds or loose them. The City has been delayed in their process in terms of getting this project designed and built.

This project is a regional project; supported by Metro open spaces staff. Metro actually processed the Application for the City in 1994, as a part of implementing the regional Trail system. This path will ultimately provide a connection to the Springwater Trail, and it is going to provide some immediate relief to pedestrian and bicycle travel along McLoughlin Boulevard.

The City is also coordinating with the North Clackamas Park and Recreation District. They are planning on purchasing Right-of-Way from the Portland Traction Company and extend the trail along the southern extension south of McLoughlin Boulevard to the city limits of Gladstone.

Metro staff is trying to find an alignment of the trail north of McLoughlin up to the Springwater Corridor. Something that would be an off-road trail with direct connections to the bike lanes on SE 17th to Tacoma to the beginning of the Springwater Trail.

The Applicant has talked to MDDA Board; they are aware of the project and support it. They chose not to take a formal Board action. Nancy Farber, Island Station Land Use Chair was contacted and her concerns were how to work with the Riverfront Plan, was there a well-marked transition across Jefferson Street, and how pedestrian traffic to the south (which is outside the scope of this project) would be handled?

ODOT actually owns only the property at the very top of the proposal. Milwaukie owns the majority of the property, including the rail line and the Former Eastman property, and the two tax lots around the Eastman property. A letter was written to each adjacent property owner along McLoughlin to make them aware of the project and giving contact names. Jeff Tashman is working as the City's acquisition consultant to acquire some of these properties with the vision of the City's riverfront in mind. There are some minor encroachments to the City's Right-of-Way and they will be dealt with throughout the construction process. There is a letter of intent from ODOT to sell their Right-of-Way section to the City of Milwaukie.

The Milwaukie Comprehensive Plan policies that are in place strongly support the development of the path. It is an early action item of the Riverfront Plan. The Applicant has been coordinating closely with the riverfront team over the last six months, as the draft plans were being drafted.

Emergency access will be provided. Emergency vehicles, as well as maintenance vehicles, will have easy access coming in at Jefferson Street and exiting on McLoughlin Boulevard.

Speaking: City of Portland, Park Planner, 1120 SW 5th, Portland, OR 97204

The Park Planner for the City of Portland has the principal responsibility of the Springwater Corridor Trail. Brochures and pictures of the Springwater map were passed out. Both the Staff Report and the Applicant's presentation have covered many of the details of the Plan.

The City of Portland has also had some delays in their CMAQ Grant and have requested an extension. ODOT is encouraging the recipient of the CMAQ Grants to expend them as soon as possible.

There will be some sort of warning signal that warns the trail-user that there is a change and you are near the edge of the trail. This is what the soft shoulder is suppose to do. The bank has quite a bit of vegetation on it and will be maintained that way, even with the grading and stone landscaping proposed.

In the Springwater Trail, the standard for ballards is two permanent ballards at each side of the trail that sit in the soft shoulder area, and then removal of the ballard in the middle.

QUESTIONS FROM THE COMMISSIONERS

Pat Lent asked what section of Springwater is now chip seal? A section of the trail at 38th and Johnson Creek Blvd is chip seal. It is about 13 miles.

Tim Havel noted that the City received \$91,200 in Grants. He asked if the cost of the path fit within the budgeted amount. The construction estimates have come in at about \$60,000, which includes the connection across Jefferson Street. There are other costs, including buying property from ODOT, additional cost to pay ODOT for reviewing, and paying for City of Portland's contract. With the City's match, the total budget is about \$109,000. If the Chip Seal is used, the project is right on budget.

Tim Havel expressed concern over the aesthetic appearance of a trail with chip edges and no solid front edge. There is potential for heavy pedestrian usage. His preference would be to have a hard edge to it. The standard chip seal and soft

shoulder are very rural and undeveloped quality. Consideration can be given to an asphalt surface with gravel edges.

TESTIMONY IN FAVOR OF THE APPLICATION -- None.

QUESTIONS OR COMMENTS ON THE APPLICATION -- None.

TESTIMONY IN OPPOSITION OF THE APPLICATION -- None.

ADDITIONAL COMMENTS FROM STAFF -- None.

APPLICANT'S CLOSING COMMENTS -- None.

DELIBERATION AMONG THE COMMISSIONERS

Chair Smith closed the public testimony portion of the hearing and opened it to discussion among the Commissioners.

Pat Lent stated that as a cyclist, she found that the 17th & McLoughlin intersection is very busy and dangerous. This path will be a welcome relief because cars do not stop at that corner.

Tim Havel moved to approve WG-96-02 based on the findings 1 through 11 as presented on Attachment 1 and with the conditions of approval contained in Attachment 1. **Pat Lent** seconded. MOTION CARRIED 5-0.

Bryan Cosgrove moved to approve CSO-96-05 based on finding No. 12 and with the conditions of approval as amended in the Attachment 1. MOTION CARRIED 5-0.

Recess was taken at 8:06 p.m. and the meeting reconvened at 8:17 p.m.

6.0 WORKSESSION

6.1 City of Milwaukie Conceptual Plan of Riverfront Area

Maggie Collins stated that due to the Steering Committee action last night, they are requesting that the worksession be canceled and not schedule another worksession until after the Steering Committee has made a final decision.

The Planning Committee submitted a report on their recommendation for the riverfront to the Steering Committee. Staff was asked to go back and finalize the report for final review and approval.

7. DISCUSSION ITEMS

Pat Lent asked if there was an appeal on the Walters Application. **Maggie Collins** stated that the denial of the 8-lot subdivision was appealed by the Applicant with a public hearing scheduled before City Council on January 21, 1997. Notice will be given and copies of the Staff Report will be mailed out to the Commissioners. Staff has reviewed the Staff Report and did not change their position. **Pat Lent** volunteered to be at that meeting as a representative from the Planning Commission.

8.0 OLD BUSINESS

8.1 By-Laws

Maggie Collins reported that the information on the By-Laws was included in their packets. The By-Laws, as amended by the Planning Commission, is ready for review and action. She asked there were any changes. There were none.

Terry LaRocque moved to approve the By-Laws as presented. **Tim Havel** seconded. MOTION CARRIED 5-0.

8.2 Elections

Vice-Chair Smith opened the floor to nominations for the office of Chair. **Terry LaRocque** moved to nominate Mike Smith for the position of Chair. **Tim Havel** seconded. MOTION CARRIED 5-0.

Chair Smith opened the floor to nominations for the office of Vice-Chair. **Terry LaRocque** moved to nominate Pat Lent for Vice-Chair. **Tim Havel** seconded. MOTION CARRIED 5-0.

8.3 1997 Work Plan

Maggie Collins stated that included in the packet was the 1997 Work Plan for Commission review and action.

Tim Havel moved to adopt the 1997 City of Milwaukie Work Plan as presented.
Pat Lent seconded. MOTION CARRIED 5-0.

8.4 Light Rail Study Update

Maggie Collins stated that she anticipates that Metro will be sending out a mailing on the public opinion on transportation in the region. Discussions are being held on how to request federal funding for Light Rail. There are no working groups at this point in these discussions.

8.5 2040 Study Update

Maggie Collins stated that Staff is moving along with the Regional Center Working Groups. The Planning Commission will be receiving results of the Working Groups recommendations sometime in March.

9.0 OTHER BUSINESS/UPDATES

9.1 **Historic Resources Commission Report.** No Report.

9.2 **Clackamas Retail Center Area Plan Report.** **Chair Smith** reported that the Committee met and talked about the findings from the Transportation Subcommittee, they discussed a number of options; some of which will effect Milwaukie. There is talk of continuing Sunnybrook around behind the Aquatic Center and OTI to Harmony Road.

There was also discussion on improvements and developing a connection to Monroe. He will continue to encourage the Milwaukie Regional Center Concept in these discussions.

9.3 **Community Development Report.**

Dan Pava reported that the TSP Report will take longer than anticipated. A revised scheduled will be coming back to the Commission.

Maggie Collins noted that included in the packet is a Notice of Training to be held on Saturday. Also invited are neighborhood groups, professionals, and volunteers. This training session will have more emphasis on leadership and less on program development.

CITY OF MILWAUKIE PLANNING COMMISSION
MINUTES OF January 14, 1997
PAGE 14

- 10.0 Next Meeting -- January 28, 1997
- 10.1 Furnberg Park Master Plan (CPA-96-02) Public Hearing
- 10.2 Transportation System Plan (CPA-96-01) Worksession
- 10.3 ODOT Tree Mitigation
- 10.4 Community Development Department Report

Bryan Cosgrove moved to adjourn the meeting of January 14, 1997. **Terry LaRocque** seconded. MOTION PASSED UNANIMOUSLY. The meeting was adjourned at approximately 8:45 p.m.

Michael Smith, Chair

Shirley Richardson, Hearings Reporter

Clackamas County Fire District



January 21, 1997

Dan Bartlett
Milwaukie City Manager
10722 S.E. Main
Milwaukie, Oregon 97222

Dear Dan,

Attached is the matrix from the January 13, 1997 meeting which Mike Swanson facilitated. He has provided the attached matrix for your review and future consideration. Once again, I would like to reiterate if there are any items on this list anyone would like to co-op with Fire District No. 1 or another service provider, I encourage you to begin to make those contacts. I really appreciate the opportunity to bring all of us together in the forum, I was pleased with the turn-out and the discussion that occurred. Once again, thanks for your attendance and we look forward to continuing to work with each of you in the future.

Sincerely,

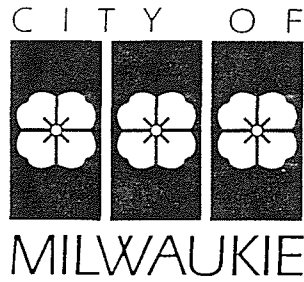
A handwritten signature in cursive script that reads "Randy".

Randy R. Bruegman
Fire Chief

Enclosure
RB/ce

	CCFD1	Gladstone	Oak Lodge	Oregon City	Milwaukie	Boring	Canby
Joint Venture Agreements e.g. battalion chief agreement and chief's agreement							
Joint legislative action on expanding SDCs							
Joint mapping							
Mutual aid expansion							
Joint purchasing, including apparatus and facilities							
Merger/consolidation				<i>Question feasibility</i>	<i>Question feasibility</i>	<i>Action on east boundary of District is a possibility</i>	<i>Question feasibility</i>
Dispatch							
Joint hiring		<i>Volunteer staff; probably not relevant</i>					
Sharing of special equipment							
Joint apparatus maintenance							
Joint staffing							
Joint admin							
Joint reserves							

	CCFD1	Gladstone	Oak Lodge	Oregon City	Milwaukie	Boring	Canby
Joint training/schools							
Joint service levels							
Standardization of equipment							
Joint emergency management							
EMS/"in or out"							
Joint labor negotiations		<i>Volunteer staff probably not relevant</i>				<i>Not unionized probably not relevant</i>	
Joint insurance/liability and employee benefits							
Joint information management							
Joint customer survey							



January 16, 1997

To: Mayor Lomnicki, and Milwaukie City Council

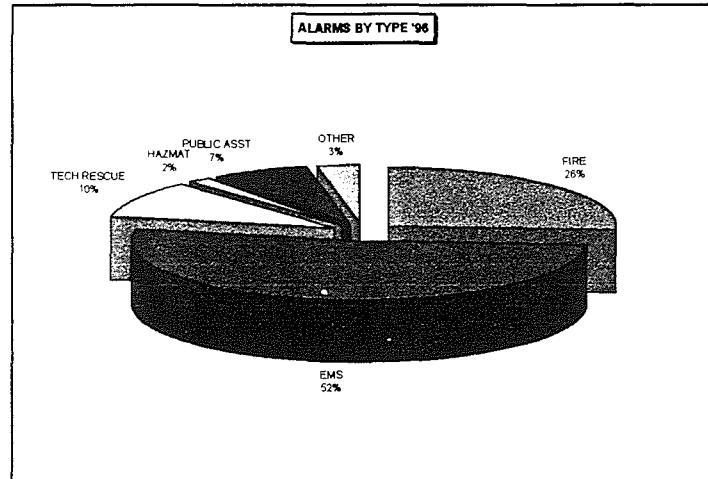
Through: Dan Bartlett, City Manager

From: Randy R. Bruegman, Chief

Subject: Year-End Report Milwaukie Fire and Rescue

Emergency Response

During 1996 the city fire and rescue department responded to 1713 calls, a majority, 52 percent of these calls involved emergency medical operations where fire fighter medics treated 792 patients.

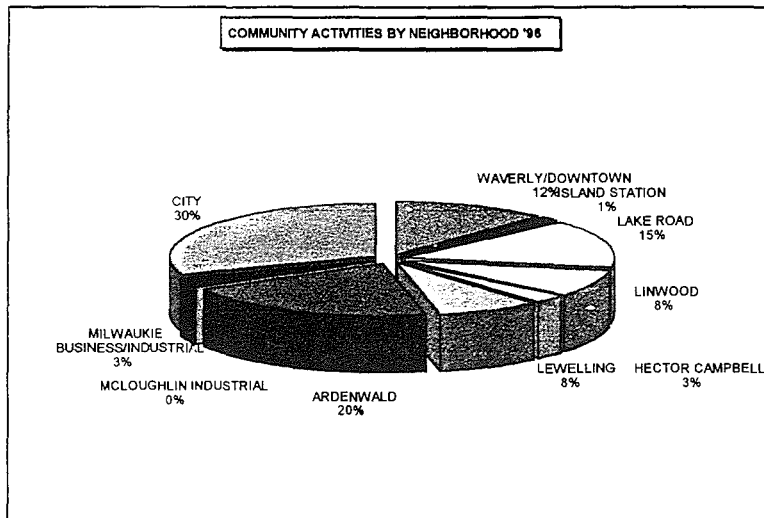


Community Education and Involvement

Each year the fire department conducts programs to educate and inform citizens on how to prepare and react in the event of an emergency. This department is also an active participant in Milwaukie Festival Days, The All American Fireman's Muster, held in June, The Share the Lights, and the Needy Family Program, in December. The department's involvement in community activities is a critical element in the ability to provide

PUBLIC SAFETY BUILDING
3200 SE HARRISON
MILWAUKIE, OREGON 97222
PHONE: (503) 786-7400 ■ FAX: (503) 786-7426

community education. Activities include fire station tours, block gatherings, neighborhood meetings, ride alongs, school presentations, education, and community training.



Cooperative Ventures

The South Metro Fire Prevention Office agreement was reviewed and resigned by the City of Milwaukie in September and provides for joint venture between the City of Milwaukie and Clackamas County Fire District No. 1. This agreement will provide fire prevention services such as new construction plans review, fire code enforcement, fire investigation, juvenile fire setter counseling, and fire safety education. In December of 1996, the City of Milwaukie entered into two other joint agreements with District No.1 to begin the first part of 1997. One, for battalion chief coverage for emergency incidents, the second, for administrative services. These cooperative efforts are means to enhance service levels and gain efficiency between the participating agencies.

Firefighter of the Year

American Legion Post 180 recognized Captain Wes Johns as Firefighter of the Year.

MILWAUKIE POLICE DEPARTMENT
ANNUAL REPORT 1996

OFFENSE/ACTIVITY	1994	1995	1996	95-96 PERCENT OF CHANGE	3 YEAR TOTAL	3 YEAR AVERAGE
PART I OFFENSES	824	937	726	-22.52%	2487	829
PART II OFFENSES	822	1006	909	-9.64%	2737	912
1 PART III ACTIVITY	5441	5411	4129	-23.69%	14981	4994
2 OFFICER ASSISTANCE	3469	3744	3661	-2.22%	10874	3625
TOTAL	10556	11098	9260	-16.56%	30914	10305

CLEARANCES

PART I OFFENSES	209	261	187	-28.35%	657	219
PART II OFFENSES	473	538	633	17.66%	1644	548
TOTAL	682	799	820	2.63%	2301	767

ARRESTS

ADULTS	739	864	924	6.94%	2527	842
JUVENILE	183	240	501	108.75%	924	308
TOTAL	922	1106	1425	28.84%	3453	1151
MISDEAMEANOR	482	562	834	48.40%	1878	626
*FELONY	304	417	409	-1.92%	1130	377
**TRAFFIC	46	40	28	-30.00%	114	38
DUII	90	82	149	81.71%	321	107
TOTAL	922	1101	1426	29.52%	3449	1150

TRAFFIC ACCIDENTS

INJURY ACCIDENTS	42	50	43	-14.00%	135	45
NON-INJURY	209	232	240	3.45%	681	227
TOTAL	250	282	283	0.35%	815	272
FATAL ACCIDENTS	2	1	1	0.00%	4	1
PERSONS INJURED	60	85	68	-20.00%	213	71
CITATIONS ISSUED	48	24	28	16.67%	100	33

UNIFORM TRAFFIC CITATIONS

VBR (SPEEDING)	686	856	2062	140.89%	3604	1201
EQUIPMENT VIOLATIONS	577	670	717	7.01%	1964	655
DUII	90	83	149	79.52%	322	107
REG/LIC VOL.	366	390	380	-2.56%	1136	379
DWS	508	563	546	-3.02%	1617	539
OTHER	1211	1156	1328	14.88%	3695	1232
TOTAL	3438	3718	5182	39.38%	12338	4113
COURTESY NOTICES	404	505	465	-7.92%	1374	458

MISCELLANEOUS

PARKING CITATIONS	88	125	35	-72.00%	248	83
RESIDENTIAL ALARMS	285	315	296	-6.03%	896	299
COMMERCIAL ALARMS	295	240	358	49.17%	893	298
SCHOOL ALARMS	54	56	49	-12.50%	159	53
BANK ALARMS	11	3	29	866.67%	43	14
TOTAL	733	739	767	3.79%	2239	746

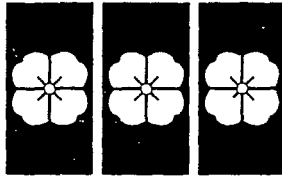
* Includes Felony Traffic Arrests

**Infraction and Misdemeanor Traffic Arrests

1. Non-Criminal Activity


2. Number of Officers Required to Provide Back-up/Assistance to Primary Officer

C I T Y O F



MILWAUKIE

MEMORANDUM

TO: Mayor and City Council
THROUGH: Dan R. Bartlett, City Manager
FROM: Angus M. Anderson, Finance Director 
DATE: January 28, 1997
RE: Finance Department Quarterly Report

RECOMMENDATION:

None; information only.

BACKGROUND INFORMATION:

During the first two quarters of FY 1996-97 activities within the Finance Department have primarily been involved with completing the audit and beginning the new fiscal year. Additionally, there has been continual work in budget development. First, there were budget committee meetings in August to discuss a potential tax base measure. The committee passed a recommendation to City Council which was adopted by Council to place a tax base measure on the November ballot. This was done and the measure was successful. However, voters in the State also passed ballot measure 47 which places new limits on governmental taxing authority. This has resulted in very involved and time consuming efforts for all in the City as we attempt to address this situation.

The results of the audit were very gratifying to the Finance Department. There were no new substantive items brought forward in the management letter. In addition, the audit report was again "clean", it revealed no conditions considered material weaknesses in our internal accounting controls, it verified compliance with budget and Oregon Local Budget Law, there were no expenditures in excess of appropriation levels and the City was shown in compliance with public contracting and purchasing laws.

The utility billing division within the Finance Department has been working closely with the water department to identify water meters that may be defective based on consumption statistics. That resulted in the change out of 649 water meters during 1996. That effort is continuing this year with an average of 50 meters each month being replaced. This effort has yielded an important verifiable benefit. The percent billed (gallons billed divided by gallons pumped) increased from 85.0% in 1995 to 88.2% in 1996. This translates directly into dollars.

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