

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
OCTOBER 1, 1996**

The one thousand seven hundred and fifty-second 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:

Mayor Lomnicki,  
Mayor  
Rick Farley

Jean Schreiber  
Rob Kappa  
Don Trotter

Also present:

Dan Bartlett,  
City Manager  
Pam Beery,  
City Attorney  
Charlene Richards,  
Assistant to the  
City Manager

Angus Anderson,  
Finance Director  
Mike Swanson,  
Interim Administrative Manager  
Randy Brown,  
Fire Lieutenant

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

**Recognition of Off-going Board and Commission Members**

**Mayor Lomnicki** recognized those off-going board and commission members in the audience: John Siefer, Budget Committee; Terry LaRocque, Park and Recreation Board, and Michael Kay, Citizens Utility Advisory Board. Also recognized but not present were: Sandy Newman, Park and Recreation Board; Tom Alford, Citizens Utility Advisory Board; Pat Lent, Budget Committee; Gregg Newstrand and Tim Deeks, Historic Resources Commission; and Marian McEnnerey, Library Board. He thanked all for their support of the City of Milwaukie through its advisory board and commission program.

**Fire Prevention Week**

**Brown** discussed the joint efforts of the Milwaukie Fire Department and South Metro Fire Marshal's Office in checking and installing smoke detectors.

**Mayor Lomnicki** read a proclamation naming the week of October 6 - 12, 1996, as *Fire Prevention Week* in the City of Milwaukie.

### Crime Prevention Month

**Mayor Lomnicki** read a proclamation naming the month of October 1996 as *Crime Prevention Month* in the City of Milwaukee.

### CONSENT AGENDA

It was moved by Councilmember Schreiber and seconded by Councilmember Farley to correct the motion on page six regarding the Historic Resources Commission bylaws to include "as amended by Councilmember Trotter." Motion passed unanimously.

It was moved by Councilmember Kappa and seconded by Councilmember Trotter to approve the Consent Agenda which consisted of the minutes of the September 17, 1996, City Council meeting with the correction. Motion passed unanimously.

### AUDIENCE PARTICIPATION

None.

### PUBLIC HEARING

None scheduled.

### OTHER BUSINESS

#### LID Assessment Status Report

**Anderson** presented the staff report in which he updated the City Council on special assessment lien collection activity and requested direction from the City Council. The number of delinquent accounts has been reduced from twenty-two to eleven since April 16, 1996. He reviewed the status of various liens and the work being done with Tashman and the assessor's office.

**Councilmember Kappa** commented the collection activity seemed to be on-line, and he was willing to wait for Tashman's report on the Palm property.

**Councilmember Farley** asked for clarification of the 1992 taxes paid on the Stransky property. Can the property owner continue to pay in this manner? **Anderson** said the City has perfected its lien in the event the property is sold, but, if the property is not sold, the City's situation will not change.

**Councilmember Farley** asked about the interest rate. **Anderson** responded the rates on special assessments was generally about 6%.

**Mayor Lomnicki** asked when the Tashman report would be complete. **Bartlett** said the report would be discussed in executive session.

**It was City Council consensus to direct staff to continue with the current method of collection.**

### **Fire-Rescue Apparatus Bid Award**

**Anderson** presented the staff report in which the City Council was requested to consider bids for a fire-rescue apparatus and award the contract to Oregon Fire Equipment Company in the amount of \$154,269.

**Anderson** referred to a memo dated October 1, 1996, regarding rejection of individual bid on the basis that the bid from Mays Emergency Equipment was non-responsive. The recommendation to reject the bid was based on Oregon purchasing laws (OAR 125-30-004(2)(e) and OAR 137-30-100(2)(c)). In addition to the unclear language in the original bid regarding compliance with 1996 standards, there were other factors which could lead to rejection. The request for bids (RFB) contained specifications not addressed by Mays. A hydraulic ladder rack was not included, and the bid was for a Freightliner FL-70 instead of the FL-80 or equivalent that was clearly stated in the RFB.

**Councilmember Trotter** said it seemed the rejection of the bid had nothing to do with the price. **Anderson** said that was correct, and rejection was based on a non-responsive bid.

**Councilmember Farley** commented Mays' bid had not mentioned a local service center. **Anderson** said Mays had bid on a Smeal engine, and there was a concern about ability to service since there were no others in Oregon. The reasons for rejection were, however, the two non-responsive issues previously discussed.

**Councilmember Farley** said it appeared from Mays' letter that it was his contention he should be awarded the bid although the specifications of the RFB were not followed. **Anderson** said the actual legal bid is what is on the paper when the bid is opened at the designated time.

**Councilmember Schreiber** asked if there was a legal question. **Beery** said, if City Council supports staff's recommendation to reject the bid, it should adopt written findings as prepared by staff and award the bid to Oregon Fire Equipment.

**It was moved by Councilmember Kappa and seconded by Councilmember Farley to suspend City Council rules to consider rejection of the Mays Emergency Equipment bid. Motion passed unanimously.**

**It was moved by Councilmember Kappa and seconded by Councilmember Trotter to reject the bid for a fire-rescue engine submitted by Mays Emergency Equipment based on a finding by staff that the bid is non-responsive to the issued bid specification. Motion passed unanimously.**

**Anderson** reviewed the bids which were formally opened on Friday, September 13, 1996. The bids were reviewed against the specifications listed, and the department recommends that City Council accept the bid from Oregon Fire Equipment for a KME engine.

**Councilmember Farley** asked Brown if he felt the department could use a command car with the unused funds. **Brown** said the current vehicle is not reliable.

**Councilmember Trotter** asked if the City would get the \$2,419 credit mentioned in item #4 of the bid comparison sheet. **Anderson** said the City would pay for the chassis at the time of delivery and would be eligible for the credit.

**Bartlett** suggested the motion for acceptance could be based on the certain conditions as outlined by Interim Administrative Manager Swanson.

**Swanson** said there would be a change of members in the Acceptance Team.

**It was moved by Councilmember Schreiber and seconded by Councilmember Trotter to award the bid to Oregon Fire Equipment Co., in an amount not to exceed \$154,269 to purchase a 1997 KME Fire-Rescue Engine based on the acceptance conditions, with the amendment to paragraph #4 regarding designation of certain employee members to the Acceptance Team, as outlined by Interim Administrative Manager Swanson.**

**Councilmember Kappa** asked if the equipment would meet the needs of the department. **Brown** confirmed that it would. **Councilmember Kappa** asked if there would be a need for additional equipment. **Brown** said a five-inch hose is needed.

**Bartlett** said a majority of the necessary equipment is either within the officers' or his own signature limits. The budget includes funds for replacement of worn equipment.

**Motion passed unanimously.**

### Consider Sara Hite Memorial Rose Garden Fee Waiver Request

**Bartlett** presented the staff report in which the City Council was requested to consider building permit fee waivers for the Sara Hite Memorial Rose Garden. The Friends of the Center are asking building permit fees be waived. Staff does not have the authority to waive these fees, so it must be a City Council decision. Building and planning functions are paid for in part by these permit fees, and a waiver would result in using general funds to replace the amount of the fees. Additionally, a percentage of the building permit fees goes to the state to pay for supervision of the permit program. Based on the practice of requiring public and non-profit agencies to pay permit fees, staff recommends charging fees as established by resolution.

**Councilmember Trotter** said from information in the September 5, 1996, work session, Council learned this was a three- to five-year phased project. He asked if the Friends were applying for fee waivers for the entire process or just the first phase. He asked if there was an idea of the entire permit fee amount. **Bartlett** said the Friends are asking for a waiver of all fees, and it would be difficult at this time to determine the entire amount of the request. He discussed how the City of Milwaukie contracted with Clackamas County for inspections of the Public Safety Building.

**Councilmember Kappa** asked if the building official still had the ability to waive the fees. **Bartlett** said the building official is only authorized to waive *de minimus* fees. He discussed SDC fees such as water connection.

**Councilmember Farley** asked who owned the property since the ultimate improvement will add value to the property. **Bartlett** said the City is the property owner. If the fees are waived, the Building Division will have to bear the burden.

**Councilmember Schreiber** asked if staff planned to prepare a recommended fee waiver policy. **Bartlett** said this issue has been debated in the past, but it is difficult to establish clear and objective standards. **Councilmember Schreiber** said these improvements appear to be a gift to the City. **Bartlett** said the Parks District and the City do business as separate entities. The departments need fees to cover operational costs in addition to paying the percentage to the state. He added similar issues have arisen with Milwaukie High School and Providence Milwaukie.

**Roald Berg**, Rose Garden Committee Chair, spoke on behalf of the Friends of the Center. The Friends are doing the work and improving the City's property.

**Bartlett** said the building trade has put pressure on departments to be self-balancing rather than using development fees to enhance the general fund. For example, plumbing and electrical are self-balancing in that fees are used to pay the wages of the inspectors.

**Berg** said the fees will be at least \$700, and he suggested a work program to offset some of the fees. **Mayor Lomnicki** said there was not precedent to waive the fees, and the City does not do so for its own projects.

**Daisa Lawson** spoke on behalf of the Friends and its request. The Public Safety Building was a different matter in that it was voted on by the entire community. The Rose Garden is being supported by North Clackamas County. She urged the City Council to help with the project since it is City property.

**Councilmember Kappa** asked if there was any idea of how and when the phases of the project would take place. **Bartlett** said he did not know, and staff would have to see what work is proposed with each phase.

**It was moved by Councilmember Kappa and seconded by Councilmember Farley to suspend the permit fees for Phase 1 of the Sara Hite Memorial Rose Garden.**

**Councilmember Trotter** said he generally agreed with Lawson, but he was concerned with setting a precedent for any non-profit wishing to build on public property. He was particularly concerned about the remaining phases of the project, since it would be difficult to waive this fee and not expect the group to return in the future. He indicated he would not support this motion.

**Councilmember Schreiber** suggested looking at an alternative to fee waivers and recommended a concept of using public money to carry out park improvements such as this.

**Mayor Lomnicki** felt the idea of establishing a funding mechanism through the Parks District budget to improve parks and their infrastructure was a sound one. He said he had a problem with setting a precedent of waiving fees without clear, objective standards.

**Councilmember Schreiber** discussed a concept of public contributions for public spaces. Mayor Lomnicki agreed with that logic to improve public spaces.

**Councilmember Kappa** suggested the City Council can handle waiver requests on a case-by-case basis and added he did not feel the argument that many people would request fee waivers was particularly valid. He felt the Rose Garden was a significant contribution to the community and the park system, and the City should do what it can to help.

**Councilmember Trotter** concurred with Schreiber's suggestion. He felt looking at the issue as a park improvement was a good idea. He had concerns about waiving the permit fees for all phases of the project at this time since they could go up substantially.

**Councilmember Schreiber** expanded her suggestion to include encouraging and accepting gifts for not only parks but also for the library.

**Councilmember Farley** felt the City could find a way to make a donation to support the enhancement of a City-owned property. He said the City should give the Center money.

**Mayor Lomnicki** wanted to make it clear that no member of the Council felt this project would not benefit the City. He felt it was important, however, to support the projects appropriately, and he supported Schreiber's recommendation of developing public improvement and contribution policies.

**Councilmember Trotter** understood construction would take place about May 1997. He felt the City Council would resolve the issues by that time, and he indicated he did not feel it was appropriate to flatly waive the permit fees.

**The motion to suspend the permit fees for Phase 1 of the Sara Hite Memorial Rose Garden failed 2 - 3 with the following vote: Councilmember Farley and Councilmember Kappa aye; Mayor Lomnicki, Councilmember Schreiber, and Councilmember Trotter nay; no abstentions.**

**It was moved by Councilmember Schreiber and seconded by Councilmember Trotter to direct staff to develop in three-months' time an outline of a procedure the City Council can use to encourage donations to the public lands and a way to provide support for that.**

**Councilmember Kappa** asked if staff would be preparing policy options that would address the general concept but not be specific to this particular issue. **Mayor Lomnicki** said it would be a general policy.

**Motion passed 5- 0.**

**It was moved by Councilmember Trotter and seconded by Councilmember Kappa to direct staff to have the Park and Recreation Board review our budgeting process for our Neighborhood Districts and see if we can allocate funding to cover the cost of permit fees for Phase 1 of the Sara Hite Memorial Rose Garden.**

**Councilmember Trotter** said, as Schreiber commented, this is an improvement to a park in our system. The Milwaukie Park and Recreation Board recommends to City Council, as the Neighborhood Board, how this money should be allocated. The intent of the motion was to have the Park and Recreation Board review the budget for this year; and if there is funding to reallocate to this project, make a recommendation to the City Council.

**Councilmember Farley** asked if this would have to be on a priority list.

**Councilmember Trotter** said it is done on a budgetary basis. Some projects have been done, and there might still be some funds left to reallocate. If there are no funds remaining, it could be considered in the 1997 - 1998 District Budget.

**Councilmember Kappa** said he would not like to see this project displace others.

**Councilmember Schreiber** asked the motion be amended to reflect participation in development of that particular feature of that park and not be tied to the fee issue. It was a friendly amendment agreed to by the group.

**Councilmember Farley** asked if the priority list was made up of a multiple-year priority list. **Councilmember Trotter** said the priority list is developed annually and reviewed for multiple years. This project, to his knowledge, was not discussed during the budgetary cycle and seen as a possibility. He felt this concept had a lot of potential, and he felt it should go to Park and Recreation Board for review and recommendation to the City Council.

**The motion to direct staff to have Park and Recreation Board review the budgeting process for the Neighborhood Districts with the friendly amendment that it was not tied to fee waivers but to participation in the Sara Hite Memorial Rose Garden project passed unanimously.**

#### **Consider Three Cities Agreement Review**

**Bartlett** presented the staff report in which the City Council was requested to direct the Mayor, City Manager, and Community Development Director to begin a periodic review of the agreement between Milwaukie, Happy Valley, and Gladstone commonly referred to as the Three Cities Agreement. The Agreement was signed in 1988 and helped the cities involved negotiate the Urban Growth Management Agreement with Clackamas County. The document should have undergone a review in 1993 and is now limiting needed discussion between city, county, and special district participants. He discussed the effects of SB 122 on local government planning activities.

**Councilmember Kappa** asked Bartlett what he wanted to achieve since the ORS 195 process has not been completed. **Bartlett** said the ORS 195 process will result in urban service agreements that may supersede this document in certain ways. We may want to have open discussions with special districts and the county which the Three Cities Agreement may limit. Elements have changed since 1988 that dictate a review.

**Councilmember Trotter** felt the agreement was very limiting and, with the definition of specific boundaries, was counterproductive to ORS 195 guidelines.

**Councilmember Schreiber** felt it was appropriate to come to closure with this agreement and look at what has or has not been accomplished.

**It was moved by Councilmember Kappa and seconded by Councilmember Farley to direct the Mayor, City Manager, and Community Development Director to meet with representatives of Happy Valley and Gladstone to complete the first periodic review of this agreement. Motion passed unanimously.**

### **November 1996 Ballot Measures**

**Mayor Lomnicki** discussed 1996 Ballot Measures. Individual Councilmembers discussed and distributed information at the work session on issues he or she felt were of concern to Milwaukie.

**Councilmember Schreiber** said City Council focused concern on City issues or those that impacted this community.

**Councilmember Trotter** said City Council is not indicating these are the only ballot measures important to the residents of the City of Milwaukie.

**It was moved by Councilmember Trotter and seconded by Councilmember Kappa to adopt a resolution supporting Ballot Measure 32 -- Light Rail funding.**

**Councilmember Farley** said he did not support Ballot Measure 32 because it would make Milwaukie a neighborhood instead of a city.

**Mayor Lomnicki** felt the third alternative alignment gives great promise for providing connection with the regional transit system and the downtown area while impacting the neighborhoods less. He added he felt the City Council should support Ballot Measure 32 based on its previous voting history.

**Councilmember Schreiber** said City Council believes in good transportation planning, and this measure provides funding to the entire state.

**Motion passed 4 - 1 with the following vote: Mayor Lomnicki, Councilmember Schreiber, Councilmember Kappa, and Councilmember Trotter aye; Councilmember Farley nay; and no abstentions.**

**It was moved by Mayor Lomnicki and seconded by Councilmember Kappa to oppose Ballot Measures 45 (Public employee retirement age) and 47 (cut and cap) and support Ballot Measure 44 (cigarette and tobacco tax increase). Motion passed unanimously.**

### Fire Department Command Car

**Councilmember Farley** said he felt the City Council should consider a new Fire Department command car at its next meeting. **Mayor Lomnicki** said these types of issues are generally discussed during the budget process and suggested it be discussed with Swanson.

### Televised Work Sessions

**Councilmember Kappa** discussed televising City Council work sessions.

**Councilmember Trotter** concurred this should at least be discussed at a work session in the next few months. **Bartlett** said the earliest date it could be scheduled for discussion was December 3.

### INFORMATION

1. **Councilmember Trotter** reported attending the Annual American Legion Fire Fighter and Police Officer of the Year Banquet. Captain Wes Johns and Officer Dan Cloyes were honored this year.
2. **Councilmember Kappa** discussed the Johnson Creek Watershed Council Riparian Project behind OLCC.
3. **Mayor Lomnicki** said he attended the Community Solution Project in which Milwaukie was one of four cities designated to work in partnership with state agencies to develop and implement solutions to locally identified problems.
4. **Bartlett** reported on an incident at the last Milwaukie home football game. A firearm was discharged at a parking lot across the street from the stadium. Federal police money will be used to increase the presence of officers at the next home game. He considered it a significant community issue, and he indicated he would be calling in regional partners.

**Mayor Lomnicki** announced the City Council would hold an executive session pursuant to ORS 192.660 to discuss real property immediately following adjournment of the regular session.

**Mayor Lomnicki** adjourned the meeting at 8:58 p.m.

*Pat DuVal*

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Pat DuVal, Recorder/Secretary

**CITY OF MILWAUKIE  
CITY COUNCIL AGENDA  
OCTOBER 1, 1996 (revised 9/27/96)**

**MILWAUKIE CITY HALL**  
10722 SE Main Street

**1752nd MEETING**

**WORK SESSION**

5:00 - League of Oregon Cities Issues and Information Sharing  
5:30 - Sewer Issues (Don Trotter)  
6:00 - Urban Forestry Concept (Maggie Collins)

**REGULAR SESSION**

7:00 p.m.

- I. **CALL TO ORDER**  
Pledge of Allegiance
  
- II. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
  - A. **Recognition of Off-going Board and Commission Members**
  - B. **Fire Prevention Week -- Proclamation**
  - C. **Crime Prevention Month -- Proclamation**
  
- 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.)*  
  

**City Council Minutes of September 17, 1996**
  
- IV. **AUDIENCE PARTICIPATION** *(The Mayor will call for statements from citizens regarding issues relating to the City. It is the intention that this portion of the agenda shall be limited to items of City business which are properly the object of Council consideration. Persons wishing to speak shall be allowed to do so only after registering on the comment card provided. The Council may limit the time allowed for presentation.)*

- V. PUBLIC HEARING** (*Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.*)

None Scheduled.

- VI. OTHER BUSINESS** (*These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.*)

- A. LID Assessment Status Report (Angus Anderson)**
- B. Fire-Rescue Apparatus Bid Award (Angus Anderson)**
- C. Consider Sara Hite Memorial Rose Garden Fee Waiver Request (Dan Bartlett)**
- D. Consider Three Cities Agreement Review (Dan Bartlett)**
- E. November 1996 Ballot Measures (Mayor and Council)**
- F. Consider Council Resolutions (Mayor and Council)**

**VII. INFORMATION**

- A. Planning Commission Minutes of September 10, 1996 (draft)**
- B. Monthly Financial Reports**
- C. Clear Vision Ordinance 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 AGENDA  
OCTOBER 1, 1996

MILWAUKIE CITY HALL  
10722 SE Main Street

1752nd MEETING

5 - CC  
1 - CH  
1 - RLM  
1 - M  
1 - CA  
[?] [10]

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## ***PROCLAMATION***

**WHEREAS**, every year in America destructive fires result in over 4,000 fatalities, tens of thousands of burn injuries and more than \$8.1 billion in direct property loss; and

**WHEREAS**, fire departments in the United States respond to a structure fire every 51 seconds somewhere in this country; and

**WHEREAS**, the majority of fire fatalities, injuries and property loss occur in residential properties; and

**WHEREAS**, smoke detectors and automatic sprinkler systems greatly reduce the risk of dying in a home fire, but the best defense against fires is to stop them before they start by practicing fire prevention;

**NOW, THEREFORE**, I, Craig J. Lomnicki, Mayor of the City of Milwaukie, Oregon, do hereby proclaim that the week of October 6 - 12, 1996, is designated as

## **FIRE PREVENTION WEEK**

and urge all citizens, government agencies, public and private institutions and businesses to increase their participation in our community's fire and burn injury prevention efforts and thereby good citizenship.

**IN WITNESS WHEREOF**, I have hereunto set my hand this 1st day of October 1996.

ATTEST:

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Pat DuVal,  
City Recorder

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Craig Lomnicki, Mayor  
City of Milwaukie

## **PROCLAMATION**

**WHEREAS**, the vitality of our nation depends on how safe we keep our homes, neighborhoods and communities because crime and fear diminish the quality of life for all; and

**WHEREAS**, people of all ages must be made aware of what they can do to prevent themselves, their families, neighborhoods and workplaces from being harmed by violence, drugs and other crime; and

**WHEREAS**, the personal injury, financial loss and community deterioration resulting from crime are intolerable and need to be addressed by the whole community; and

**WHEREAS**, effective crime prevention programs excel because of partnerships among law enforcement, other government agencies, civic groups, schools and individuals as they help to rebuild a sense of communal responsibility and shared pride; and

**WHEREAS**, crime prevention initiatives are more than self-protection and security, but must promote positive alternatives to delinquency and drugs among young people and emphasize the power of youth to better communities;

**NOW, THEREFORE**, I, Craig J. Lomnicki, Mayor of the City of Milwaukie, Oregon, do hereby proclaim that the month of October 1996 be designated as

### **CRIME PREVENTION MONTH**

and urge all citizens, government agencies, public and private institutions and businesses to increase their participation in our community's prevention efforts and thereby promote good citizenship.

**IN WITNESS WHEREOF**, I have hereunto set my hand this 1st day of October 1996.

ATTEST:

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Pat DuVal,  
City Recorder

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Craig Lomnicki, Mayor  
City of Milwaukie

**CITY OF MILWAUKIE  
CITY COUNCIL WORK SESSION  
SEPTEMBER 17, 1996**

**Mayor Lomnicki** called the work session to order at 5:00 p.m. in the second floor conference room in City Hall.

Present were Councilmembers Farley, Schreiber, Kappa, and Trotter; Dan Bartlett, City Manager; and Charlene Richards, Assistant to the City Manager.

**Information Sharing**

**Sewerage Facility Options**

**Councilmember Trotter** discussed two remaining alternatives under consideration by the North Clackamas Sewerage Facility Advisory Committee which were (1) retaining the Kellogg Treatment Plant and building Site K and (2) retaining Kellogg and expanding Tri-City. Both the expansion and decommissioning of the Kellogg plant were voted down. There will likely be a minority report going to the Clackamas County Board of Commissioners along with the recommendation.

**Councilmember Farley** asked what recourse Milwaukie has. **Councilmember Trotter** said there would be about \$8 million for odor mitigation at the Kellogg Plant. There are a lot of measures that can be taken beyond what has been done to date.

**Councilmember Trotter** explained Site K would treat most of the industrial waste, so Milwaukie will have less sewage to treat in the 2015 population scenario. A new facility will be constructed in the 2015 - 2040 period. He pointed out that costs and how much people were willing to pay was the bottom line. The Riverfront Planning Commission will need to work with this decision and develop alternatives as it proceeds with the site plan.

**Councilmember Farley** asked how many people voting on the alternatives were neighborhood association members. **Councilmember Trotter** said a majority of Milwaukie's voting members on the committee were not from neighborhood associations. He felt the members of the committee were really listening to the various arguments, and, if they could not be sold on decommissioning the Kellogg Plant, he saw no real probability the Board of Commissioners would see the alternatives differently.

**Mayor Lomnicki** supported a minority report strongly recommending the decommissioning of the Kellogg Plant.

**Councilmember Farley** expressed concern about having a treatment plant next to a regional center. **Councilmember Trotter** said all of these arguments were used but did not carry much weight outside the Milwaukie area.

**Councilmember Kappa** said the minority report should stress that the Kellogg Plant be decommissioned in the near future. **Councilmember Trotter** said the funding proposal includes the purchase of land to meet the 2040 build out.

**Councilmember Kappa** pointed out there will be future technological improvements in the next 40 years.

**Councilmember Trotter** said funding will include bringing Kellogg up to the standards of a new plant. New construction will not take place for five years. Site K or the expansion of Tri-City will meet 2040 needs, but beyond that construction will be outside of the existing urban growth boundary. He felt the time had passed to get rid of the Kellogg Plant, and he advised getting the best possible deal for the future of the riverfront. He discussed the three acres being held in reserve for Kellogg expansion.

**Mayor Lomnicki** felt it was important to get the best mitigation possible.

**Councilmember Schreiber** said she felt the City was represented well and a good effort was made at the committee table. **Mayor Lomnicki** urged the minority report not recommend expansion of the Kellogg Plant.

#### North Clackamas Park

**Councilmember Kappa** said he was contacted by several senior citizens concerned about the potential danger of dogs running loose in North Clackamas Park. **Councilmember Trotter** said the District has put up signs the dog run area has been built, but enforcement seems to be an issue. He agreed to put this concern forward at the next board meeting.

**Councilmember Kappa** asked who was responsible for enforcement. **Bartlett** said the County is responsible for enforcing the leash law and park staff should inform people their dogs must be in the controlled area.

**Mayor Lomnicki** suggested staff prepare a letter for his signature asking for better enforcement. **Councilmember Trotter** offered to take the letter to the next board meeting. It was agreed Richards would prepare the letter.

### Clackamas Public Safety Council

**Councilmember Kappa** discussed plans by the Clackamas Public Safety Council for a work session for elected officials to explain its role and responsibilities.

### Lower Columbia Estuary Committee

**Councilmember Trotter** discussed a letter he received from the Lower Columbia Estuary Committee asking for a contact person. **Bartlett** suggested and the group agreed to let the committee know DuVal would be the contact person to receive information and meeting packets.

### Furnberg Park Master Plan

Thom Kaffun and Diane Campbell represented the North Clackamas Parks and Recreation District; Laura Herbon and Mike Zilis represented Walker and Macy.

**Campbell** discussed the process and provided an overview of the project. The firm of Walker Macy was selected by a citizen panel as the landscape architect firm for the Furnberg Project. The public involvement and citizen input portion of the project is complete, and the District will go out for bids this winter with construction to begin in spring 1997.

Four master planning meetings were held: two with the general public which targeted neighbors and two at the Linwood Neighborhood District Association general meetings. Students at Linwood Elementary were also asked to comment on what they would like in the neighborhood park. Three potential master plans were identified, and the final proposed master plan was developed from the public comments. Parks District staff is currently working with Community Development on approval of Community Service Overlay and Natural Resources Overlay applications.

**Councilmember Trotter** said because of the land use issue of the applications, he felt this presentation was for information only and not comment. **Campbell** agreed, if there were an appeal, the issue would be brought before the Milwaukie City Council. **Bartlett** pointed out the City Council was acting as the Neighborhood Parks Board in this session.

**Herbon** discussed the site and its natural resources. A wildlife biologist and geotechnical person assessed the site, and historical information was gathered from residents and the City's engineering department. The site has always been wet, and there is runoff from the adjacent fields and a little from the

neighborhood. There is documentation of groundwater seepage, but the extent has not been determined at this time. The meadow and emergent wetland are the highest natural resources on the site and have characteristics that meet the Natural Resources Overlay Zone.

**Councilmember Kappa** asked if there were any contamination from the adjacent agricultural area, and **Councilmember Farley** asked if there was an underground spring. **Herbon** said these issues had not been determined at the current level of study.

**Herbon** discussed the analysis of the recreation suitability of the site. Three areas were identified: no development; passive development; and active recreational development.

**Zilis** reviewed the site capability step of the process and the input gathered from the public workshops. The neighbors see this as a passive recreational area for residents and do not wish to attract people from other areas. Drainage, wind, wildlife decline, poor condition of the wetland, and danger from cottonwood trees were identified as concerns by the neighbors.

To address these concerns, the program elements will include: planting trees to act as wind buffer; removing cottonwoods and replacing them with stronger trees; installing playground equipment for small children; constructing a walking path around the entire park with observation points; installing a speed hump at the entrance to the cul-de-sac; enhancing the wetland by pulling back the sides of the pond; opening up a clear view to the southwest corner of the site; and constructing a permanent base for the temporary restrooms, benches, and picnic tables. **Zilis** added there would be no additional lighting because of problems of creating deep shadows.

**Councilmember Farley** asked if the police will have a better view of the entire park. **Zilis** said the plan will open up the park, but some areas will be difficult because of the vegetation. **Herbon** explained about .6 acres of the site is under water, and the enhancement and restoration of the wetland will have to follow Division of State Lands guidelines.

**Zilis** reviewed the input from the second public workshop that included location of the temporary restroom; saving the existing native species of trees; planting shrubs along the property line; opening up the wetland and clearing the debris; protecting the nesting area; developing a random-design boardwalk that would discourage skaters and skateboarders; and installing or constructing a bike rack, drinking fountain, horse shoe pits, and kiddie play area. Comments from the third workshop regarded using a concrete or plastic material for the boardwalk,

increasing visibility for safety purposes, and minimizing the impact of the boardwalk on the habitat. He discussed the possible boardwalk construction materials.

**Zilis** reviewed the final design that included moving the restroom; building a continuous path around the park; installing bollards in the parking lot; constructing a playground; developing sites for future interpretive or viewing areas; and installing picnic tables, one of which will be handicapped accessible. The wetland will be enhanced by making the banks less steep to encourage different types of wetland plants and discouraging access to the island with agricultural fences.

**Campbell** said the first phase budget is \$56,000, and the consultant will cost the elements of the project. **Bartlett** added the money comes from the City's \$500,000 share of District funds.

### **Fire Issues**

Present were Chief Randy Bruegman, Clackamas County Fire District #1; Battalion Chief Dave Olson, South Metro Fire Marshal's Office; and Mike Swanson, Milwaukie Fire-Rescue.

**Swanson** reviewed the history of the 1991 City of Milwaukie/Clackamas County Fire District #1 agreement for the South Metro Fire Marshal's Office. Staff is requesting extension of the agreement for an additional five years. In addition to an extension, a 90-day relocation notice and automatic rate review sections are being proposed.

**Olson** addressed his experiences as Fire Marshal and the services being provided.

**Bruegman** said it is evident that pooling resources maximizes the expertise which would otherwise not be achievable. He also indicated the position of battalion chief would not be rotated as frequently as in the past. Various service options are under consideration, and adding other jurisdictions, such as Gladstone, to the fire marshal agreement would lower costs further.

**Councilmember Trotter** commented the system functions and deals with problems well despite changes in personnel.

**Swanson** added the Fire District #1 Board approved the agreement at its meeting on September 16, 1996.

**Councilmember Schreiber** asked if the contract would be reopened if the fire marshal's office relocated. **Swanson** said the only thing required by this addendum would be a 90-day notice prior to a move and the end of payments for the space.

**Bruegman** discussed sites for possible relocation if the fire marshal's office were to move. One option is the administrative office on Fuller Rd.

**Mayor Lomnicki** asked for clarification of how costs of the fire marshal's office were shared. **Bartlett** said payments are essentially based on assessed value. The cost-sharing formula would be reconsidered if additional jurisdictions became partners, and this is covered in section 3.0 of the addendum.

**Swanson** indicated there was also a section that allows a limited rate review at the end of three years. The assessed value does not necessarily indicate the amount of activity.

**Bartlett** added the District has been very frugal and has billed the City based on activity. For example, Milwaukie has not been billed for vacant positions.

**Councilmember Kappa** said activity, along with assessed value, could be one of the issues when establishing a new formula. Swanson said it would be wise to look at the different types of records and the manner in which they are kept to get the actual background and experience.

**Olson** commented on *Fire Prevention Week* and the focus on identifying potential hazards and installing smoke detectors. He discussed the apartment fire safety packet and juvenile arson work.

### Rose Garden Master Plan

**Bartlett** discussed the Rose Garden Master Plan. Center Director Young would not be at the regular session, but she indicated the item should be brought forward for consideration. Copies of a letter from Roald Berg were on the dais in which he requested a permit fee waiver. This has not been past practice except for private, non-profit organizations, but this is a Council decision. **Kaffun** responded the District had paid the fee and is asking for reimbursement from the Friends Committee at the end of the year after fund raising activities. He added the work would not be done until May 1997.

**Councilmember Trotter** said he would like to hold the issue over for two weeks, and **Mayor Lomnicki** agreed. **Councilmember Schreiber** felt it was a serious decision.

**Kaffun** announced the Ardenwald Park dedication on September 21 and the planned Century Park dedication next May.

**Mayor Lomnicki** adjourned the work session at 6:50 p.m.

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Pat DuVal, Recorder/Secretary

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
SEPTEMBER 17, 1996**

The one thousand seven hundred and fifty-first 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:

Mayor Lomnicki,  
Mayor  
Rick Farley

Jean Schreiber  
Rob Kappa  
Don Trotter

Also present:

Dan Bartlett,  
City Manager  
Pam Beery,  
City Attorney  
Charlene Richards,  
Assistant to the  
City Manager  
Dave Wheaton,  
Public Works Director

Maggie Collins,  
Community Development Director  
Mike Swanson,  
Acting Fire Administrator  
Cynthia Sturgis,  
Senior Librarian  
Rafael Cruz,  
Civil Engineer

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

**National Disability Awareness Month**

**Mayor Lomnicki** read a proclamation naming October 1996 as *Disability Employment Awareness Month*.

**Women in Construction Week**

**Sharon Van Horn** introduced members of the local organization and discussed some of the activities. Contributions to the community included providing \$2,000 in scholarships and donating funds to the construction of Ardenwald Park, flood assistance, and the Edwards Center.

**Mayor Lomnicki** read a proclamation naming September 16 - 22, 1996, as *Women in Construction Week*.

## **School Trip Safety Plan Update**

**Cruz** presented an update of the program designed to address safety issues near school zones. The objectives are to improve pedestrian safety near school zones and interface with other traffic programs in the City.

The parties involved are the Police Department; Engineering Division to analyze data and to design and install traffic control devices; school administration to provide data and keep parents informed; parents to promote participation in walking routes, report hazards and educate and encourage their children; Transportation and Traffic Safety Board by sponsoring individual schools and by considering funding strategies; City Council to approve funding; and the Neighborhood Associations to promote the program and report potential hazards.

The School Trip Safety plan is expected to be consistent with other programs such as the Neighborhood Speed Watch, Transportation System Plan, Traffic Management Plan, street improvement projects, other regional programs, and South/North light rail. He discussed the accomplishments to date that include strong yellow-green signs at 32nd Avenue; crossing guards at 32nd Ave., walking paths at Wake St., pavement markings; improved identification of school zones; and increased Police Department enforcement.

Next steps will include identifying needs; accurately mapping walking routes; including projects in the CIP and developing funding strategies; improving route problem areas with signs or other markings; and, finally, evaluating the effectiveness of the improvements. Proposed improvements are replacing existing signs with strong yellow-green signs pending federal approval; improving crosswalks annually; constructing new sidewalks; budgeting for flashing yellow signals; and implementing a traffic management plan with the Transportation and Traffic Safety Board for City Council consideration.

**Cruz** recommended support of the School Trip Safety Program and the proposed improvements consistent with other regional or local programs. He summarized the goals which were to improve safety near schools and to implement an integrated, City-wide improvement plan.

**Councilmember Farley** asked if the piles of rock and sand were still near Ardenwald School at 32nd and Roswell. Bartlett said this was material from the Johnson Creek Blvd. improvement project which will be there until completion. He said staff would review for any sight distance problems.

**Councilmember Farley** asked how many volunteer crossing guards there were. **Cruz** said the volunteer program was through the schools; however, he thought there was one adult at the 32nd and Roswell location.

**Councilmember Trotter** referred to the school presentations made before the City Council in May and asked when specific reference to these recommendations would be forthcoming. **Bartlett** responded some of the easily accomplished improvements such as signage and traffic control devices have been done. The larger, more costly projects such as traffic calming will have to be built into the CIP and prioritized for the construction season following July 1, 1997. He added most of the street fund has been programmed for the next five years.

**Councilmember Trotter** suggested the implementation process of the May 1996 studies be an agenda item in the near future. Some of the small dollar items may be done outside of the CIP program.

**Mayor Lomnicki** suggested a list of improvements completed to date along with a budget and time frame for those items still needing to be addressed.

**Councilmember Trotter** expressed concern that these issues be resolved with as many elements implemented prior to the end of the school year as possible.

**Councilmember Kappa** said, in conjunction with the recommendations related to crosswalks and speed humps, he wanted the update on the 34th Avenue Speed Hump Pilot Project. He asked when staff would have a recommendation for building improvements into the CIP. **Bartlett** said the CIP will be updated during the budget preparation process which the City Council will review in the spring. He indicated he would work with staff to develop the time frame and to identify funding for the School Trip Safety Program. To help get an idea of the costs, 5% - 10% of the design work will probably have to be done. He discussed the feasibility of a sidewalk program and assessing individual property owners for a share of the costs.

**Mayor Lomnicki** said he considered completion of more project elements important.

**Councilmember Trotter** said, if some of the items are long-term because of engineering, he would like to know how long to expect the preliminary engineering to take and what could be accelerated. He wanted to help expedite the program.

**Councilmember Kappa** asked if there were any reports on the success of radar against neighborhood speeding. **Cruz** discussed the Neighborhood Speed Watch Program, and citations indicated a strong enforcement program.

**Councilmember Schreiber** said the issue becomes increasingly complex and expressed concern about clarifying roles and responsibilities. **Bartlett** said the program in its simplest form includes education, engineering, and enforcement, and many City departments are involved. He felt photoradar would be very helpful. He suggested a special work session to continue discussion of the School Trip Safety Program the second week of October. City Council agreed to this time frame.

**Susan Stone**, Traffic Safety and Transportation Board member, suggested involving the board in the upcoming work session. **Mayor Lomnicki** agreed. **Stone** asked about prohibitive costs, and **Bartlett** said the TSP indicated Milwaukie was deficient in sidewalks. The cost, which is usually very expensive, is shared by both the property owner and the City. **Stone** said flashing lights and speed humps, not sidewalks, were a priority with the Ardenwald group. **Bartlett** said an engineer would have to prepare a generalized costing for all five of the elementary schools, and this would be built into the CIP.

**Councilmember Kappa** said the School Trip Safety Program is a priority, and education is an important element. The City and School District can provide only so much; the rest is a joint working relationship with the community.

**Carol Matson** thanked her Ardenwald neighbors for their support. She told the City Council the neighborhood was organizing to get speed humps constructed, and the City should feel the urgency. Children's safety should be a top priority for everyone.

## **CONSENT AGENDA**

**It was moved by Councilmember Farley and seconded by Councilmember Trotter to approve the following Consent Agenda which consisted of the minutes of the September 3, 1996, City Council meeting. Motion passed unanimously.**

## **AUDIENCE PARTICIPATION**

None.

## **PUBLIC HEARING**

None scheduled.

## **OTHER BUSINESS**

### **Addendum to Memorandum of Understanding with Clackamas County Fire District #1 for Fire Prevention Services**

**Randy Bruegman**, CCFD #1 Fire Chief, presented the staff report in which the City Council was asked to authorize the Mayor and City Manager to sign the intergovernmental agreement between Clackamas County Fire District #1 and the City of Milwaukie for South Metro Fire Marshal's services. The changes included a five-year extension, automatic rate review in the event other jurisdictions decide to join the cooperative venture, and provision for a 90-day notice if the Fire Marshal's Office decides to relocate.

**It was moved by Councilmember Trotter and seconded by Councilmember Farley to authorize the Mayor and City Manager to sign the intergovernmental agreement between Clackamas County Fire District #1 and the City.**

**Councilmember Trotter** said, as the City's representative to the Joint Oversight Committee, he felt the venture was mutually beneficial and the agreement should continue.

**Motion passed unanimously.**

#### **Model Bylaw Review: Library Board**

**Richards** presented the staff report in which the City Council was requested to consider proposed changes to the Library Board model bylaws.

**Pam Meredith**, Library Board member, indicated the Board's support of the draft bylaws with one exception regarding the day and time of its meeting. The Board was concerned the bylaws would have to come back before the City Council for amendment and approval in the event the day and time of the meeting were changed.

**Councilmember Trotter** suggested striking "regular Board meetings are held the fourth Monday of each month at 5:30 p.m. at a place designated by staff" in V.F and relying on the statement in V.A "the board shall hold meetings as necessary at a time and place designated by staff consistent with Oregon Public Meetings Law."

**It was moved by Councilmember Schreiber and seconded by Councilmember Farley to accept the bylaws as proposed by the Library Board. Motion passed unanimously.**

#### **Model Bylaw Review: Historic Resources Commission**

**Collins** presented the staff report in which the City Council was requested to consider proposed changes to the model bylaws. The Commission reviewed the model bylaws at its June 24, 1996, meeting and proposed five changes. These were: Article III.B filling vacancies "within six months of the vacancy"; Article IV. (new) D by adding a new clause from the Commission's previous bylaws stating "In the event that an officer cannot complete the specified term, an emergency election shall be held for the completion of the term."; Article IV.D renumber to IV.E; Article V.B revise to state "If a quorum is not attained fifteen minutes following the scheduled time to call to order, no formal meeting shall be held."; and Article V.E renumber to V.G. She brought this item forward since no member of the Commission was able to attend.

**Councilmember Kappa** asked if adding language such as "expediently filling vacancies" would be acceptable. **Collins** said the Commission is very sensitive to the need for recruitment and filling vacancies.

**Councilmember Trotter** said these bylaws are for the Commission's internal operation. Recruitment and appointment is an external operation and should not be considered. He also felt "emergency election" in Article IV.D was rather severe and proposed using the words "special election."

**Mayor Lomnicki** commented on suggestion #1 regarding appointment "within six months of the vacancy" probably did not apply to an internal document. He realized the concern of the Commission and suggested reporting Council's understanding back to the members.

**Councilmember Kappa** suggested, if a quorum were not attained as addressed in Article V.B, that the group go into a work session.

**Councilmember Trotter** said there could be no action or public hearing without a quorum. He assumed there would still be minutes of the proceedings although there was no formal action. He suggested revising the second sentence to read "no public hearing or action items should be considered." **Collins** felt the Commission would accept this recommendation.

**It was moved by Councilmember Farley and seconded by Councilmember Trotter to accept the draft model bylaws by implementing Historic Resources Commission recommendations 2 - 5 as modified and deleting recommendation 1. Motion passed unanimously.**

### **Sara Hite Memorial Rose Garden Master Plan**

**Richards** presented the staff report in which the City Council was requested to approve the improvements to North Clackamas Park as set forth in the Sara Hite Memorial Rose Garden Master Plan. The Milwaukie City Council is acting as the property owner and must approve any changes to North Clackamas Park. The Master Plan has been presented at several public meetings and reviewed by the City Council, Park and Recreation Board, and Planning Commission. The Community Development Director issued administrative approval including several conditions. She introduced Fran Whitehill and Harold Stohler, Friends of the Milwaukie Center, who have been instrumental in the project.

**Roald Berg** discussed the project for which professional architects produced a six-phase program for development of the rose garden. He felt there were significant social, economic, and educational benefits to be derived from the project. The project cost is estimated at \$300,000, and active fundraising plans are being made that include a benefit banquet and the sale of commemorative bricks.

**Councilmember Kappa** asked if this master plan was an element of the overall North Clackamas Park Master Plan. Richards responded the elements of the rose garden were in the master plan, and the rose garden was given an administrative review.

**Councilmember Kappa** asked if all of the questions that came up during the administrative review had been sufficiently answered. **Richards** said, when Collins made her administrative review, she felt all of the issues had been addressed. This document will become a part of the overall master plan.

**Councilmember Farley** asked how the project would be funded. **Richards** said a subcommittee of the Friends of the Milwaukie Center have taken on the responsibility of identifying funding sources.

**Councilmember Farley** asked when the project would be completed. **Berg** said completion of the six phases is expected to be in 2000.

**Councilmember Trotter** discussed the proposed removal of two complete rows of parking and asked if this loss was taken into account during the administrative review. **Collins** said it was, and the Parks District was notified it would be expected to address the lost parking in a future plan.

**Councilmember Trotter** asked about the process of incorporating this document into the Comprehensive Plan. **Collins** said this document will be incorporated, and the entire master plan will be adopted as an ancillary document to the Comprehensive Plan.

**Councilmember Kappa** asked for clarification of deferring the parking issue to the overall master plan. **Collins** said parking was a larger issue than the rose garden area. The existing master plan indicated this as a passive recreation area. She pointed out there was parking available at the adjacent church facility. The parking issue will have to be addressed by the District at a later date.

**Collins** indicated the conditions for administrative approval in the staff report.

**It was moved by Councilmember Trotter and seconded by Councilmember Schreiber to approve the improvements to North Clackamas Park as set forth in the Sara Hite Memorial Rose Garden Master Plan on page 59 of the staff report as contained in the City Council packet with the conditions of the approval on page 10 of the staff report as contained in the City Council packet. Motion passed unanimously.**

## Personal Services Contract Amendment, Tashman Johnson, LLC

**Collins** presented the staff report in which the City Council was requested to authorize an amendment to the existing contracts with Tashman Johnson, LLC, for a total of \$56,200 for fiscal year 1996 - 1997. The added scope of work would help coordinate work with Clackamas County Service District #1 and riverfront planning. She felt Tashman and Associates would be able negotiators on behalf of the City on issues relating to the Kellogg Treatment Plant. Other work would be added to the long-standing contract with Tashman for land acquisition.

**Councilmember Schreiber** asked for clarification of the dollar amount. **Bartlett** said Tashman is working under two separate contracts for the City. One contract is for riverfront planning, and the second is for land acquisition.

**Councilmember Farley** asked if Tashman could come back for more money. **Collins** said Tashman is approved for \$56,200. **Bartlett** added, if the scope of work were modified, he could approve up to 20% for change orders.

**Councilmember Trotter** asked if this money was in the current budget. **Collins** responded funds were available.

**It was moved by Councilmember Kappa and seconded by Councilmember Trotter to authorize the amendment to the Tashman Johnson Personal Services Contracts in the amount \$56,200 for fiscal year 1996 - 1997. Motion passed 4 - 1 with the following vote: Mayor Lomnicki, Councilmember Schreiber, Councilmember Kappa, and Councilmember Trotter aye; Councilmember Farley nay; no abstentions.**

## INFORMATION

### South/North Safety and Security Task Force Scope of Work

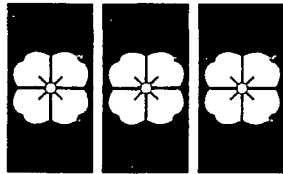
**Councilmember Trotter** asked how and when appointments would be made to the South/North Safety and Security Task Force. **Bartlett** responded the draft scope of work was provided as information only at this time, and the process has not been determined. **Councilmember Kappa** asked if appointment would be made from the whole community. **Bartlett** said the group will not formally launch its plan to include other representatives until the location and designs are more specific.

**Mayor Lomnicki** adjourned the meeting at 8:50 p.m.

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Pat DuVal, Recorder/Secretary

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:** September 24, 1996  
**RE:** Status Report-Delinquent LID Assessments

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### RECOMMENDATION:

The purpose of this report is to present an update of the special assessment lien collection activity and to request direction from Council.

### BACKGROUND INFORMATION:

On February 6, 1996, an Executive Session was held and City Council heard a staff report from the Finance Department regarding the status of delinquent special assessment liens. Presented at that meeting was a general discussion of Local Improvement Districts (LIDs), how LIDs are formed, a listing of all of the existing City LIDs, a listing of all debtors past due, procedural steps involved in foreclosure proceedings and three unique situations. Following this Executive Session, on March 5, 1996, another Executive Session was held with updated findings, options for collection efforts and recommendations. Following Council direction, three accounts were charged off as uncollectable, payment agreements were executed with two debtors, three debtors were turned over to the designated collection agency for the City and six accounts were assigned to Jeff Tashman to act in behalf of the City to negotiate collection. In addition, on April 16, 1996, at a regularly scheduled City Council meeting, Resolution No. 15-1996 was passed in which four account balances were accelerated.

When the collection activity was started in late 1995, there were thirty-one delinquent accounts. By April 16, 1996, when Council passed Resolution 15-1996, the number of delinquent accounts had been reduced to twenty-two. Since April considerable progress has been achieved. There are now only eleven accounts that are delinquent, accounted for by only six debtors. Of these, two are in collection activity with the designated collection agent, one is current in making payments based on a workout arrangement, and one has promised to pay in full before the end of October.

Attached are two reports. The first, titled Special Assessment Lien Delinquency Report presents a listing of all accounts that are currently delinquent. The second, titled L.I.D. Balance shows all accounts that were on the original delinquent report presented to Council in March, 1996, together with the current status.

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

# CITY OF MILWAUKIE

## SPECIAL ASSESSMENT LIEN DELINQUENCY REPORT

9/01/96

<u>NAME</u>	<u>LID #</u>	<u>ACCOUNT</u>	<u>PROPERTY</u>	<u>LOAN PRINCIPAL BALANCE</u>	<u>CURRENT AMOUNT DUE</u>	<u>OVER 120 DAYS PAST DUE</u>	<u>COMMENTS</u>
Brunelle, Pierre	117	1754	12E30DC900	\$368.26	\$308.52	\$257.10	
<b>Brunelle, Pierre Total</b>				<b>\$368.26</b>	<b>\$308.52</b>	<b>\$257.10</b>	<b>METRO COLLECTION SERVICES</b>
Conover, Susan	117	1806	12E30DC6300	\$488.15	\$408.76	\$357.07	
<b>Conover, Susan Total</b>				<b>\$488.15</b>	<b>\$408.76</b>	<b>\$357.07</b>	<b>METRO COLLECTION SERVICES (debtor deceased)</b>
Dodson, Janet	321	6900	1S2E30DA6900	\$2,090.48	\$1,414.78	\$1,191.80	
<b>Dodson, Janet Total</b>				<b>\$2,090.48</b>	<b>\$1,414.78</b>	<b>\$1,191.80</b>	<b>Workout: Payments are current</b>
Palm, Milton & Eunice	117	2836	21E1AA700	\$2,308.00	\$3,313.07	\$3,174.59	
Palm, Milton & Eunice	117	2832	21E1AA300	\$1,121.91	\$523.11	\$448.38	
Palm, Milton & Eunice	117	2842	21E1AA1300	\$2,186.01	\$3,328.85	\$3,197.68	
Palm, Milton & Eunice	117	2841	21E1AA1200	\$1,402.99	\$602.21	\$516.18	
Palm, Milton & Eunice	117	1431	11E36DA200	\$416.79	\$229.04	\$196.32	
Palm, Milton & Eunice	122	3216	1S1E36DA200	\$9,371.87	\$16,983.64	\$16,046.39	
<b>Palm, Milton &amp; Eunice Total</b>				<b>\$16,807.57</b>	<b>\$24,979.92</b>	<b>\$23,579.54</b>	<b>Waiting for response from Jeff Tashman</b>
Rawlins, Peter	901	6101	1S1E25BB7300	\$821.70	\$1,111.38	\$1,111.38	
<b>Rawlins, Peter Total</b>				<b>\$821.70</b>	<b>\$1,111.38</b>	<b>\$1,111.38</b>	<b>Debtor promised payoff before October 31, 1996</b>
Stransky Lumber	32	2300	1S2E30AD2300	\$16,623.28	\$16,230.14	\$14,652.60	
<b>Stransky Lumber Total</b>				<b>\$16,623.28</b>	<b>\$16,230.14</b>	<b>\$14,652.60</b>	<b>Paid 92 Taxes in June'96, still delinquent for 93,94,95 and 96</b>
<b>Grand Total</b>				<b>\$37,199.44</b>	<b>\$44,453.50</b>	<b>\$41,149.49</b>	

# L.I.D. Balance as of 09/01/96

<u>LID #</u>	<u>Payor #</u>	<u>Original Name on Property</u>	<u>Name on U.S. Bank's records</u>	<u>Current Name on Property</u>	<u>Original Balance</u>	<u>Loan Balance</u>	<u>Current Balance</u>	<u>Comment</u>
32	7000	Thorolyte Fiberglass Inc.	Gander Enterprises	Gander Enterprises	\$ 12,447.99	\$ -	\$ -	Charged off per Council direction
32	2300	Stransky Lumber	Stransky Lumber	W & K Enterprises Inc.	\$ 16,623.28	\$ 16,623.28	\$ 16,230.14	<i>delinquent: No change in status</i>
116	959	Mancuso, Sammy B.	Mancuso, Sammy B	Mancuso, Wanda Carol	\$ 1,026.00	\$ -	\$ -	Paid in full
117	1754	Brunelle, Pierre & D	Brunelle, Pierre & D	Brunelle, Pierre & D	\$ 1,541.04	\$ 368.26	\$ 308.52	<i>delinquent: Referred to Collection Agency for action (1)</i>
117	1995	Carson, Myrtle	Carson/Staley	Densmore, Sally	\$ 1,278.48	\$ -	\$ -	Paid in full
117	1806	Andre, Lloyd	Conover, Susan	Conover, Susan	\$ 1,383.75	\$ 488.15	\$ 408.76	<i>delinquent: Referred to Collection Agency for action</i>
117	1446	Dirt Mechanics Inc.	Dirt Mechanics Inc.	TKS Partners	\$ 2,617.50	\$ -	\$ -	Paid in full
117	1192	Huber, Walter & Elma	Huber, Walter & Elma	Huber, Walter & Elma	\$ 912.50	\$ -	\$ -	Paid in full
117	1193	Huber, Walter & Elma	Huber, Walter & Elma	Huber, Walter & Elma	\$ 362.50	\$ -	\$ -	Paid in full
117	1194	Huber, Walter & Elma	Huber, Walter & Elma	Huber, Walter & Elma	\$ 145.00	\$ -	\$ -	Paid in full
117	1195	Huber, Walter & Elma	Huber, Walter & Elma	Huber, Walter & Elma	\$ 522.00	\$ -	\$ -	Paid in full
117	1484	Abbott, Dwain W & Gloria	Knowles, Michael P.	Knowles, Michael P	\$ 1,588.68	\$ -	\$ -	Paid in full
117	1784	Riggs, Ralph R Jr & B	Milne, George T.	Reich, Phillip H & Margaret	\$ 2,025.00	\$ -	\$ -	Paid in full
117	2842	Palm, Milton H	Palm, Milton H	Kopp, Earl	\$ 2,186.01	\$ 2,186.01	\$ 3,328.85	<i>delinquent: No change in status</i>
117	2841	Palm, Milton H	Palm, Milton H.	Kopp, Earl	\$ 1,476.85	\$ 1,402.99	\$ 602.21	<i>delinquent: No change in status</i>
117	1431	Palm, Milton H & Eunice	Palm, Milton H & Eunice	Palm, Milton H & Eunice	\$ 725.00	\$ 416.79	\$ 229.04	<i>delinquent: No change in status</i>
117	2832	Palm, Milton H & Eunice	Palm, Milton H & Eunice	Palm, Milton H & Eunice	\$ 1,418.38	\$ 1,121.91	\$ 523.11	<i>delinquent: No change in status</i>
117	2836	Palm, Milton H & Eunice	Palm, Milton H & Eunice	Palm, Milton H & Eunice	\$ 2,308.00	\$ 2,308.00	\$ 3,313.07	<i>delinquent: No change in status</i>
117	2264	Peccia, Gary J & Karen	Peccia, Gary J & Karen	Peccia, Gary J & Karen	\$ 1,128.03	\$ -	\$ -	Paid in full
117	2668	Ree, Helen D	Ree, Helen D	Ree, Kermit	\$ 1,279.93	\$ -	\$ -	ACCELERATED: Paid in Full
117	2574	Salazar, Sevellia & Opal	Salazar, Sevellia A	Pai, Joseph W	\$ 1,853.13	\$ -	\$ -	Paid in full
117	2788	Walker, Rodney & Delores	Walker, Delores Fay	Dang, Trap Van	\$ 1,216.86	\$ -	\$ -	Paid in full
121	3210	International Way Investment	Int'l Way Investment Co.	XDP Inc.	\$ 32,826.02	\$ -	\$ -	ACCELERATED: Paid in Full
121	3211	International Way Investment	Int'l WayInvestment Co.	XDP Inc.	\$ 56,326.67	\$ -	\$ -	ACCELERATED: Paid in Full
122	3216	Palm, Milton & Eunice	Palm, Milton & Eunice	Palm, Milton & Eunice	\$ 9,371.87	\$ 9,371.87	\$ 16,983.64	<i>delinquent: No change in status</i>
321	5500	Cummins, Karen	Cummins, Karen	Odom, Karen	\$ 3,967.50	\$ -	\$ -	Paid in full
321	6900	Dodson, Janet L	Dodson, Janet L	Dodson, Janet L	\$ 2,692.44	\$ 2,090.48	\$ 1,414.78	<i>delinquent: Paying per workout agreement-current</i>
321	9800	Harpster, Kathleen	Harpster, Kathleen	Harpster, Kathleen	\$ 3,821.81	\$ -	\$ -	Paid in full
901	6101	Rawlins, Peter	Rawlins, Peter	Rawlins, Peter	\$ 821.70	\$ 821.70	\$ 1,111.38	<i>delinquent: Promise to pay in full before Oct. 31, 1996</i>
901	7300	Sivers, Dennis	Sivers, Dennis	Pentz, James P	\$ 1,091.39	\$ -	\$ -	Charged off per Council direction
901	7600	Sivers, Dennis	Sivers, Dennis	Pentz, James P	\$ 1,423.52	\$ -	\$ -	Charged off per Council direction
<b>Grand Total</b>					<b>\$ 168,408.83</b>	<b>\$ 37,199.44</b>	<b>\$ 44,453.50</b>	

(1) Debtor deceased, have been in contact with conservator of estate. No progress on resolution to date.



## MEMORANDUM

**TO:** Mayor and City Council  
**THROUGH:** Dan R. Bartlett, City Manager *DB*  
**FROM:** Mike Swanson, Interim Administrative Manager  
Milwaukie Fire Department  
Angus M. Anderson, Finance Director *AM*  
**DATE:** September 24, 1996  
**RE:** FIRE-RESCUE APPARATUS:  
Bid Evaluation/Recommendation

---

### RECOMMENDATION:

Consider awarding contract to Oregon Fire Equipment Company to purchase a 1997 KME Fire-Rescue Engine at a cost of \$154,269.

### BACKGROUND INFORMATION:

During the 1995-96 and 1996-97 budget process the Fire-Rescue Department set aside budgeted funds for acquisition of a new Fire-Rescue Engine. This acquisition was evaluated and approved through the decision package process conducted by the City Manager, Budget Committee and City Council. It was acknowledged that the City was in need of moving existing Engine 54 (acquired in 1981) to spare status and retiring the existing spare.

On August 30, 1996, the City issued a Request for Bids (RFB) for Fire-Rescue Apparatus. The notice of bid was published in the Clackamas Review and the Daily Journal of Commerce. In response to the notice seven firms expressed interest and requested copies of the RFB. Subsequent to the issuance, two addendum's were issued in clarification of the specifications contained in the RFB.

Bids were formally opened at 2:00 on Friday, September 13, 1996. Bids were received from four RESPONDENTS:

- H & W Apparatus Repair, an Oregon Corporation d.b.a. H & W Emergency Vehicles
- Ferrara Fire Apparatus, Inc., a Louisiana Corporation
- Oregon Fire Equipment Co., Ltd., an Oregon Corporation
- Mays Emergency Equipment, a Washington Corporation

Three of those originally requesting copies of the RFB chose not to submit bids. Those three were:

- Hughes Fire Equipment
- Western States Fire Apparatus
- Oregon Apparatus Repair

Attached is a spreadsheet presenting a compilation of the four submitted bids. The "modifications to base bid" show the additions/deletions required to equate all submissions. The notes shown below the "Specification Compliance" portion of the spreadsheet detail those areas where the bid was not in conformity with the specifications (in the case of Mays Emergency Equipment [Smeal]) or other clarifying information.

Approval of the request would provide the City with two first line Fire-Rescue Engines, both of which are KME. Engine 55 was acquired in 1993 after a similar process at a cost of \$225,000. The apparatus specified under the RFB in question is bid at a lower cost than the engine acquired in 1993 because Engine 55 is a custom cab model on a custom chassis. The specified engine is on a "stock" Freightliner production line chassis.

The bids received were reviewed against the specifications listed. The Milwaukie Fire Department is confident that the KME fire-rescue engine proposed by Oregon Fire Equipment Company, Ltd. meets those specifications. The department recommends that Council approve the acquisition.

# CITY OF MILWAUKIE

## Fire-Rescue Apparatus

### Bid Comparison

Vendor Manufacturer	<i>Mays Emergency Equip Smeal Fire Apparatus Co.</i>	<i>Oregon Fire Equipment KME</i>	<i>Ferrara Fire Apparatus</i>	<i>H &amp; W Emergency Vehicles</i>
Delivery (days)	210-270	300	210	320
BASE BID	\$150,900	\$154,969	\$162,042	\$171,334
<b>Modifications to base bid:</b>				
Chassis delivery pmt		(4)		(5)
Credit for Bid Bond		-\$700		
270 amp alternator			\$750	
Freightliner Chassis				\$386
1996 NFPA Compliance	\$5,050			
<b>REVISED BID AMOUNT</b>	<b>\$155,950</b>	<b>\$154,269</b>	<b>\$162,792</b>	<b>\$171,720</b>
<b>Specification Compliance:</b>				
Dimensions	YES	YES	YES	YES
Chassis/Engine	NO (1)	YES	YES	YES
Pump/Tank	YES	YES	YES	YES
TELMA	YES	YES	YES	YES
Ladder Tunnel/Hydraulic Rack	NO (2)	YES	YES	YES
Booster Reel	YES	YES	YES	YES
Top Pump Panel	YES	YES	YES	YES
Local Maintenance	NO (3)	YES	YES (Western States)	YES
	(1) FL 70 bid not FL 80 as specd	(4) Credit of \$2,419 will be allowed		(5) Payment for chassis and
	(2) No Hydraulic Rack bid	if payment for chasis is made at		ump required at time of delivery
	(3) Provider not specified	time of chassis delivery to KME.		to factory.



## MEMORANDUM

**TO:** Mayor and City Council  
**THROUGH:** Dan R. Bartlett, City Manager *Dan*  
**FROM:** Angus M. Anderson, Finance Director *Angus*  
**DATE:** September 25, 1996  
**RE:** FIRE-RESCUE APPARATUS:  
Additional Correspondence

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The recommendation for acquisition of the Fire Rescue Engine was prepared on September 24, 1996. It was included in the October 1, 1996, Council Packet delivered to Council on that date as well. On September 25, 1996 Jeff Mays, a Respondent, called to inquire as to availability of bids for review. Additionally he asked about the recommendation on bid award. He was told that the bids were available for review and that a recommendation had been prepared to award the bid to the lowest responsible bidder, Oregon Fire Equipment.

Following that communication a fax was received from Mays Emergency Equipment, copy attached, clarifying the bid. In reviewing the clarification both Randy Brown and Angus Anderson concur that the wording in the bid is such that it is appropriate to construe the comment regarding the \$5,050 as being an additional cost to the City to assure compliance with the new 1996 requirements.

In addition to our interpretation of the original bid wording, there are several important factors which would lead to disqualification of the bid submitted by Mays Equipment:

- a) The specifications clearly stated that a hydraulic ladder rack is required. Mays Equipment acknowledged in a fax dated September 17, 1996, that they did not include the required hydraulic rack. They did offer to provide the rack at no

additional cost. However, in accordance with Paragraph 2 of the BID REQUIREMENTS... "Change in a delivered proposal will be permitted only if a request for making such modification is made in writing, signed by the RESPONDENT, and the specific modification is **stated and received prior to the scheduled closing time for filing bids**". (emphasis added) The bid filing and opening date was September 13, 1996 and the modification was not received until September 17, 1996. Therefore based on this requirement the bid did not meet the stated specifications.

- b) The specifications clearly stated a FREIGHTLINER FL-80 (or equal) chassis. The bid of Mays Equipment was for a FREIGHTLINER FL-70 chassis and the bid documents did not justify that the proposed chassis was equal to the required chassis.
- c) There are no Oregon Fire Districts listed in the references for the Smeal Fire Engine. While in itself this was not a requirement, the RFB specifically stated that a selection criterion was "Ability of RESPONDENT to deliver specified apparatus identified in both this RFB and the RESPONDENT'S bid documents, including but not limited to the ability to perform necessary **repairs and maintenance locally and in a timely manner**". (emphasis added) With no representation within Oregon and nothing in the bid supporting the ability to provide repairs and maintenance locally and in a timely manner, the satisfaction of that selection criterion is not documented.

Based upon the above discussion, the original recommendation is affirmed.

**To:** Angus Anderson- City of Milwaukie  
**Fax #:** 503-652-4433  
**Re:** Smeal Pumper Bid  
**Date:** September 17, 1996  
**Pages:** 3, including this cover sheet.

# FACSIMILE

Mr. Anderson,

Thank you for your phone call regarding the ladder rack on the Smeal pumper bid.

After a quick review of the proposal, I find that we did not include the either ladder rack storage system in the bid. In talking to the factory I find that we will have to provide a storage area in the hosebed in order to comply with the 110" height requirement. The hydraulic ladder rack would make an overall height of 112-115".

Please accept my apology for not providing this with the original documentation. Since we did not make a clarification to this in the bid we will do the following. We will provide the right side compartmentation and the ladder storage in the hosebed at no additional charge to the City. This will change our proposal as the following pages indicate.

If you have any questions or need any further information please feel free to call on me. My toll free number is 1-800-526-3461.

Sincerely,



Jeff Mays

From the desk of...

**Jeff Mays**

Mays Emergency Equipment  
P.O. Box 23203  
Federal Way, WA 98003

(206) 838-6712  
Fax: (206) 925-8494

## LEFT SIDE COMPARTMENTS

There shall be one (1), low compartment ahead of the rear wheels. This compartment shall have a door opening of approximately 28" high and shall have a usable depth of 24-1/2". This compartment shall have a single vertically hinged swing-out door.

There shall be two (2), high side compartments. Each compartment shall have a door opening of approximately 28" high and shall have usable depth of 13-1/2". Each compartment shall have a horizontally hinged lift-up door.

There shall be one (1), low compartment behind the rear wheels. This compartment shall have a door opening of approximately 28" high and shall be transverse. This compartment shall have a single vertically hinged swing-out door.

## RIGHT SIDE COMPARTMENTS

There shall be one (1), low compartment ahead of the rear wheels. This compartment shall have a door opening of approximately 28" high and shall have a usable depth of 24-1/2". This compartment shall have a single vertically hinged swing-out door.

There shall be two (2), high compartments. Each compartment shall be approximately 28" high and shall have a usable depth of 13-1/2". Each compartment shall have a horizontally hinged lift-up door.

There shall be one (1), low compartment behind the rear wheels. This compartment shall have a door opening of 28" high and shall be transverse. This compartment shall have a single vertically hinged swing-out door.

## REAR COMPARTMENTS

There shall be one (1), low compartment. This compartment shall have a door opening of approximately 43" wide x 28" high and shall have a usable depth of 30". This compartment shall have a double vertically hinged swing-out door.

## FIRE EXTINGUISHER COMPARTMENTS

There shall be a fire extinguisher compartment with bracket on rear left hand side of apparatus. The upper section of this compartment shall have storage for pike poles and folding ladders.

There shall be a fire extinguisher compartment with bracket on the right rear of the apparatus. The upper section of this compartment shall have storage for tools.

## GROUND LADDERS

The ground ladders shall be stored in the hosebed in individual slides. The top, sides and rear of the ladder storage area will be constructed from aluminum diamondplate and will protect the ladders from the environment.

The following ladders shall be furnished by body builder at the time of delivery:

One (1), 10' folding attic ladder. Duo Safety 585A

One (1), 14' roof ladder. Duo Safety 775A

One (1), 24' Two section extension ladder. Duo Safety 900A

## HARD SUCTION HOSE

There shall two (2), hard suction hose "V" troughs, each with the capacity to store one hard 10' section of hard suction hose. Brackets shall be supplied to hold the hard suction hose secure. The troughs shall be located on the left side above the high side compartments.

The following hard suction hose shall be supplied by body builder at the time of delivery:

Two (2), 6" x 10' sections of flexible PVC hard suction hose.

One (1), 6" barrel strainer with mounting adapter.

**To:** Angus Anderson- City of Milwaukie  
**Fax #:** 503-652-4433  
**Re:** Smeal Pumper Bid  
**Date:** September 25, 1996  
**Pages:** 2, including this cover sheet.

**FACSIMILE**

Mr. Anderson,

I received your telephone message this morning. I think that there has been a misunderstanding regarding our proposal and the NFPA 1901-1996 requirements.

We did add \$5,050 in our bid to cover the new requirements. You do not have to add anything to our bid to meet this requirement. I have enclosed a copy of page 2 of our proposal which explains that we meet the new requirements.

The reason that we give the cost addition that was added into the bid is quite simple- many departments which to know how much this new requirement is costing them above what they specified. I could not deduct this amount from the bid price if I wanted to. This new requirement 1901-1996 is now in effect and any Smeal truck bid after August 6, 1996 has to have these items added.

Our bid is 1901-1996 compliant as bid. There is no need to add any amount of money to it for any reason- we are still the lowest bidder on this project. If you have any questions- please feel free to call me. My office phone is 1-800-526-3461 and my pager is (206) 977-4681.

Sincerely,



Jeff Mays

From the desk of...

**Jeff Mays**

Mays Emergency Equipment  
P.O. Box 23203  
Federal Way, WA 98093

(206) 838-6712  
Fax (206) 925-9494

**Smeal Pumper Proposal- City of Milwaukie Fire Department****NEPA PAMPHLET 1901**

The National Fire Protection Association Pamphlet #1901 as amended in the August 1996 edition, is hereby adopted and made a part of these specifications, the same as if they were written out in full detail, insofar as they apply with the exception of the section dealing with "Equipment Recommended for Various Types of Apparatus". Bidders are to provide only the equipment requested herein and the buyer will supply the rest before the apparatus is put into service. *The additional cost to comply with the new 1996 requirements above and beyond the specifications that you published is \$5,050.*

**QUALITY AND WORKMANSHIP**

The design of the apparatus must embody the latest approved automotive engineering practices, experimental designs and methods will not be acceptable.

The workmanship must be of the highest quality in its respective field. Special consideration will be given to the following points: accessibility of the various units which require periodic maintenance operations, ease of operation (including both pumping and driving) and symmetrical proportions.

Construction must be rugged and ample safety factors must be provided to carry loads as specified.

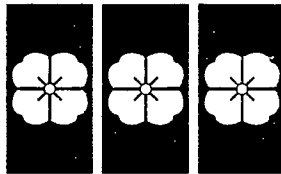
**LIABILITY**

The bidder, if his bid is accepted shall defend any and all suits and assume all liability for the use of any patented process, device or article forming a part of the apparatus or any appliance furnished under the contract.

**WARRANTY**

A copy of the warranties for the pump, body, and water tank shall be furnished with each bidder's proposal.


C I T Y O F



MILWAUKIE

\*\*\* M E M O R A N D U M \*\*\*

September 24, 1996

To: Mayor and City Council  
From: Dan Bartlett, City Manager   
Re: Consider Waiver of Building Permit Fees

Action Requested

Concur with staff recommendation to charge fees as required by Council Resolution and State law.

Background

The Friends of Milwaukie Center, Inc., have asked that the City waive any and all building permit fees. Staff does not have the authority to waive these fees.

Building and Planning functions are paid for in part by permit fees. Waiver of these fees would result in using general funds to replace the amount of the fees. This would then be a subsidy or contribution to the project by the City. A portion of all building permit fees is required by State law to be forwarded to the State to pay for State supervision of the permit program.

In the past eight years, we have required public and non-profit agencies to pay their building permit fees. This was because we could not develop fair objective criteria that could be applied by staff to determine when to waive fees. In prior years, we had been criticized because the building official waived fees that had the appearance of favoritism. Some non-profit groups' fees were waived. Other groups were required to pay.

For staff the question is: "Who qualifies for fee waivers?" Do you waive fees for religious groups? For sports associations? For social service groups? How do you tell which groups qualify? How do you establish fair and objective rules?

The Council can choose to waive fees on a case by case basis.

cc: File  
cm1010/hd

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



September 3, 1996

Roald K. Berg  
Rose Garden Committee  
5440 SE Kellogg Creek Drive  
Milwaukie, OR 97222

Dear Mr. Berg:

I am responding to your July 8, 1996, letter concerning the Sara Hite Memorial Rose Garden. You requested two things from the City in order to meet your construction schedule. First, you wanted the City to waive all building permit fees. Second, you wanted the City to remove the pea gravel pile.

I am not in a position to waive building permit fees. These fees are set by the City Council and include a portion which is required by State law to be paid to the State of Oregon. I will take a proposal to the City Council to waive all but the State portion of these fees. In the past, the City has not waived fees for non-profit entities and has also charged its own building projects the full permit fee.

Kelly Somers, our Fleet and Facilities Manager has been assigned to coordinate the removal of the pea gravel. He does not have funds budgeted for equipment and manpower to remove the gravel. It cost the City \$80,000 to have a contractor move this material from the former Albertson's site to the current pile. We are not in a position to use City crews and equipment to move this material to a disposal site and pay a dumping fee.

Kelly has contacted contractors who may have an interest in hauling this material in exchange for the gravel. He is working on this and will coordinate with Thom Kaffun and Joan Young.

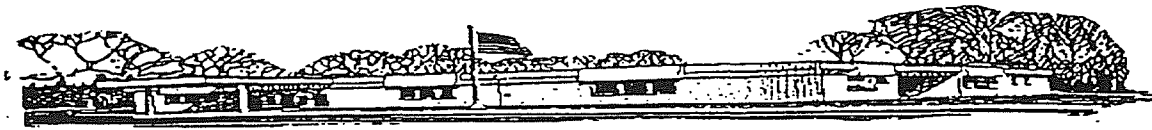
I realize this response does not meet your original expectation. It does not mean that City staff do not support your project. We want to work with you and the Parks District to see that this plan becomes reality. We are bound to follow Council policy and cannot authorize expenditure of funds that are not budgeted or waive fees that are set by the City Council without Council authorization. I will advise you when this matter is scheduled for Council action.

Sincerely,

Dan R. Bartlett  
City Manager

cc: Mayor and City Council  
Alan Brunk, Chairman, Friends of the Milwaukie Center, Inc  
Roger Brown, Director, North Clackamas Parks and Recreation District  
Thom Kaffun, Manager, Parks Services, NCPRD  
Joan Young, Director, Milwaukie Center  
cm1354

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



## FRIENDS OF MILWAUKIE CENTER, INC.

A Non-Profit Organization

*Organized in 1980 to support and promote Milwaukie Center and its services to the community.*

July 8, 1996

Dan Bartlett, Manger  
City of Milwaukie  
10722 SE Main St.  
Milwaukie, OR 97222

Dear Dan:

As you may already be aware, the Friends of the Milwaukie Center are actively pursuing the construction of a professionally designed and landscaped Rose Garden complete with a 3000 square foot plaza and a covered gazebo for the ground south of and adjacent to the Milwaukie Center facility, just inside the entrance to North Clackamas Park. This Rose Garden will be known as the Sara Hite Memorial Rose Garden.

This project was initiated several years ago, and now as Chairman of the Sara Hite Memorial Rose Garden Committee, I am very gratified and enthusiastic about being involved with this project and the progress made since October of 1995.

We have completed the following actions:

1. We have a completed set of final construction drawings from our landscape architects based on the Master Plan completed in 1994-95.
2. We have selected a style and supplier for the paver blocks that will be used for the 3000 sq. ft. plaza that will be in the center of the Rose Garden.
3. We have received approval for location and construction by Milwaukie Planning Department staff.
4. We have the support of and endorsement by the North Clackamas Parks and Recreation District.
5. We have submitted applications for obtaining grant moines to help finance the project.
6. We continue to sponsor benefit functions and sell personalized paver bricks for the Gardens' entry pathway for additional financial support of this project.

Our goal is to have the first three phases completed by the end of September 1996. We have a core of hard-working volunteers waiting for the green light to proceed.

This Rose Garden will provide the Milwaukie Community with a most unique outdoor facility for a variety of social, educational and ceremonial events that will involve a wide cross section of participants, both local and visitors.

The Sara Hite Memorial Rose Garden will be finished with an initial donation of rose bushes from a local award winning and well known rose fancier who has also committed an additional \$1000 to purchase new roses for the garden as needed. We would like to initiate rose planting by Spring 1997.

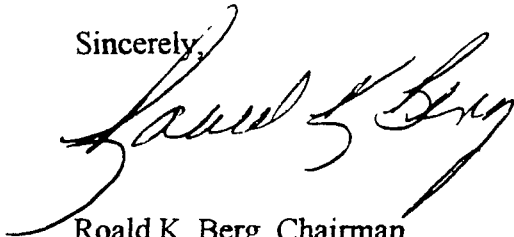
In order for us to meet our September time line, we would like to request your assistance and support as a team member of the Milwaukie governing infrastructure by:

- 1) Waiving any and all of the building permit fees by the Planning Department.
- 2) Providing assistance from the City of Milwaukie to remove the pea gravel pile, by providing equipment and manpower. If the City of Milwaukie can find a dump site, we would be willing to work with you on any dumping costs.

This would greatly expedite our cause and allow us to move forward.

The members of the Rose Garden Committee and Friends of the Milwaukie Center, Inc. sincerely appreciate your assistance in this matter. Please contact me at your soonest convenience at (w) 659-1708 or (h)654-0789 (eves). Thank you.

Sincerely,




Roald K. Berg, Chairman  
Rose Garden Committee.

cc. Alan Brunk, Chairman, Friends of the Milwaukie Center, Inc.  
Thom Kaffun, Manager, Parks Services, NCPRD.  
Joan Young, Director, Milwaukie Center.



\*\*\* M E M O R A N D U M \*\*\*  
September 24, 1996

To: Mayor and City Council  
From: Dan Bartlett, City Manager   
Re: Consider Review of Three Cities Agreement

Action Requested

Direct the Mayor, City Manager, and Community Development Director to begin review of this agreement with Happy Valley and Gladstone.

Background

From May 1987 to January 1988, the cities of Happy Valley, Gladstone and Milwaukie worked to adopt a "Three Cities Agreement." This agreement was drafted by Ron Partch, City Administrator, Gladstone. The Agreement was used by the cities in Urban Growth Management Agreement negotiations with Clackamas County. The primary sections of the agreement deal with Urban Service Planning Areas.

The Agreement calls for a review of "common urban service planning area boundaries" every fifth year. This review should have occurred in 1993.

In 1993, ORS 195 "Local Government Planning Coordination" was passed by the Legislature. This statute has three key elements:

- integrate the planning efforts of cities, counties, and special districts;
- integrate annexation laws with land use planning law; and
- give city residents more voice in annexations.

Service providers are charged with developing long term agreements for delivery of urban services. These take the form of cooperative planning agreements and urban service agreements.

At this point, the Three Cities Agreement has been raised by Gladstone during our discussions at the Urban Services Agreement, Phase II, meetings. This has limited needed discussions between city, county, and special district participants. The State laws have changed since adoption of this agreement. It appears to be time to review this agreement so that our cities' interests can be presented to the other participants in the ORS 195 process.

I would ask that Council direct the Mayor, City Manager, and Community Development to meet with Happy Valley and Gladstone to complete the first periodic review of this agreement.

cc: File  
cm1009/hd

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

INTERGOVERNMENTAL COOPERATIVE AGREEMENT

THIS AGREEMENT is made and entered into by and between the CITY OF GLADSTONE, an Oregon municipal corporation (hereinafter "Gladstone"; the CITY OF MILWAUKIE, an Oregon municipal corporation (hereinafter "Milwaukie"); and the CITY OF HAPPY VALLEY, an Oregon municipal corporation (hereinafter "Happy Valley").

W I T N E S S E T H:

RECITALS.

1. The parties hereto are desirous of entering into an intergovernmental cooperative agreement establishing urban service planning areas adjacent to their respective incorporated boundaries. The purpose of the establishment of urban service planning areas would be to facilitate and encourage long range planning which would be of assistance in the future determination of public facility plans, identification of urban service needs and providers, annexation policies, and other related matters.

2. The parties acknowledge that they have authority to execute this cooperative intergovernmental agreement pursuant to the terms of their respective municipal charters and pursuant to ORS 190.010.

NOW, THEREFORE, the premises being in general as stated in the foregoing recital, it is agreed by and between the parties hereto as follows:

1. Explanation of Urban Service Planning Areas. Urban service planning areas are portions of unincorporated Clackamas County adjacent to the incorporated boundaries of one or more of the parties hereto. The party identified with each urban service planning area is deemed to be the city with the closest identification and interest based upon a review of existent and proposed public services, community expectations, and applicable land use policies. The term "urban service" includes public facility systems as defined by OAR 660-11-005 and all other public services provided by municipalities, special districts, and Clackamas County. It is contemplated that the execution of this agreement will lead to the amendment of the dual interest area agreement between each of the parties and Clackamas County to the end that Clackamas County and the party identified with each urban service planning area shall work together cooperatively in the preparation and development of public facility plans,

urban service boundaries, annexation policies, and other related matters. It is not the purpose of establishing urban service planning areas to establish firm boundaries for the purpose of future annexations or to designate ultimate service providers.

2. Identification of Urban Service Planning Areas.

The urban service planning area of each party is identified as follows:

(a) The City of Milwaukie - All of Clackamas County Rural Fire District No. 1, exclusive of that portion of the district generally lying north of Sunnyside Road and to the east of the easterly boundary of the right-of-way of I-205.

(b) The City of Gladstone - All of Clackamas County Rural Fire District No. 71, exclusive of that portion of the fire district located in the Mt. Scott Water District.

(c) The City of Happy Valley - All of the Happy Valley Fire District, that portion of Clackamas County Rural Fire District No. 71 located within the Mt. Scott Water District, and that portion of Clackamas County Rural Fire District No. 1 generally lying north of Sunnyside Road and to the east of the easterly boundary of the right-of-way of I-205.

Those areas are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

The parties acknowledge that areas immediately adjacent to these boundaries are areas of mutual concern of the parties, and it may be necessary from time to time to amend these boundaries to address changes in public facility delivery systems in these areas. Such amendments would be accomplished pursuant to Section 4 of this agreement.

3. Amendment of Urban Service Planning Areas. There are large areas of unincorporated Clackamas County immediately contiguous to the boundaries of the parties which are not identified herein as specific urban service planning areas. The area located within Oak Lodge Rural Fire Protection District No. 51 is the most important of the deleted areas. Although Gladstone and Milwaukie both have a substantial relationship with this area, it is not the desire of either party at the present time to designate the area as an urban service planning area. Milwaukie and Gladstone,

however, reserve the right to designate this area as an urban service planning area by separate agreement between these two parties at a future time.

During every fifth year after the adoption of this agreement, the parties will review possible adjustment of their common urban service planning area boundaries. Such adjustments shall require the agreement of all parties whose urban service planning area boundaries would be altered by the proposed adjustment. The possible creation of an urban service planning area within Oak Lodge Rural Fire Protection District No. 51 will not be affected by the five year review limitation.

4. Amendment Provisions. The terms of this agreement may be amended by mutual agreement of the parties.

5. Termination of Agreement. This agreement shall continue in effect until terminated by any of the parties with written notice of such intent to terminate provided to the other parties. Termination shall be effective 60 days after such notice is received by the other parties.

6. Written Notice Addresses. All written notices required under this agreement shall be sent to:

Gladstone:	City Administrator City of Gladstone 525 Portland Avenue Gladstone, OR 97027
Milwaukie:	City Manager City of Milwaukie 10722 SE. Main Street Milwaukie, OR 97222
Happy Valley:	City Recorder City of Happy Valley 10602 SE. 129th Avenue Portland, OR 97236

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals as of the date and year hereinabove written.

Gladstone has acted in this matter pursuant to Resolution No. 612, adopted by the City Council on the 12<sup>th</sup> day of January, 1988.

Milwaukie has acted in this matter <sup>by motion</sup> pursuant to Resolution No. ~~xxxxxxx~~ adopted by its City Council on the 5th day of January, 1988, ~~xxxx~~

Happy Valley has acted in this matter pursuant to Resolution No. 88-6, adopted by its City Council on the 2ND day of MAY, 1987.

CITY OF GLADSTONE, by and through its city officials

By: H. Wade Byers, Jr.  
Mayor

By: Jerna Howell  
City Recorder

CITY OF MILWAUKIE, by and through its city officials

By: Roger Hall  
Mayor

By: Jeri L Widner  
City Recorder

CITY OF HAPPY VALLEY, by and through its city officials

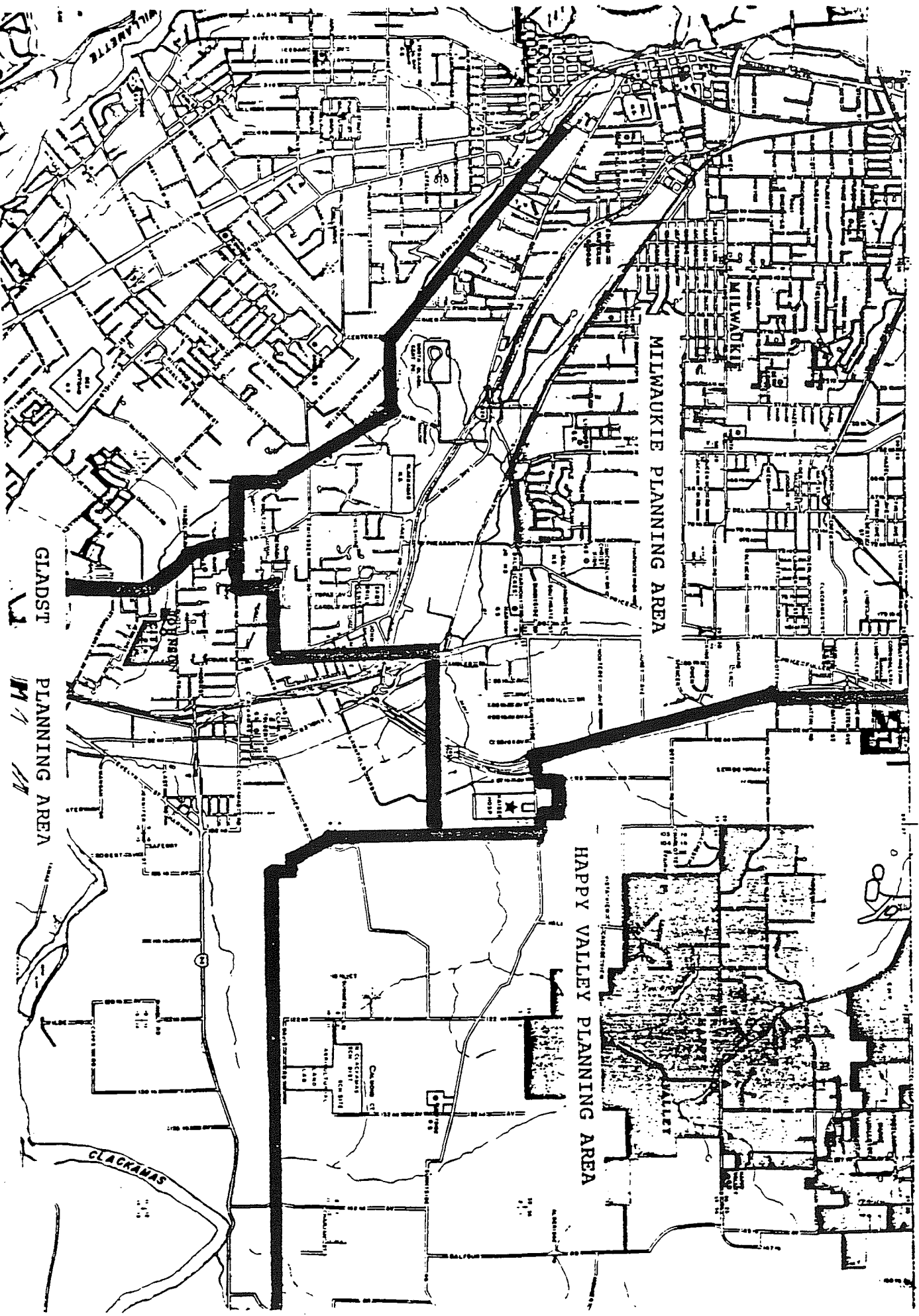
By: [Signature]  
Mayor

By: [Signature]  
City Recorder

URBAN SERVICE PLANNING AREA, S, NORTH CLACKAMAS COUNTY

EXHIBIT

A



RESOLUTION NO. 88-6

CITY OF HAPPY VALLEY, OREGON

A Resolution authorizing entry into Intergovernmental Cooperative Agreement.

WHEREAS, it has been proposed to the City of Happy Valley by the Cities of Gladstone and Milwaukie, both Oregon municipal corporations, that the three cities enter into an Intergovernmental Cooperative Agreement establishing urban service planning areas adjacent to their respective incorporated boundaries; further, that the purpose of the establishment of the urban service planning areas would be to facilitate and encourage long range planning which would be of assistance in the future determination of public facility plans, identification of urban service needs and providers, annexation policies, and other related matters.

WHEREAS, ORS 190.010 provides authority for local governments to make intergovernmental agreements.

WHEREAS, a proposed written Intergovernmental Cooperative Agreement has been presented to the City of Happy Valley for consideration by the Happy Valley City Council, and the City Council having fully discussed the proposal and deeming it in the best interests of the City of Happy Valley, and the Council deeming itself fully advised in the matter,

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council for the City of Happy Valley that the City of Happy Valley is authorized to enter into the Intergovernmental Cooperative Agreement, a copy of which is attached hereto as Exhibit "A".

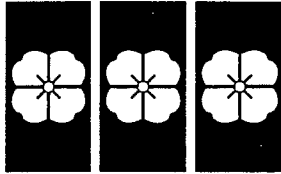
APPROVED by the City Council of the City of Happy Valley this 24<sup>th</sup> day of May, 1988.

  
MAYOR

ATTEST:


  
CITY RECORDER

C I T Y O F



MILWAUKIE

\*\*\* M E M O R A N D U M \*\*\*  
September 24, 1996

To: Mayor and City Council  
From: Dan Bartlett, City Manager   
Re: November 1996 Ballot Measures

Action Requested

For Council Work Session discussion and information sharing.

Background

Mayor Lomnicki has asked that this informational material from the League be distributed to Councilors. If you have comments or material you would like to share with Council that is not of an informational nature, then he has asked that you provide five copies of that material to the City Recorder, by Friday, September 27, 1996.

This material will be placed in your Friday mail packet.

cc: File  
cm1008/hd

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

# League of Oregon Cities

P.O. Box 928, Salem, Oregon 97308 ♦ (503) 588-6550

# information update

## November 1996 Ballot Measures

This is a special Information Update on the 23 Ballot Measures of the November 1996 election. In addition to measure questions and summaries, staff of the League of Oregon Cities and the Local Government Personnel Institute have provided analyses of some measures. This document is an educational publication and is not intended to advocate for or against any measure.

The following section includes the ballot titles, statements, and summaries that will appear on the ballot for the November 1996 election. The "Estimate of Financial Impact," prepared by the State Treasurer, Secretary of State, Director of the Department of Revenue, and Director of the Department of Administrative Services, will be printed in the voter's pamphlet.

### **Measure #26 – AMENDS CONSTITUTION: CHANGES THE PRINCIPLES THAT GOVERN LAWS FOR PUNISHMENT OF CRIMES (Referral)**

**Result of "Yes" Vote:** "Yes" vote repeals vindictive justice prohibition, adds responsibility, accountability, societal protection to criminal punishment principles.

**Result of "No" Vote:** "No" vote retains constitutional provision basing laws for criminal punishment on reformation, not vindictive justice.

**Summary:** This measure amends the state constitution. The constitution now provides that laws for the punishment of crime must be based on principles of "reformation, and not of vindictive justice." The measure would delete that language. It would insert language stating that laws for the punishment of crime must be based on these principles: "protection of society, personal responsibility, accountability for one's actions, and reformation."

**Estimate of Financial Impact:** No financial effect on state or local government expenditures or revenues.

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**Measure #27 – AMENDS CONSTITUTION: NEW ADMINISTRATIVE RULES STAY IN EFFECT ONLY WITH LEGISLATIVE APPROVAL (Referral)**

**Result of “Yes” Vote:** With “yes” vote, new administrative rules expire unless legislature approves; committee may veto existing rules.

**Result of “No” Vote:** “No” vote retains current system, allowing administrative rules to stay in effect without legislative approval.

**Summary:** Amends constitution. State agency rules now may be adopted and stay in effect without legislative approval. Legislature may require agency to change rules by adopting new statutes, subject to governor’s veto. Measure would require agencies to file new rules with legislative committee. Rules would expire after legislature adjourns unless legislature approves rule by joint resolution. Upon qualified request, committee may review any new or existing rule and, upon review, must take public testimony. If committee rejects rule, rule expires unless legislature approves by joint resolution.

**Estimate of Financial Impact:** Start up costs are estimated at \$584,000. Based on the last six years experience, for each 10% of rule changes adopted by agencies that are reviewed under this measure, annual operating costs are estimated at \$823,000.

**Measure #28 – AMENDS CONSTITUTION: REPEALS CERTAIN RESIDENCY REQUIREMENTS FOR-STATE VETERAN'S LOANS (Referral)**

**Result of “Yes” Vote:** “Yes” vote repeals certain residency requirements now in constitution for veterans’ home and farm loans.

**Result of “No” Vote:** “No” vote retains all residency requirements now in constitution for veterans’ home and farm loans.

**Summary:** This measure amends the Oregon Constitution. The constitution now provides that state veterans’ home and farm loans may be made only to persons who were Oregon residents when they entered military service or who have resided in Oregon five years since discharge or separation from active duty. This measure repeals those eligibility requirements. The measure would not change other eligibility requirements, or the current residency requirement that such loans may be made only to persons who are Oregon residents when they apply for the loan.

**Estimate of Financial Impact:** No financial effect on state or local government expenditures or revenues.

**Measure #29 – AMENDS CONSTITUTION: LIMITS TENURE OF GOVERNOR'S APPOINTEES TO 90 DAYS AFTER TERM (Referral)**

**Result of “Yes” Vote:** “Yes” vote requires Governor’s appointees to vacate office if successor not confirmed within 90 days.

**Result of “No” Vote:** “No” vote retains law allowing Governor’s appointees to serve until successor is appointed and confirmed.

**Summary:** Currently, an official, appointed by the Governor and subject to Senate confirmation may continue in office until the official's successor is appointed and confirmed. This measure amends the Oregon Constitution to provide that such an official may not hold office longer than 90 days after the end of the official's term. This measure could cause an appointed office to be vacant until the official's successor is confirmed. This could preclude some state agencies from issuing orders or conducting other business during such a vacancy.

**Estimate of Financial Impact:** No financial effect on state or local government expenditures or revenues.

**Measure #30 – AMENDS CONSTITUTION: STATE MUST PAY LOCAL GOVERNMENTS COSTS OF STATE-MANDATED PROGRAMS (Referral)**

**Result of "Yes" vote:** "Yes" vote requires the state to pay local governments for costs of state-mandated programs.

**Result of "No" vote:** "No" vote rejects requirement that state pay local governments for costs of state-mandated programs.

**Summary:** Amends constitution. Measure would require legislature to pay local governments for cost of new state-mandated programs or increased level of services for state-mandated programs. If funds are not paid, local governments need not comply with law or rule requiring program or service. Contains exceptions. Requires 3/5 vote of each house of legislature to take certain actions reducing state revenues that are distributed to local governments. If adopted, measure would be repealed on June 30, 2001, unless approved again at general election in year 2000.

**Estimate of Financial Impact:** No financial effect on state or local government expenditures or revenues.

**Measure #31 – AMENDS CONSTITUTION: OBSCENITY MAY RECEIVE NO GREATER PROTECTION THAN UNDER FEDERAL CONSTITUTION (Referral)**

**Result of "Yes" Vote:** "Yes" vote limits free speech protection for "obscenity, including child pornography" to federal constitution's level.

**Result of "No" Vote:** "No" vote retains Oregon Constitution's current right to speak freely on any subject, including obscenity.

**Summary:** Amends Oregon Constitution. Oregon Constitution now protects the "right to speak, write, or print freely on any subject." The Oregon Supreme Court has held that provision protects obscenity. United States Constitution's free speech provision does not currently protect obscenity. Measure would state that "obscenity, including child pornography," may receive no greater protection than under United States Constitution. Measure thus would remove Oregon Constitution's current protection for obscenity. Measure would limit state judges' authority to interpret free speech provision as applied to obscenity, including child pornography.

**Estimate of Financial Impact:** No financial effect on state or local government expenditures or revenues.

**Measure #32 – AUTHORIZES BONDS FOR PORTLAND AREA LIGHT RAIL, TRANSPORTATION PROJECTS ELSEWHERE (Referendum)**

**Result of "Yes" Vote:** "Yes" vote authorizes lottery bonds for Portland area light rail, transportation projects outside Portland area.

**Result of "No" Vote:** "No" vote rejects lottery bonds for Portland area light rail, transportation projects outside Portland area.

**Summary:** Measure permits state to issue lottery revenue bonds to fund \$375 million of state's share of cost to build Tri-Met Portland area "South North light rail," and to fund \$115 million of \$375 million "Transportation Equity Account." Establishes "Transportation Equity Account," payable to cities and counties for transportation projects outside Portland region, funded by lottery bonds, general fund, and other sources. Unobligated net revenues from lottery repay bonds. Bonds cannot be sold unless federal light rail matching funds become available. Other provisions.

**Estimate of Financial Impact:** The measure provides \$750 million funding for transportation projects throughout Oregon. The measure authorizes the sale of Lottery-backed revenue bonds with a principal sum of up to \$490 million,

plus bond issuance costs and reserves. Up to \$375 million of the bonds will be used to finance the state's commitment toward construction of the South North light rail line. Total Tri-Met expenditures from all sources, including federal funds, for the project would be up to \$1.5 billion. \$115 million of the bonds will be used to finance city and county transportation projects outside the Portland metropolitan region. The bonds, plus interest, will be repaid through a Lottery revenue allocation of \$21.8 million per year, beginning in 1999, and increasing to \$33.8 million per year beginning with the year in which the South North Lottery-backed revenue bonds are sold. If issued at current interest rates, for each \$100 million in 20-year Lottery-backed bonds, total interest costs are estimated at \$64.4 million. In addition, state General Fund revenues of \$110 million will be available over a ten-year period for city and county transportation projects outside the Portland metropolitan region. Local governments in the Portland metropolitan region will provide \$150 million from various sources, including federal transportation funds, for cities and counties outside the Portland metropolitan region to spend on transportation projects over a ten-year period.

**Measure #33 – AMENDS CONSTITUTION: LIMITS LEGISLATIVE CHANGE TO STATUTES PASSED BY VOTERS (Initiative)**

**Question:** Shall constitution bar legislature for 5 years from changing statutes passed by voters, require 3/5 vote in each house thereafter?

**Summary:** This measure would add a new section to the state constitution. It would bar the legislature from changing or repealing statutes enacted or approved by the voters for 5 years. The voters still could do so by initiative referendum. After 5 years, the legislature could amend or repeal such a statute only by a 3/5 vote in each house.

**Estimate of Financial Impact:** No financial effect on state or local government expenditures or revenues.

**Measure #34 – WILDLIFE MANAGEMENT EXCLUSIVE TO COMMISSION; REPEALS 1994 BEAR/COUGAR INITIATIVE (Initiative)**

**Result of "Yes" Vote:** "Yes" vote prohibits managing wildlife by initiative process and repeals 1994 bear/cougar hunting initiative.

**Result of "No" Vote:** "No" vote retains current wildlife management laws including 1994 bear/cougar hunting initiative.

**Summary:** Measure gives exclusive authority to manage wildlife or regulate hunting, angling or trapping to Oregon Fish and Wildlife Commission. Measure repeals wildlife management laws adopted after July 1, 1975, except for laws enacted by state legislature or rules adopted by commission. The only such law adopted by initiative process that would be repealed by this measure is the ban on using bait or dogs to trap or hunt black bear and cougar, passed by vote of people in the November, 1994 election.

**Estimate of Financial Impact:** No financial effect on state or local government expenditures or revenues.

**Measure #35 – RESTRICTS BASES FOR PROVIDERS TO RECEIVE PAY FOR HEALTH CARE (Initiative)**

**Question:** Shall statute restrict bases on which health care providers may receive pay to five listed in statute?

**Summary:** Adopts statute. Measure restricts bases on which health care providers may receive pay. Providers accepting payment on any other basis lose business and professional licenses. Restrictions do not apply to individuals and families. Permissible bases are: work performed, hourly wages, prearranged salary/benefit, bonus, or expense reimbursement. Disallows some current payment arrangements. Defines "work performed" as delivery of health care for specific patient needs. Defines "health care provider" to include health care professionals and employers/contractors of health care professionals, but to exclude insurers.

**Estimate of Financial Impact:** Using estimated average cost differences between Health Maintenance Organization (HMO) and indemnity type health coverage, direct expenditures by state and local government will increase. Assuming the increased health care costs will be borne by the employer, state government expenditures would increase by \$57 million annually, and local government direct expenditures would increase by \$22 million annually.

**Measure #36 – INCREASES MINIMUM HOURLY WAGE TO \$6.50 OVER THREE YEARS** (Initiative)

**Result of "Yes" Vote:** "Yes" vote increases state's minimum wage to \$6.50 per hour over three year period.

**Result of "No" Vote:** "No" vote leaves state's minimum wage at current level of \$4.75 per hour.

**Summary:** This measure amends the state's hourly minimum wage. The current minimum wage is \$4.75 per hour and has been in effect since January 1, 1991. This measure would increase the minimum wage to \$5.50 per hour for calendar year 1997, to \$6.00 per hour for calendar year 1998, and to \$6.50 per hour for calendar year 1999 and the years following.

**Estimate of Financial Impact:** Direct state expenditures are estimated to increase by \$26.4 million when fully implemented in 1999 to bring state government employees and state contract service providers currently paid at minimum wage to the new level. Direct state expenditures are estimated to decrease by at least \$3.3 million annually due to reduced public assistance eligibility.

Direct state tax revenues are estimated to increase \$4.8 million a year, due to both increased personal income taxes and decreased corporate income taxes by increasing wages of workers paid at current minimum wage.

Direct local government expenditures are estimated to increase \$5 million when the measure is fully implemented to bring local government employees and local contract service providers currently paid at minimum wage to the new level. Other expenditure and revenue changes could not be estimated due to insufficient data.

**Measure #37 – BROADENS TYPES OF BEVERAGE CONTAINERS REQUIRING DEPOSIT AND REFUND VALUE** (Initiative)

**Question:** Shall bottle bill be expanded to require consumers, dealers to pay deposits, receive refunds on additional types of beverage containers?

**Summary:** Amends statutes. Under current law, consumers and dealers pay deposits and receive refunds on all beer and carbonated beverage containers. Dealers must accept such containers for refund. Measure broadens law to include any liquid drink intended for humans, except dairy products or substitutes, distilled spirits or liquor, or wine with over eight percent alcohol. Measure requires refund value for containers of:

- ❖ Beer, malt beverages or carbonated drinks, any size.
- ❖ Non-carbonated drinks, other than water, from six ounces to one liter.
- ❖ Water, up to two liters

**Estimate of Financial Impact:** No financial effect on state or local government expenditures or revenues.

**Measure #38 – PROHIBITS LIVESTOCK IN CERTAIN POLLUTED WATERS OR ON ADJACENT LANDS** (Initiative)

**Result of "Yes" Vote:** Vote "yes" to prohibit livestock in or along certain polluted waters in state, with exceptions.

**Result of "No" Vote:** Vote "no" to reject law prohibiting livestock in or along certain polluted waters in state.

**Summary:** Measure would prohibit livestock in certain waters in Oregon, and on adjacent land, if waters do not meet state water quality standards and the livestock would contribute to poor water quality. State Department of Agriculture may allow exemptions if certain criteria are met. Any person may sue to enforce law. Measure applies to state, federal, and private waters and land. Persons required to comply may receive tax credit and state funding. Measures, operative dates are delayed, depending on land ownership and type of habitat affected.

**Estimate of Financial Impact:** Direct state expenditures will increase by an estimated \$1.26 million of the first full year, growing to \$2.44 million when fully implemented. There will be a one-time decrease in state revenue of an estimated \$27,500 in the first year only from increased use of the fish habitat improvement credit.

**Measure #39 – AMENDS CONSTITUTION: GOVERNMENT, PRIVATE ENTITIES CANNOT DISCRIMINATE AMONG HEALTH CARE PROVIDER CATEGORIES** (Initiative)

**Result of "Yes" Vote:** "Yes" vote forbids laws that restrain a person's choice of category of health care provider.

**Result of "No" Vote:** "No" vote leaves Oregon Constitution silent on laws concerning person's choice of health care providers.

**Summary:** Amends Oregon Constitution. Forbids laws that restrain any person's choice to receive health care from any category of health care provider working within provider's scope of practice established by law. Forbids state agencies, local governments, private entities from discriminating among categories of health care providers rendering the same or similar services within their scope of practice. Defines "health care provider." Allows entities to control health care costs if entities do not violate measure. Does not apply to health care services for inmates in correctional institutions.

**Estimate of Financial Impact:** This estimate is based on the following assumptions: Any increased costs are borne entirely by state and local government employers; and overall utilization of health care services will increase by at least 2 percent due to increased provider choices.

Direct annual expenditures for state government are estimated to increase \$22.4 million and direct annual expenditures for local governments are estimated to increase to \$8 million.

**Measure #40 – AMENDS CONSTITUTION: GIVES CRIME VICTIMS RIGHTS, EXPANDS ADMISSIBLE EVIDENCE, LIMITS PRETRIAL RELEASE** (Initiative)

**Result of "Yes" Vote:** Vote "yes" to add crime victims' rights to constitution, expand evidence admissible in criminal trials.

**Result of "No" Vote:** Vote "no" to leave state constitution without specified protections for victims, retain current evidence standards.

**Summary:** Adds new section to state constitution. Affects adult, juvenile criminal proceedings involving victims. Prohibits pretrial release for certain defendants unless judge finds defendant will not commit new crimes if released. Victims may attend, be heard a proceedings, demand jury trials of adults, get information about defendant. Allows murder, aggravated murder, conviction on 11-1 vote. Most relevant evidence admissible against defendant, except as required by federal constitution. State courts may not independently interpret some state constitutional rights to give defendants more rights than given by federal constitution.

**Estimate of Financial Impact:** Direct state expenditures to implement one-time change required by this measure is estimated at \$223,000.

**Measure #41** – AMENDS CONSTITUTION: STATES HOW PUBLIC EMPLOYEE EARNINGS MUST BE EXPRESSED (Initiative)

**Question:** Shall constitution require that public employee earnings be expressed as employer's cost for employee per hour worked, including wages, benefits?

**Summary:** Amends Constitution. Measure requires that public employees' earnings be expressed as costs borne by the employer for the employee's benefit. Those costs include base pay/salary, benefit package, vacation, clothing allowance, rest and meal breaks, holiday pay, personal leave, social security and medicate taxes, retirement, federal unemployment taxes, family leave, sick leave, bonuses, merit pay, overtime, child care, compensation time, employer tax, continuing education, and state unemployment taxes. Workers' compensation premiums are excluded. Measure makes complete information regarding employer costs available to the public.

**Estimate of Financial Impact:** No fiscal impact to state governments. One-time expenditure to local governments, including schools, of at least \$789,000, assuming a \$1,000 minimum reprogramming expense per public employer payroll system.

**Measure #42** – AMENDS CONSTITUTION: REQUIRES TESTING OF PUBLIC SCHOOL STUDENTS; PUBLIC REPORT (Initiative)

**Question:** Shall constitution require annual testing of grade 4-12 public school students, and public report on total testing results?

**Summary:** Amends constitution. Requires annual testing of all grade 4-12 public school students. Tests include, but not limited to, math and verbal skills. All students in same grade must take same test in same academic year. Tests cannot contain moral, social, or political value testing. Individual results must be released to student and parents. Department of Education must issue public report with total testing results, by school and grade. Each student's results must be kept for research purposes, cross-reference with college admission tests

**Estimate of Financial Impact:** Direct state expenditures to implement a one-time change required by this measure is estimated at \$525,000. Annual direct expenditures of administering and updating the tests are estimated at \$1.985 million to \$6.914 million depending on the type of test used. Allocation of these expenditures between state and local school districts cannot be determined.

**Measure #43** – AMENDS COLLECTIVE BARGAINING LAW FOR PUBLIC SAFETY EMPLOYEES (Initiative)

**Result of "Yes" Vote:** Yes vote reinstates collective bargaining law in effect before 1995 changes for public safety employees.

**Result of "No" Vote:** No vote retains current collective bargaining law for fire, police, correction, other public safety employees.

**Summary:** Amends Oregon law. In 1995, legislature changed public employee collective bargaining law. Changes included limiting required issues for bargaining, reducing categories of public employees allowed to unionize, permitting employee discharge in more situations, changing process for union contract arbitration when bargaining does not succeed. Measure defines class of public safety employees, all of whom are prohibited from striking, reinstates collective bargaining in effect before 1995 changes (with some differences) for these employees only. Public safety employees are police, fire, correctional, and emergency dispatch employees.

**Estimate of Financial Impact:** No financial effect on state or local government expenditures or revenues.

**Measure #44 – INCREASES, ADDS CIGARETTE AND TOBACCO TAXES: CHANGES TAX REVENUE DISTRIBUTION (Initiative)**

**Result of "Yes" Vote:** "Yes" vote increases tobacco taxes, directs more proceeds to Oregon Health Plan, tobacco use reduction.

**Result of "No" Vote:** "No" vote leaves tobacco taxes at current levels and does not affect distribution of revenues.

**Summary:** Amends Oregon law. Increases cigarette tax from 1.4 to 2.9 cents per cigarette. Adds new dealer tax of 1.5 cents per cigarette, new 1.5 cents per cigarette "floor tax and cigarette indicia adjustment" tax. Increases tobacco products tax from 35% to 64% of wholesale price. Does not affect current one-half cent per cigarette per cigarette tax that funds Oregon Health Plan. Most cigarette and tobacco products tax revenue would go to maintaining and expanding service, benefits for Oregon Health Plan, and for tobacco use reduction programs.

**Estimate of Financial Impact:** This measure will increase state revenue each year, beginning with \$27 million in 1996-97, expanding to \$80 million per year by 1998-99.

Additional expenditures on the Oregon Health Plan will grow from \$26 million in 1996-97 to \$76 million annually by 1998-99. State expenditures for programs designed to reduce cigarette and tobacco use will increase by \$3 million in 1996-97, and \$8 million annually by 1997-98. Other revenues available to the state general fund will decrease by \$1 million in 1996-97, declining by \$4 million annually by 1998-99.

Revenue available to counties and cities will decrease by \$400,000 in 1996-97, declining by \$750,000 annually by 1998-99.

**Measure #45 – AMENDS CONSTITUTION: RAISES PUBLIC EMPLOYEES' NORMAL RETIREMENT AGE; REDUCES BENEFITS (Initiative)**

**Question:** Shall constitution raise public employees' normal retirement age (except police, firefighters), bar medical benefits for non-disability retirees limit guaranteed benefits?

**Summary:** Amends state constitution. Law now sets normal retirement age, except for police, firefighters, at 58. Measure would raise that to Social Security retirement age (now 65 to 67). Public employers could allow earlier retirement, with benefits reduced to actuarial equivalent of benefits payable at normal retirement age. Governments could not guarantee benefits over 75 percent of final salary. Law now provides medical benefits for PERS retirees. Measure bars medical benefits for non-disability retirees. Measure does not apply to benefits vested or accrued before effective date.

**Estimate of Financial Impact:** Direct state expenditures to implement a one-time change required by this measure is estimated at \$1.576 million. Annual reduction in direct expenditures by state government are estimated at \$643,000 in 1998, rising to \$5.843 million by 2001 and increasing thereafter.

Annual reduction in direct expenditures by local government are estimated at \$1.5 million in 1998 and \$11 million by 2001 and increasing thereafter.

**Measure #46 – AMENDS CONSTITUTION: NO VOTER-APPROVED TAXES WITHOUT REGISTERED VOTERS' MAJORITY (Initiative)**

**Question:** Shall constitution bar passage of tax, tax increase or revenue measure submitted to voters unless majority of registered voters approve?

**Summary:** This measure would amend the state constitution. The law now allows passage of a law that would impose or increase taxes or raise revenue by majority vote of those voting. This measure would bar vote from passing any such law unless a majority of the registered voters affected approve the law. The new

requirement also would apply to new tax bases, votes to exceed a tax base, and issuance of new bonds for capital construction or improvements.

**Estimate of Financial Impact:** No financial effect on state or local government expenditures or revenues.

**Measure #47 – AMENDS CONSTITUTION: REDUCES AND LIMITS PROPERTY TAXES; LIMITS LOCAL REVENUES, REPLACEMENT FEES (Initiative)**

**Result of "Yes" Vote:** "Yes" vote reduces current property taxes, limits future increases, forbids replacement fees without vote.

**Result of "No" Vote:** "No" vote retains the existing property tax system with current limitations on property tax rates.

**Summary:** Amends constitution. Limits 1997-98 property taxes to lesser of 1995-96 tax minus 10 percent, or 1994-1995 tax. Limits future annual property tax increase to 3 percent, with exceptions. Limits revenue available for schools, other local services funded by property taxes. Local governments' lost revenue may be replaced only with state income tax, unless voters approve replacement fees or charges. No system provided for spreading revenue cuts among local governments. Restricts new bonds. Tax levy approvals in certain elections require 50 percent voter participation. Other changes.

**Estimate of Financial Impact:** This estimate is based on the following assumptions: increases in assessed property values and levies will continue at historic rates; local voters do not approve levies outside the new limits; new construction can be added to the tax roll in 1997-98; and existing bond levies are exempt from this measure even if not voter-approved.

Direct revenue losses to local governments, including school districts, is estimated at \$467 million in fiscal year 1998, \$553 million in 1999, and increasing thereafter. Direct revenue losses to each type of local government unit, including local school districts, community colleges, cities, counties, and fire districts, will depend on legislative action.

Direct revenue gains to state government is estimated at \$23 million in 1998, \$27 million in 1999, and increasing thereafter because of increased personal and corporate tax receipts due to lower property tax deduction.

Direct one-time expenditures required of counties in the first year of the measure for implementation by assessment and taxation offices are estimated at \$1.65 million. Direct annual expenditures required by counties for assessment and taxation offices are estimated at \$950,000.

**Measure #48 – AMENDS CONSTITUTION: INSTRUCTS STATE, FEDERAL LEGISLATORS TO VOTE FOR CONGRESSIONAL TERM LIMITS (Initiative)**

**Result of "Yes" Vote:** "Yes" vote directs state, federal legislators to vote for congressional term limits in federal constitution.

**Result of "No" Vote:** "No" vote rejects directive to legislators to vote for congressional term limits in federal constitution.

**Summary:** Amends Oregon Constitution. Directs state legislators, members of Oregon congressional delegation to vote for federal constitutional amendment setting congressional term limits. Limits would be 2 Senate terms, 3 House terms. Secretary of State must review incumbents' records for compliance. Violators' names labeled with statement, "VIOLATED VOTERS' INSTRUCTION ON TERM LIMITS," on ballot. Non-incumbents must sign term limits pledge or have name on ballot labeled, "REFUSED TO PLEDGE TO SUPPORT TERM LIMITS." Allows electors, candidates expedited appeal of Secretary of State's decision to Oregon Supreme Court.

**Estimate of Financial Impact:** No financial effect on state or local government expenditures or revenues.

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*The following are staff analyses of ballot measures of particular importance to city officials.*

**Ballot Measure #27: Amends Constitution: Grants Legislature New Power Over Both New, Existing Administrative Rules**

All administrative rules, except those relating to internal state agency management, must be approved by the legislature. A rule not approved before the next adjournment of the legislature following its adoption will go out of effect. In the 1993 biennium, over 12,500 regulations were adopted amended or repealed.

The measure also requires the legislature to establish a joint committee appointed by the Senate President and the Speaker of the House which can, at the request of any member of the legislature or any person effected by the rule, review the rule and by vote, suspend its effect no matter when it was adopted. If the joint committee does not approve the rule under review, the rule goes out of effect and can become effective again only if the legislature adopts a joint resolution approving it. Rules in existence at the time the measure becomes effective would remain in effect unless the committee voted to suspend them.

*Prepared by the League of Oregon Cities.*

**Ballot Measure 30: Amends Constitution: State Must Pay Local Governments Costs of State-Mandated Programs**

The state would be required to allocate monies to local governments for "usual and reasonable" costs of programs that local governments are required by law or administrative rule to carry out. The measure would allow local governments to not comply with certain laws or rules adopted after January 1, 1997, unless funds were allocated for carrying them out.

The measure will apply to local governments, including: cities, counties, municipal corporations, and municipal utilities. "Program" is defined to mean a program or project imposed by the legislature or a rule, by a state agency, that requires a local government to provide "administrative, financial, social, health, or other specified services to persons, government agencies, or to the public generally." "Usual and reasonable costs" mean those costs incurred by local governments for a specified program using generally accepted methods of service delivery and administrative procedure. State funding is required only if the cost of the mandate exceeds 1/100th of 1% of an annual budget for a local government.

These requirements do not apply to:

- ❖ any law approved by three-fifths of both houses of the legislature;
- ❖ costs from laws creating or changing the definition of a crime or establishing sentences for a crime;
- ❖ any requirement imposed by the judicial branch;
- ❖ legislation enacted by the voters under the initiative and referendum process;
- ❖ programs that inform citizens about local government activities;
- ❖ federal programs (as long as the state doesn't impose greater costs on local governments than the usual and reasonable costs for the federal minimum program standards);
- ❖ programs that local government is voluntarily providing four years after the date of enactment;
- ❖ unfunded programs in existence prior to January 1, 1997.

The requirement would also not apply if the legislature identifies and directs the imposition of a fee or charge to be used to recover the actual program costs for the local government.

Local governments are also authorized to refuse to comply with an unfunded mandate if the funds allocated are less than 95 percent of the actual costs of conducting the program at the preceding year's level.

If questions arise about the adequate funding of a mandate, the burden of proof of insufficient funds is on the local governments. These issues may be appealed to a non-binding arbitration panel, with members representing the Department of Administrative Services, League of Oregon Cities, and Association of Oregon Counties.

The amendment also requires a three-fifths vote of both houses of the legislature to amend or repeal distribution of state revenues derived from a "specific state tax" that is distributed to local governments.

*Prepared by the League of Oregon Cities.*

<b>Ballot Measure #31: Amends Constitution: Obscenity May Receive No Greater Protection Than Under Federal Constitution</b>
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The Oregon Constitution's freedom of expression protection from forms of expression that are obscene are removed. The measure is drafted so that "obscenity, including child pornography" has no greater protection than is afforded under the United States Constitution. The free speech provision of the First Amendment has been construed by the United States Supreme Court to provide no protection of "obscene" forms of expression (but does protect "indecent" speech). Under federal case law, "obscenity" is defined by a test that is applied to determine whether a particular instance of expression is "obscene." Cities may be able to adopt their own ordinances to regulate or prohibit obscenity. Enforcement would consist of citing a defendant into court where a judge or jury would determine whether the expression was obscene. Such statutes or ordinances may be either criminal, where the burden of proof is "beyond a reasonable doubt," or civil, where the burden of proof requires only a "preponderance of the evidence."

The federal court test for determining whether expression is obscene is:

- 1) Would the average person, applying contemporary community standards find that the work, taken as a whole appeals to the prurient interest?
- 2) Does the work depict or describe, in a patently offensive way, sexual conduct specifically defined by applicable law? and
- 3) Applying a reasonable person test (a national, not a local community, standard), does the work, taken as a whole, lack serious literary, artistic, political, or scientific value?

*Prepared by the League of Oregon Cities.*

<b>Ballot Measure #32: Authorizes Bonds for Portland Area Light Rail, Transportation Projects Elsewhere</b>
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This measure places the \$750 million dollar Light Rail/Statewide transportation funding package that was passed by the legislature during its second special session in February 1995 on the ballot. \$375 million dollars are provided to match the metropolitan region's share of the cost of the light rail line from Clackamas Town Center to downtown Portland. The remaining project costs are expected to be funded from federal sources.

An additional \$375 million in flexible transportation funds are provided directly to cities and counties outside the Portland metropolitan region, beginning in 1999, to be used for transportation projects and operations. Cities will receive \$140 million dollars, roughly \$70 dollars per capita from the fund over a period of approximately ten years beginning in 1999. Cities may spend these funds for operations, construction, maintenance, and improvement of roads, pedestrian and bicycle facilities, transit, high-speed rail, airports, or ports. None of the funds authorized by the measure will be distributed unless the federal funds are approved.

*Prepared by the League of Oregon Cities.*

**Ballot Measure #36: Increases Minimum Hourly Wage to \$6.50 Over Three Years**

The current Oregon minimum hourly wage is \$4.75. This measure would increase the hourly wage in three steps:

1997	\$5.50
1998	\$6.00
1999	\$6.50

The fiscal impact in direct expenditures to cities varies. The following cities reported paying a \$4.75 per hour for 21,385 hours of employment during the past year: Albany, Coos Bay, Eugene, Newberg, Ontario, Springfield. However, Bend, Grants Pass, Gresham, Medford, Newport, Philomath, Portland, Rockaway Beach, Roseburg, Salem, Sheridan, Clatskanie, reported not paying this wage during the 1995-1996 year. The fiscal impact of a higher minimum wage will vary depending on current wages being paid.

*Prepared by Maria Keltner, Executive Director, LGPI*

**Ballot Measure #37: Broadens Types of Beverage Containers Requiring Deposit and Refund Value**

The state beverage container law would be broadened to include any liquid drink intended for humans, except dairy products or substitutes, distilled spirits or liquor, or wine with over eight percent alcohol. Current law requires consumers and dealers to pay deposits and receive refunds on all beer and carbonated beverage containers. Ballot measure 37 proposes expanding state law to require refund value for containers of: beer, malt beverages or carbonated drinks of any size; non-carbonated drinks, other than water, from six ounces to one liter; and water, up to two liters.

*Prepared by the League of Oregon Cities.*

**Ballot Measure #38: Prohibits Livestock in Certain Polluted Waters or on Adjacent Lands**

Livestock would be prohibited in waters of the state or within designated riparian land in order to protect the waters from pollution caused by livestock. This prohibition applies only if a waterway is designated as "water quality limited" by the Oregon Department of Environmental Quality, and livestock contributes to the violation of applicable water quality standards. The state Department of Agriculture may allow exemptions if certain criteria are met. Any person may sue to enforce the law. The measure applies to state, federal, and private land. Persons required to comply with this prohibition will receive preference in obtaining state funds. The operative date for waters that supply drinking water or constitute salmon, steelhead or trout habitat is January 1, 1997 on *public land*, and January 1, 2002 on *private land*. The operative date for all other waters of the state is January 1, 2007.

*Prepared by the League of Oregon Cities.*

**Ballot Measure #41: Amends Constitution: States How Public Employee Earnings Must Be Expressed**

CONSTITUTIONAL PUBLIC ACCESS TO PUBLIC EMPLOYEE COMPENSATION INFORMATION. Beginning July 1, 1997, the people of the State of Oregon will have a right to access complete information regarding the "total compensation" provided to all persons employed by any unit of state or local government and any person who qualifies for membership under the Public Employee Retirement System (PERS).

TOTAL COMPENSATION TO BE EXPRESSED AS A RATE PER HOUR ACTUALLY WORKED. Total compensation per hour actually worked is calculated based on all employer costs for the benefit of the employee (except workers compensation premiums). This includes: base pay/salary, benefit package, vacation, clothing allowance, rest and meal breaks, holiday pay, personal leave, social security and Medicare taxes, retirement, federal unemployment, family leave, sick leave, bonuses, merit pay, overtime, child care, compensation time, employer tax, continuing education, and state

unemployment taxes. (Current general practice is to express salary and benefit figures separately and to include paid leave/breaks in the salary figure.)

**IMPLICATIONS FOR CITIES.** The fiscal impact for the initial computer reprogramming to capture and generate the total compensation report for each employee varies; initial computer reprogramming could cost between \$1,000 to \$30,000. On-going costs for cities could include the time spent by individual employees to report time actually worked. For example: tracking and reporting time spent on paid rest breaks and tracking and reporting time worked by those who are exempt from overtime. Additional on-going costs would accrue for payroll personnel entering additional data being tracked. Estimated on-going costs for tracking would be approximately 13 hours per year per employee, with an additional central payroll data entry time of about 1.5 hours per year per employee.

*Prepared by Maria Keltner, Executive Director, LGPI*

### **Ballot Measure #43: Amends Collective Bargaining Law for Public Safety Employees**

**CHANGES THE COLLECTIVE BARGAINING LAWS FOR PUBLIC SAFETY EMPLOYEES.** Creates a separate Public Safety Collective Bargaining Act which is a modified version of the pre-SB 750 PECBA provisions applicable to public safety collective bargaining. It includes none of the SB 750 PECBA amendments applicable to public safety collective bargaining. It differs from the pre-SB 750 PECBA provisions applicable to public safety collective bargaining in several respects.

**EXPANDS DEFINITION OF PUBLIC SAFETY EMPLOYEE.** Definition of "public safety employee" is expanded to include ALL public employees whose job duties include public safety functions – including ALL employees employed by the Department of State Police, city police departments, county sheriff departments, state and local correctional facilities and institutions, fire departments, fire protection districts, fire protection agencies, and emergency dispatch agencies. (Elected officials, persons appointed to serve on boards or commissions, and persons who are confidential or supervisory employees remain excluded).

**INTEREST ARBITRATION CHANGES.** Currently (post 1995 SB 750) the interest arbitrator must write the collective bargaining contract provisions, for disputed items, by selecting one or the other party's total final offer package. The measure allows the interest arbitrator to write these collective bargaining contract provisions without regard to the offers/ proposals made by the parties.

Current law (post SB 750) also requires the interest arbitrator to give priority to the interest and welfare of the public. The measure requires the interest arbitrator to consider this factor but does not give it primary priority.

The measure requires the interest arbitrator to consider factors taken into consideration in the setting of wages, hours and conditions of employment and adds that the interest arbitrator must consider work load and productivity. Currently (post SB 750), the interest arbitrator is to consider these factors only if the itemized factors do not provide sufficient evidence for a decision.

Current law (post SB 750) also requires the interest arbitrator to consider the ability of the public employer to attract and retain qualified employees. The measure allows, but does not require, the interest arbitrator to consider this factor.

Current law (post SB 750) requires the interest arbitrator to consider wages and benefits paid in both the public and private sectors in comparable communities within the State of Oregon (cities over 325,000 may be compared with out-of-state cities). The measure allows the interest arbitrator to consider only wages and benefits of other public sector public safety employees – it does not specify where they may be located.

**STRIKES WHICH CREATE A CLEAR AND PRESENT DANGER OR THREAT TO THE HEALTH, SAFETY OR WELFARE OF THE PUBLIC.** Current law (post-SB 750) allows public employers to petition the circuit court for relief when a strike (occurring or about to occur) creates a clear and present danger or threat to the health, safety or welfare of the public. The measure requires the public employer to go to ERB for a declaration that a strike is, or would be, unlawful and then to circuit court to enforce the ERB Order.

**COMMUNICATIONS BAR / UNFAIR LABOR PRACTICES.** The measure restores pre-SB 750 law that makes it an unfair labor practice for the public employer (or its designated representative) to communicate directly or indirectly with employees in the bargaining unit (other than the designated bargaining representative) during the period of negotiations regarding

employment relations. It also restores the similar unfair labor practice applicable to public employees and labor organizations.

**TRANSFERS AND PROMOTIONS ADDED TO MANDATORY SUBJECTS OF BARGAINING.** Current law (post SB 750) limits the scope of bargaining to subjects ERB previously determined were permissive, determined to have greater impact on management's prerogative than on employees wages, hours or other terms and conditions of employment and that have an insubstantial or de minimis effect on employee wages, hours and other terms and conditions of employment. Current law also excluded scheduling of services provided to the public, determination of minimum qualifications, criteria for evaluation/performance appraisal; assignment of duties; workload (when the effect on duties is insubstantial), reasonable dress, grooming and at-work personal conduct requirements (e.g. smoking, gum chewing, and similar matters of personal conduct at work) from mandatory bargaining. It also included those staffing levels and safety issues which have a direct and substantial effect on the on-the-job safety of public employees as subjects of mandatory bargaining. The measure does not include these requirements and adds "safety" to the statutory list of mandatory subjects of bargaining.

**DISCIPLINE / GRIEVANCE ARBITRATION AWARDS.** Current law (post SB 750) requires that a grievance arbitration award ordering reinstatement of a public employee (or otherwise relieves the employee of responsibility for misconduct) must comply with public policy requirements as clearly defined in statutes or judicial decisions including policies pertaining to sexual harassment or sexual misconduct, unjustified and egregious use of physical or deadly force and serious criminal misconduct. Also, if it is claimed that the employee should be reinstated because the employer previously treated other employees differently for the same or similar conduct, then the grievance arbitrator must follow stated principles concerning discharge and discipline. The measure does not include this language, and, unlike pre-SB 750 law, requires that nothing in ORS Chapter 243 restrict the right of a public employer to discipline or discharge a public safety employee for just cause.

**TIME LINES FOR BARGAINING.** The measure does not include the provision in current law (post-SB 750) that requires negotiations for new or successor collective bargaining agreements to continue for 150 days of good faith negotiations before proceeding to mediation (unless both parties request mediation earlier). Nor does it require that, for mid-term negotiations, the employee's exclusive representative waives the right to bargain over the issue unless a demand to bargain is filed within 14 days of the employer's notice of anticipated changes.

**CONTRACTING OUT.** The measure does not include the provision in current law (post SB 750) that specifies that use of volunteers to provide services is not considered contracting out for services, and use of reserve police personnel that does not require layoff shall not be considered contracting out.

**DEFINITION OF SUPERVISORY EMPLOYEE TO THE PRE-SB 750 DEFINITION.** The measure returns this definition to the one in statute prior to the passage of SB 750 in 1995.

#### **IMPLICATIONS FOR CITIES:**

**PUBLIC SAFETY COLLECTIVE BARGAINING.** More employees will be public safety employees and will have unresolved negotiations issues settled through interest arbitration. Interest arbitration hearings may change when the interest arbitrator is not required to select one of the parties' total final offer packages. Criteria for the interest arbitrator to use in writing the agreement for the parties will be different.

Communications with employees during the period of negotiations will be limited as it was before September 9, 1995. More items may be mandatory subjects of bargaining.

Other potential effects:

- ❖ ERB's mediation service and unfair labor practice processing fees may be eliminated.
- ❖ Enforcement of grievance arbitration awards concerning discipline will be returned to pre-SB 750 status.
- ❖ The ability of one party to keep the negotiations process from advancing to the next stage (to mediation during new/successor agreement negotiations and to interest arbitration during mid-term negotiations) before certain time periods have expired is removed.
- ❖ Disputes over contracting out for the use of volunteers and reserve police personnel could increase.

*Prepared by Maria Keltner, Executive Director, LGPI*

**Ballot Measure #44: Increases, Adds Cigarette and Tobacco Taxes: Changes Tax Revenue Distribution**

When state voters first approved a statewide cigarette tax in 1966, the measure clearly shared the revenues with local governments. Thirty-two (32) cents of the current 38 cent tax is distributed to the state general fund. The remaining 6 cents is shared equally with cities (2 cents), counties (2 cents), and through the Oregon Department of Transportation (ODOT) for financing and improving transportation services for the elderly and disabled (2 cents).

Measure 44 would increase the tax on cigarette and tobacco products from 38 cents to 68 cents per pack, and dedicate the increased 30 cents to the Oregon Health Plan and to smoking prevention education. The current distributions would not be changed. However, since cigarette sales are very sensitive to price increases, cities should expect a reduction in their revenue from this source. If, as expected, higher cigarette prices reduce total sales, total revenues – and cities' share – will decline. A reasonable estimate is a loss to cities of 3 - 4 percent of their expected cigarette and tobacco products tax distribution.

(Note: The "Estimate of Financial Impact" that will appear in the voters' pamphlet only discusses the potential revenue losses for cities and counties. It neglects to discuss the projected revenue loss for the 2 cent tax revenues that are distributed to ODOT for the elderly and disabled services.)

*Prepared by the League of Oregon Cities.*

**Ballot Measure #45: Amends Constitution: Raises Public Employees' Normal Retirement Age; Reduces Benefits**

**CONSTITUTIONAL LIMITATIONS.** Changes the method for setting retirement ages, retirement medical benefits and maximum pensions of public employees to a constitutional limitation which can be changed only by another constitutional amendment. Currently, the legislature sets these items for the PERS plan and the county or city governing body sets these items for non-PERS plans.

Requires any system or plan which provides pension or retirement benefits for employees of the State of Oregon or of any political subdivision thereof to comply with the constitutional limitations. **Limitations do not apply to benefits vested or accrued before the effective date of the Constitutional Amendment.**

**AGE TO RETIRE WITH FULL BENEFITS.** Sets age at which public employees (other than police and firefighters) may retire with full benefits at the same age as one may retire with full social security benefits. These public employees who retire prior to this age will receive reduced benefits. The social security age is currently 65 and is scheduled to rise to age 67 over a 24-year period beginning in 1999. Currently these public employees in PERS may retire with full benefits at any age with 30 years of service or may retire with reduced benefits at age 58 with less than 30 years of service.

**RETIREE MEDICAL AND HOSPITALIZATION BENEFITS / INSURANCE.** Prohibits medical and hospitalization benefits or insurance from being provided to retirees – except for those individual's who retired due to disability. Currently public employees in PERS may purchase group health/hospitalization insurance from PERS. The PERS options include coverage pre-Medicare and coverage to supplement Medicare. Current Oregon law requires local governments to allow retired public employees to purchase coverage on the employer's group plan until the retiree qualifies for Medicare.

**GUARANTEED LEVEL OF BENEFIT AND MINIMUM INTEREST RATE.** Limits guaranteed level of pension or retirement benefits to 75% of final salary. Currently public employees in PERS Tier I are guaranteed a minimum benefit computed using the formula method (.0167 X final average salary X years of service). The measure prohibits a guaranteed minimum interest rate for retirement accounts.

**IMPLICATIONS FOR CITIES:**

Establishes retirement benefit limitations for all public retirement plans.

Savings, in direct PERS expenditures, for local governments (excluding school districts) is estimated to be \$400,000 in 1998, \$1 million in 1999, \$2 million in 2000, and \$2.7 million in 2001.

*Prepared by Maria Keltner, Executive Director, LGPI*

**Ballot Measure #46: Amends Constitution: No Voter-Approved Taxes Without Registered Voter's Majority**

Under current law, the majority of registered voters who actually cast ballots determine the approval or rejection of an issue. This measure would change this requirement for certain tax and revenue measures. For specific ballot questions "yes" vote from a majority of all registered voters would be required. Though this measure does not affect which financial ballot questions must have voter approval, it does change the standards for approval.

The measure would require the following, which currently require voter approval, to be passed by a majority of registered voters: 1) state or local initiative or referendum to raise revenue; 2) local tax bases and property taxes outside the base; and 3) general obligation (G.O.) bonds which are outside the tax rate limit. Also, if the state submits a tax, or tax increase, to the voters (usually decided by the legislature), a majority of the registered voters would also be necessary for passage.

The requirements of this measure apply to state or local initiatives or referenda which "raise revenue." Although the term "revenue raising" is not defined in the measure, it is likely to apply to some fees or charges as well as to all taxes. The legislature is expected to have to resolve this issue. Some bond investors and attorneys are concerned that language in this measure could be interpreted to place restrictions on taxes levied to pay G.O. bonds which were issued after November 30, 1990. This is another issue for resolution by the legislature or the courts.

Some limited research conducted by a major securities corporation concerning the history of voter participation on bond issues since 1990 finds that participation by the majority of registered voters was met on only one of 166 bond measures that were approved.

*Prepared by the League of Oregon Cities.*

**Ballot Measure #47: Reduces and Limits Property Taxes; Limits Local Revenues, Replacement Fees**

**Ballot Measure 47: The Property Tax Reduction Act**  
**The "Cut and Cap" on Local Government Finance and Services**

Sponsored by John Schwartz and actively sought by Bill Sizemore and the Oregon Taxpayers United, an initiative which would markedly reduce property tax revenues for local governments and schools will appear on the November 5, 1996 election ballot. It would add another web of restrictions that limit local authority for property taxation and other matters.

**Ballot Measure 47 in Context**

The measure would not repeal the tax authority provisions in the existing Constitution. It adds another layer of restrictions to those existing ones which govern the adoption of tax bases and levies outside of the tax base, as well as "Measure 5's" tax rate limits for schools and nonschools and the tax rate limit exceptions for voter approved debt.

The additional layer complicates the administration of the property tax system. Each levy and imposition of a property tax would be tested against a longer series of criteria before the collectible tax amount on a parcel of property could be determined. Measure 47 contains an exception to the uniformity clause of the Oregon Constitution, as did Measure 5 in 1990.

Unlike statutory or rule making actions, constitutional language is broad. It anticipates that implementation statutes will have to be passed. However, Ballot Measure 47 suffers from vagaries in the text and at least one significant difference in interpretation has emerged. Ultimately, statutes and judicial action will be necessary to clarify this lengthy and complex initiative. With this reservation, an overview of the major provisions follows.

**Property Tax rollback**

The measure rolls back the maximum amount of the 1997-98 property tax on "**each property**" to whichever is **lower** – the property taxes imposed either three years earlier (the tax year ending June 30, 1995) or 90% of the property tax level

imposed two years earlier (the tax year ending June 30, 1996). The rollback affects property taxes for operations. It does not appear to reduce property taxes to repay property tax supported bonds, regardless of whether the bonds are exempt from the tax rate limitation.

Since the measure does not make a distinction between school and nonschool property taxes, it is assumed that the comparison for the potential rollback year includes the total consolidated taxes. Presumably, the tax on most properties would be rolled back to 90% of the year ending June 30, 1996 because "Measure 5" lowered the school tax rate by \$2.50 per thousand below the rate for the year ending June 30, 1995. However, it is likely that some of the properties within a taxing district would be rolled back to amounts in different years since there are variations in the values and taxes on individual parcels.

Many taxing districts have voted to increase property tax bases or to add levies outside the base in the last two years. The measure does not specifically address how those levies should be handled. Therefore, we assume that the levies not in existence at the time of the rollback year are excluded from the calculation of the rollback amount. However, the legislature will need to determine how these newer levies will be reflected in the allocation of the revenue for the tax year ending June 30, 1998.

### 3% Annual Property Tax Cap

Beginning in tax year 1998-99, the property tax for operating purposes imposed on "*each property*" would be restricted to a maximum annual increase of 3% more than the prior year tax.

There are a limited number of exceptions to the 3% annual property tax cap. It does not apply to property taxes needed to repay *previously approved bonded indebtedness or refunding of bonds*. It also does not apply to a *new or additional property tax levy* which is approved by the voters in accordance with specific election requirements found in the amendment. However, the proponents for the measure argue that this exception applies only to bond, not operating levies. The explanatory statement in the voter's pamphlet does not make this distinction. This may be one of several issues where legislative or judicial interpretation is needed before there is certainty regarding the scope of the exception. Another exception applies to the *property tax increase for an annexed area*. It requires that the voters approve the taxing district annexation which resulted in changing the tax code area of the property.

Exceptions may also occur based on assessed valuation changes where: *1) the property is improved or newly constructed* after the 1994-95 tax year; *2) the property is newly subdivided property*; *3) the property has been disqualified for special assessment or exemption or is added to the tax rolls as omitted property*; and *4) the property is rezoned*. The operative date for an increase due to rezoning, however, is indefinite. It could only occur in the first year in which the property is used consistent with the new zoning, is sold, or when the zone change is requested by the property owners. All of these valuation-based property tax increases are one time adjustments. The method of valuation is addressed in the measure for each of these.

### New Elections Requirements

The measure would increase the requirements for voters to pass future property tax measures in excess of the 3% cap. Rather than a simple majority of those voting, at least 50% of the registered voters would have to turn out *and* a majority of those would have to vote in favor of a tax measure *at any special election*. Although a simple majority of voters could still approve a new or additional property tax levy in excess of the 3% cap at the general election in an even numbered year, these elections could become very highly competitive. Only a few recent examples met the standard of 50% voter turnout when a tax or property tax supported bond measure was approved.

The same election standards apply when changing the tax code area for *annexed property*. However, the measure does not address which voters must participate in the election regarding the annexed area's tax code. Presumably, the legislature will address this point.

Other changes would affect bond elections, restrict the use of bond proceeds, and specify new contents of the ballot title of a bond measure. There would be new restrictions on eligible capital construction, improvements and equipment that would affect bonds which may be authorized. The restrictions prohibit bonds for "maintenance and repairs which could be reasonably anticipated or supplies and equipment which are not intrinsically part of the structure." This restriction reflects objection by the Oregon Taxpayers United regarding several recent school bond elections. It also appears that the only vehicles

which may be financed with bonds would be public safety and law enforcement vehicles with a projected useful life of five years or the life of the bonds.

### **Voter Approval of Replacement Fees**

This provision requires **voter approval to raise fees for services and products, if the increased fee revenue is a substitute for property tax support.** If a government product or service was partially or wholly paid for with property taxes on or after June 30, 1995, and the property tax support for that expenditure has been, or is planned to be, replaced by an increase in the fee or charge, the measure requires that the voters approve the increase in the fee, charge or assessment. Otherwise, the amount of the fee increase must be offset against the property tax paid by the owner or user of the property. An offset against the property tax is required if a local government continues an unapproved shift made between June 30, 1995 and the effective date of the amendment.

The revenue replacement prohibition does not apply if the property tax support is replaced by the state income tax or if the new or increased fee directly results in an equal or greater offsetting reduction in property taxes levied in the same taxing district.

### **Allocation of Revenue Reductions**

The Measure also contains an extraordinary potential change in local expenditure authority as well as the more obvious reductions in local revenue control. It states: ***"If it is necessary to allocate revenue reductions among political subdivisions of the state or even the departments within political subdivisions, a redistribution of revenues could be undertaken so as to prioritize public safety and public education and to minimize the loss of local control of cities and counties."*** However, the measure provides no guidance or certainty on how this would be done. Presumably, the State Legislature would decide how (whether) to allocate revenue losses and to direct local expenditures, as part of its authority to implement the measure.

The measure doesn't address the meaning of the terms "public safety" or "public education," nor does it suggest the extent to which these should be given a priority. Ironically, it also appears to authorize the State Legislature to "minimize any loss of local control of cities and counties to the state government." If, as most observers suggest, the legislature will have to determine the cuts among local governments, set local priorities for public safety, and assign property tax revenues among local governments and departments, then this measure would put a number of significant local decisions in the hands of the state.

### **Summary of Revenue Impacts**

Preliminary information on the statewide amount of reduced property taxes released by the Legislative Revenue Office on August 13 estimates a reduction of \$467 million in 1997-98 and \$553 million in 1998-99. This will equate to about a 20.6% loss in the covered 1997-98 property taxes from what the revenues otherwise would have been. In 1998-99, the per cent loss is estimated at 22.7%.

The measure operates on a property-by-property basis, where the result will only be known if the measure passes and taxes are actually levied against individual properties. Since the proposal affects each property, not the levy of the taxing district, it is a particular challenge to calculate the revenue loss for a specific taxing district. Alternatively, the Legislative Revenue Officer suggests that a reasonable estimate for individual districts is a 21% reduction in imposed property taxes for operations in 1997-98. He also notes that the reduction might be a few percentage points higher if property values are growing more rapidly in the district than the state average or if actual approved levies have been higher than the statewide average. The reduction could be a bit lower if values are growing more slowly or if there are few, or no, new levies.

A more thorough estimate may not be worthwhile at this time since the measure does not describe how cuts should be apportioned to each taxing district. Likewise, the legislature's decisions on the distribution from the State School Fund will also greatly affect the fiscal position of individual school districts which lose property tax revenue.

The impacts from this measure are certainly much higher than the first year's impact on nonschool local governments from 1990's Ballot Measure 5. And, for many cities with a high reliance on the property tax for general government services, this measure could mean very significant budget implications.

*Prepared by the League of Oregon Cities.*

**Dear City Official:**

The League provides the following information to guide and advise elected and appointed city officials concerning their involvement in the ballot measure process. This information was prepared by the law firm of Harrang Long Gary Rudnick at the League's request.

City officials should also note that the Office of the Secretary of State is available to review city-provided information on ballot measures to determine if it complies with legal restrictions. When considering this service, however, please consider that it may take several weeks for their review. Also, be aware that the advice provided by that office is not a legal opinion.

**The League urges city officials to consult with their city attorney, League staff, or the Government Standards and Practices Commission if you have any questions.**

## **WHAT CAN AN ELECTED OR APPOINTED OFFICIAL DO TO SUPPORT OR OPPOSE A BALLOT MEASURE**

The following guidelines state some general legal principles found in case and statutory law. City officials are encouraged to consult with their city attorney when specific questions arise. Whenever the guidelines refer to "city officials" it means both elected and appointed officials. Whenever the guidelines refer to "public resources" it means city funds, non-elected city employees during their working hours, city vehicles or travel allowances, or city facilities and equipment.

- Cities are subject to the general rules prohibiting the use of public resources to advocate a position on a ballot measure. For example: city personnel cannot be used to do research nor write speeches designed to advocate a particular position on a ballot measure; it would be improper for a city to pay travel expenses for officials to promote a campaign position.
2. City officials may use public resources to develop and distribute objective material on the effects of a ballot measure. Such material must be "informational", providing the public with a "fair presentation" of the relevant facts and may not advocate a particular position. Careful consideration needs to be given to such factors as style, tenor and timing. Providing the information at a time that would create controversy immediately prior to the election should be avoided. For example, city personnel can be asked to do research and prepare information that fairly assesses the effects of the measure on the community. City officials can use such information in meeting with individuals, organizations, the press, newspaper editors, legislators, civic and special interest groups and others, to explain the measure's impact. As explained in section 5, while on the job, non-elected officials and employees must be objective in their explanations, but elected officials may present their own views along with the city's objective information. The distinction between legitimate research/information efforts and impermissible campaign advocacy may be difficult to apply in specific instances. Therefore, it would be advisable to have your attorney review material before it is distributed.
3. Non-elected city employees may choose to campaign in their individual capacity outside of their hours of employment and without the expenditure of public funds. A public employee may be involved in campaign activities during the employee's personal time in the evenings and weekends and during the employee's regular lunch hour and breaks. Because such activity is a personal choice, an employee should not wear an official uniform when so engaged. An employer may tell its employees about possible implications of a measure, but it may not threaten employees with financial loss if they do not campaign or vote one way or another. Public employees must not be required nor coerced to aid a campaign. Staff can say, "Here are the facts; please vote." They cannot say, "Vote 'yes'," at least not while on city time.

4. If an appointed city official works hours that are not easily measured, the official must be careful not to advocate a vote while in the "official capacity." To avoid any appearance of impropriety, it would be a good idea for the appointed official, before speaking at a public appearance, to announce that he or she is speaking in an "unofficial capacity."
5. The courts have recognized the right, if not the duty, of elected officials to speak out on major issues, particularly those issues that affect the governmental body on which they serve. Therefore, the rules regarding political activity are different for elected officials than they are for appointed officials or employees. Unlike appointed officials, elected officials may campaign for or against a ballot measure even while on the job during working hours. However, even elected officials may not direct that public resources be used to support or oppose a measure since doing so would violate ORS 260.432(1) and (2).
6. City councils, being made up of elected officials, can take a position on a ballot measure provided public resources are not used to advocate that position or have it distributed.
7. Provided a city conducts itself fairly and impartially, it may provide at public expense a forum in which the opponents and proponents may present their views, for example, a voter's pamphlet, or a newsletter or a public gathering place for a public debate, in which all opponents and proponents have an opportunity to present their positions.
8. A city's ability to restrain the speech of its employees is limited. A city may limit its employees' right to express themselves on a matter of public concern when there is a clear governmental interest in efficiency and discipline in the work place that outweighs society's interest in protecting the right of free speech. "Speech" may take many forms, including talking, wearing campaign buttons or clothing, bumper stickers, posters or signs.

HARRANG LONG GARY RUDNICK P.C.  
(November 3, 1995)

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League of Oregon Cities  
P.O. Box 928  
Salem, Oregon 97308

information update

Bulk Rate U.S. POSTAGE <b>PAID</b> Salem, Oregon Permit No. 50
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DAN BARTLETT  
CITY MANAGER  
10722 SE MAIN ST  
MILWAUKIE OR

97222

**DRAFT**

PLANNING COMMISSION MINUTES  
TUESDAY, SEPTEMBER 10, 1996

**COMMISSIONERS PRESENT**

Carolyn Tomei, Chair  
Brian Cosgrove  
Tim Havel  
Terry LaRocque  
Calvin Walter

**STAFF PRESENT**

Maggie Collins,  
Com. Dev. Dir  
Stacy Lawson,  
Asst. Planner  
Shirley Richardson,  
Hearings Recorder

**COMMISSIONERS ABSENT**

Pat Lent  
Michael Smith

1.0 CALL TO ORDER

**Chair Tomei** called the meeting to order at 6:33 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA

3.1 Planning Commission Minutes -- August 27, 1996

**Terry LaRocque** moved to approve the minutes of the August 27, 1996, as corrected. **Tim Havel** seconded. MOTION CARRIED 5-0.

4.0 PUBLIC COMMENT

Speaking: Gary Michael, 11907 SE 19th, Milwaukie

**Mr. Michael** voiced concern about obvious sign code violations that he has observed. He feels the Thomason Toyota dealership signs are a clear and blatant series of violations of the Sign Ordinance. He stated that he is bothered by the ability of the City to enforce this Ordinance. He understood that Jim Crumley, many months ago, had written a letter to Thomason and asked if that constituted notice. If it was, he believes Thomason's 30 days to comply is long since past. He would like to see the signs declared a nuisance and the proper action taken.

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The obvious violations are the wall sign facing south that includes a portrait of Thomason and the words "Toyota" over the whole wall. If this is a commercial zone, the sign is limited to 20% of the face of the wall. If this is a manufacturing zone, the sign is limited to 20% of the face of the wall. In either case, this is a whole wall covered by an obvious advertising sign.

The other clear violation is the banners. The banners have been out for many months. Under the Sign Ordinance, Banners are allowed only for a 30-day time period. These banners are on both sides of the street.

There are some possible violations coming up on the west side of the street. There are seven sandwich-boards along the edge of the sidewalk, which they will probably claim as a temporary sign, just up for a sale. He would like the City to monitor these sandwich signs to confirm that they are up longer than the official sale.

**Mr. Michael** stated that this is a Sign Ordinance that the Planning Commission spent a lot of time in developing. It was revised a few years ago. Enforcement is one of the key provisions. This automobile dealership is a non-conforming use in that zone. The dealership should go out of the way to be a good neighbor. Certainly no special treatment should be given them.

He understands that Staff has assigned someone to the issue, but it seems to him that the letter written earlier should have been sufficient to put Thomason Toyota on notice to come into compliance.

**Bryan Cosgrove** asked Staff if the City has an Enforcement Officer? **Maggie Collins** stated that there is presently no Enforcement Officer. She explained that the Planning Commission has asked Staff to review this issue and bring back a report. Staff has completed their review, and a report is being drafted. The issue of wall signs versus murals was not addressed. As to the banners, it seems that there is a need to put Thomason on notice. The sandwich-signs are clearly illegal on the west side of McLoughlin. The "For Sale" sign just put up is also clearly illegal. The gist of the report is that there are some illegalities. This report should be out in a few days.

In regards to the letter from Jim Crumley, he had started looking into the issue and had written a letter. Mr. Crumley suggested that there might be some sign problems, but the letter also addressed the parking trespasses on ODOT property and the Springwater Corridor. So, legally, Thomason has not yet been put on notice. The final report will likely go to Thomason's attorneys for action.

**Mr. Michaels** stated that he does not feel that the sign is a mural or work of art. The Sign Ordinance states that anything with words or picture that can be painted on a wall, constitutes a sign.

**Calvin Walter** explained that this issue has been discussed at the last couple of Planning Commission meetings. Something is being done. The mural is not a mural as far as he is concerned. As part of the sign, it says, "Customer Service." The City is working on enforcing the fact that the sign is not a mural. This is not something that is slipping by.

5.0 PUBLIC HEARINGS

- 5.1 Appellant: Clackamas Federal Credit Union  
Applicant: Steve Morrison  
Property Owner: Cheyenne Properties  
Location: 4330 SE International Way  
Proposal: Lot Line Adjustment (LLA-96-03) and Transportation  
Planning Review (TPR-96-01)

**Chair Tomei** opened the public hearing on a the Clackamas Federal Credit Union appeal. The purpose of this hearing is to address Appeal AP-96-01, which is related to property located at 4330 International Way.

**Stacy Lawson** reported that Appeal AP-96-10 has been withdrawn. The Appellant has sent a letter of withdrawal to the City. Both the property owner and the Appellant has been notified, as well as the only other person on the mailing list. Staff requested that the Planning Commission take action to close the file.

**Bryan Cosgrove** moved to authorize Staff to close the file, AP-96-01, and identify it as being null and void because it has been withdrawn. **Tim Havel** seconded. MOTION CARRIED 5-0.

- 5.2 Applicant: Michael W. Haney  
Property Owner: Michael W. Haney  
Location: 9918 SE 43rd  
Proposal: Minor Land Partition (MLP-96-04) and Two Variances  
(VR-96-03/VR-96-04)

**Chair Tomei** opened the public hearing on Applications MLP-96-04, VR-96-03, and VR-96-04, to allow a two-lot partition on property located at 9918 SE 43rd. The Applicant has the burden of proof in showing that the Application is consistent with the City of Milwaukie's Zoning Ordinance and Comprehensive

Plan. The criteria to be addressed is found in Sections 302, 400, 500, and 700 of the Zoning Ordinance, and Chapter 17 of the Subdivision Ordinance. She then explained the hearing format.

**Chair Tomei** asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. She asked if there were any Commissioners who visited the site; three 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. The Applicant is proposing three things, one Minor Land Partition and two Variances. The Minor Variance, VR-96-03, is to allow Lot 2 to be smaller than the required 7,000 square feet and the second, a Major Variance VR-96-04 to allow the street side setback on Lot 1 to be reduced to 7 feet, 2.4 inches rather than the required 20 feet. These variances are being processed concurrently with the Minor Land Partition, MLP-96-04. The property is located within the R-7 zoning district, which requires a minimum lot size of 7,000 square feet.

The property is located on 43rd , just off of Logus. It is a corner lot with the front of the property on 43rd Avenue and the side-yard on Melody Lane. The side-yard setback after surveying is 7 feet and 2.4 inches. Changes are shown on the handout.

The proposed garage is included in the request for a reduced setback on the street side-yard. There is an area at the rear of the house that is not identified on the Engineer's map as being removed, but in the original proposal, was to be removed to maintain the 20-foot rear-yard setback. A condition of approval has been included to require this removal to comply with the rear yard setback. There are no other non-conforming setbacks proposed.

Major Variance, (VR-96-04) The Applicant is requesting this major variance to allow the 7 foot, 2.4 inch , setback to remain. Originally, this property was made up of two large lots in the back and two standard lots in front. The northeast lot was purchased, and it was approved for a Minor Land Partition of three flag lots in a row. The Applicant then went ahead and purchased the southeast lot behind the subject parcel and wanted to divide it. At this point, the City required the Applicant to apply for a six-lot subdivision for all the properties and create Melody Lane.

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This did not change the configuration of the subject property, but it did change the setback requirements from a sideyard (5 feet) to a street sideyard (20 feet).

The existing home is now non-conforming. There is no existing garage. The Applicant requests that the variance for a 7 foot 2.4 inch setback be applied to the proposed garage.

The variance is consistent with the Comprehensive Plan in that the Plan encourages the maintenance of existing housing stock. In this case, the Applicant wishes to maintain the existing house on the property. This proposed garage will utilize the existing access and driveway on the site. Staff is recommending approval of the Major Variance (VR-96-02).

Minor Variance, (VR-96-03) This is a minor variance for lot area. The Applicant has tried to worked with Staff to find a solution that would create a minimum reduction in lot size. The best they have been able to come up with was a lot size that created a 20-foot setback from the existing home, but reduced the size of Lot 2 to 6,380 sq.ft. If the property is split in half, it is almost 14,000 sq.ft.; 6,800 sq.ft. per lot. Because of the location of the house, this cannot be done. If there were 6,800 sq.ft., it would only be a 3% variance. Here, retention of an existing house has created a need for a reduction in the size of Lot 2, in order to accommodate infill development. The Comprehensive Plan encourages a reduction in lot size to accommodate infill development in existing neighborhoods.

Staff recommends approval of this Minor Variance for lot size. Though the lot size is reduced, the home on the property will be required to meet all of the regulations for an R-7 zone.

Minor Land Partition, (MLP-96-04) The Minor Land Partition meets all of the requirements of the R-7 zone for lot depth and width and has appropriate access. Staff recommends approval of the Minor Land Partition.

There has been no comment from the Lewelling Neighborhood Association on this proposal. There have been no public comments on this Application. Department of Public Works is requiring additional dedication of 10 feet on 43rd Avenue for sidewalks, curb and gutters.

There is one large tree on the property that will need to be removed in order to allow for the development. There is no need for future development to be addressed in this particular land partition.

**Stacy Lawson** then reviewed with the Commissioners the changes Staff recommended to the Findings for the Major Variance, (VR-96-04), which were

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indicated on a separate handout. Changes were made to Finding #1, reducing the setback to **7 feet, 2.4 inches on Lot 1**; Finding #5, **and to allow the location of a garage that utilizes the existing driveway and does not block the entrance into the home**; and Finding #6, "...and no reduction in the existing setback will occur..." Staff also suggests an amendment to Condition #9, **"A carport or garage measuring a minimum of 9 feet by 20 feet shall be constructed on Lot 1, prior to recordation of the Final Plat Map. The carport can be constructed with a minimum 7 foot 2.4 inch setback to Melody Lane, but must meet all other applicable standards."**

#### QUESTIONS FROM THE COMMISSIONERS

**Chair Tomei** noted that the Applicant was required to give property on the 43rd Avenue side for sidewalks and curbs. She asked if the Melody Lane frontage would have the same requirement? **Stacy Lawson** stated that there is not a similarly requirement for Melody Lane. Improvements on Melody Lane are all in, there are no sidewalks planned for the north side. It is the City's policy that sidewalks on one side are appropriate on some local streets.

**Tim Havel** stated that in a discussion about sidewalks at the April 11, 1995, Planning Commission meeting, the Commission recommended that only the north side have sidewalks, not the south side.

**Calvin Walter** asked what is the maximum reduction in lot sizes. **Stacy Lawson** stated that it was determined that two standards would be used; to go down to a minimum of 6,500 sq.ft. in an R-7 zone, without extenuating circumstances, and looking at density overall within that specific area of the parcel. The proposed 6,380 sq.ft. falls below the minimum requirement. In addition there are extenuating circumstances related to the location of Melody Lane. Not only has the Applicant not created this situation, but the Applicant wouldn't have been allowed to develop the site with a flag lot if this street had not been improved.

**Bryan Cosgrove** pointed out that Finding #3 should read, "...(single family residential, 7,000 sq.ft. minimum).

**Terry LaRocque** asked for clarification of the Engineer's drawings in relation to the sketch plan that the Applicant prepared. He asked if there was any discussion of maintaining the portion of the northeast corner of the residence under a variance procedure rather than removing it? **Stacy Lawson** stated that Staff had talked to the Applicant about this issue, but they were trying to reduce the number of variances needed for this application.

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**Terry LaRocque** asked for clarification on the carport drawing. There were no dimensions provided. Were dimensions and access discussed? **Stacy Lawson** stated that Staff had worked with the Applicant on this. A covered parking space must be 20 feet by 9 feet. With the additional dedication, and the 20 foot front-yard setback requirement, the Applicant would not have room to locate a 20 foot garage and still comply with the front-yard setback. The original plan showed that the proposed garage would encroach into the existing home. The garage location was accurately reflected in the Engineer's plan, but it did not show the whole garage proposed. The dimensions of the two plans coincide with a proposal to relocate a portion of the house into the garage..

There was no additional correspondence received since the Staff Report was mailed.

#### APPLICANT PRESENTATION

Applicant: Mike Haney, 13415 SE Belmont Lane, Portland 97236

**Mr. Haney** stated that he recently purchased the property and they are in the process of remodeling the existing house. The house originally had a one-car garage. This one-car garage has been converted to a family room. He proposes to come back into the house 5 feet, so it would create the 20 feet x 20 feet garage and meet the setbacks required. In the back of the house is a nook, a bump-out that was added on some time ago and will be demolished. The north side porch will also be removed.

**Mr. Haney** stated that it was his intention to provide sidewalks, but he may not be able to do that now. He asked Staff if this was an option. **Maggie Collins** stated that the Public Works Department can be asked to review the Application for requirements for the street with the potential of adding a sidewalk on the south side. The problem is that if the Applicant is requested to dedicate more footage, then he will be in need of additional setback variances.

**Mr. Haney** stated that he has family in the area, so he wants to live on this property. They intend to do a lot of work and make it an enhancement to the neighborhood.

#### QUESTIONS FROM THE COMMISSIONERS

**Calvin Walter** asked for the square footage of the house. **Mr. Haney** stated that the house is between 1400 to 1500 square feet with a two-car garage.

QUESTIONS IN FAVOR OF THE APPLICATION -- None.

QUESTIONS OR COMMENTS ON THE APPLICATION -- None.

QUESTIONS IN OPPOSITION OF THE APPLICATION -- None.

DELIBERATION AMONG COMMISSIONERS

**Chair Tomei** closed the public testimony portion of the hearing and opened it up for deliberation.

**Calvin Walter** stated that the Applicant has said that he doesn't need the sidewalk, Public Works has stated that there is no need for the sidewalk, the sidewalk should be omitted. It is a moot point because sidewalk is in on the other side of the street.

**Tim Havel** stated that he feels the driveway is too close to the proposed sidewalk. The driveway already has a variance for a setback. He agrees with dropping the sidewalk. The driveway is 7 feet off the curb and already is dangerous for traffic.

**Terry LaRocque** stated that he too concurs with dropping the sidewalk issue. Given the narrowness of the street, there is no need for two sidewalks.

**Chair Tomei** suggested that the Planning Commission talk to Public Works to see what can be done in the future about requiring sidewalks in developments that should not be an issue.

**Terry LaRocque** moved to approve Minor Variance, VR-96-03 based on the conclusions and findings in the Staff Report and subject to the conditions as amended. **Tim Havel** seconded. MOTION CARRIED 5-0.

**Bryan Cosgrove** moved to approve Major Variance, VR-96-04 based on the conclusions and findings in the Staff Report and subject to the conditions as amended. **Tim Havel** seconded. MOTION CARRIED 5-0.

**Terry LaRocque** moved to approve Minor Land Partition MLP-96-04 based on the conclusions and findings in the Staff Report and subject to the conditions as amended. **Bryan Cosgrove** seconded. MOTION CARRIED 5-0.

6.0 WORKSESSIONS -- None.

7.0 DISCUSSION ITEMS

**Terry LaRocque** suggested that Staff use a zoning checklist. He had a sample one for others to see. This form is for the Applicant to prepare and it includes listing all

criteria and Applicant response on one side. This is a quick reference to what the proposal is about. He suggested that Staff consider using it for future applications.

8.0 OLD BUSINESS

8.1 Light Rail Study Update -- No Report

8.2 2040 Study Update -- No Report

8.3 Appointment of Commission Member Representative on Historic Resources Commission

**Maggie Collins** announced that the Planning Commission is required to appoint a member to be a representative at the Historic Resources Commission. This position requires attending one meeting a month, plus reviewing staff material for the Commission meetings.

It was decided that a representative will be chosen when all of the Commissioners are present.

9.0 OTHER BUSINESS/ UPDATES

9.1 **Historical Resources Commission Report** -- No Report.

9.2 **Town Center Area Task Force Report** -- No report.

9.3 **Tree Committee Report** No Report.

9.4 **Community Development Report**

**Maggie Collins** encouraged the Commissioners to read an article out of September's *Atlantic Monthly*, by James Howard Kunstler titled, "Home from Nowhere." This was a good synopsis of the discussion/mentality that 2040 has encapsulated here and that is becoming of interest in other parts of the country. He is asking the question, is our suburban lifestyle giving us any true pleasure and is this the American dream?

Also enclosed in the packet was a copy of the Urban Growth Management Functional Plan. This draft will be used as the official Metro draft until the Council comes up with a Hearings draft.

10.0 Next Meeting -- September 24, 1996

6:00 - Regional Center Steering Committee - Riverfront

8:00 -- Planning Commission meeting

10.1 CD End of Summer Project Report

10.2 Community Development Report

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Tim Havel moved to adjourn the meeting of September 10, 1996. **Terry LaRocque** seconded. MOTION PASSED UNANIMOUSLY. The meeting was adjourned at approximately 7:40 p.m.

\_\_\_\_\_  
Carolyn Tomei, Chair

\_\_\_\_\_  
Shirley Richardson, Hearings Reporter



**TO:** CITY COUNCIL and BUDGET COMMITTEE,  
CITY OF MILWAUKIE, OREGON  
**THRU:** Dan R. Bartlett, City Manager *DR*  
**FROM:** Angus M. Anderson, Finance Director *AA*  
**DATE:** September 10, 1996  
**RE:** Monthly Financial Reports

This report is the financial report for August 31, 1996, covering the first two months of the new fiscal year which began on period July 1, 1996. The results presented are considered so minimal that no projections are made.

The included reports are:

- A) PROGRAM SUMMARY:** This report is presented in exactly the same format as was used in the Budget Document. This provides a view of the adopted budget, year to date results (through August), budget balance and full year projections for each program that is budgeted.
- B) APPROPRIATION REPORT:** This report presents all FUNDS and APPROPRIATION CATEGORIES as adopted by City Council. Presented are figures for adopted budget, year to date results (through August), budget balance and full year projections for each fund and appropriation category.
- C) REVENUE REPORT:** This report presents all FUNDS and all major resource classification in each fund. It also presents the adopted budget, year to date results (through August), budget balance and full year projections for each classification and fund.
- D) FUND BALANCE REPORT:** This report is a true "snapshot" of the fund balances as of one day in time, in this case August 31, 1996. The results presented are Total Revenues, Total Expenditures and Fund Balance (always resulting in a zero for budget presentation). These classifications are shown as adopted budget, year to date results, budget balance and full year projections. As this is a snapshot that changes monthly, there isn't much emphasis placed on this report until nearing the end of the fiscal year. Until that time the report is considered to contain very preliminary data.

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

**PROGRAM STATUS REPORT  
WITH FYE PROJECTIONS**

<b>PROGRAM</b>	FY 1995-96	YTD	PROJECTION		OVER/ UNDER
	<u>budget</u>	<u>5/31/96</u>	<u>balance</u>	<u>6/30/96</u>	
<b>LEGISLATIVE</b>					
<b>Total Expenditures</b>	<b>\$38,310</b>	<b>\$3,178</b>	<b>\$35,132</b>	<b>\$0</b>	<b>\$38,310</b>
<b>ADMINISTRATION/COMMUNITY SERVICES</b>					
City Manager	109,946	19,443	90,503	0	109,946
City Records	114,197	17,719	96,478	0	114,197
Data Processing	286,094	41,039	245,055	0	286,094
Neighborhood Services	114,407	16,179	98,228	0	114,407
City Attorney	109,100	20,274	88,826	0	109,100
Human Resources	213,202	26,557	186,645	0	213,202
Recycling Programs	165,209	17,194	148,015	0	165,209
Parks Land Acquisition	1,626,554	303,466	1,323,088	0	1,626,554
Ledding Library	1,337,104	165,739	1,171,365	0	1,337,104
Public Safety Bldg Const	152,255	1,071	151,184	0	152,255
<b>Total Expenditures</b>	<b>\$4,228,068</b>	<b>\$628,681</b>	<b>\$3,599,387</b>	<b>\$0</b>	<b>\$4,228,068</b>
<b>PUBLIC SAFETY</b>					
Police Administration	193,763	30,665	163,098	0	193,763
Police Field Services	2,371,109	456,279	1,914,830	0	2,371,109
Police Support Services	182,414	26,256	156,158	0	182,414
Emergency Dispatch	397,787	57,518	340,269	0	397,787
Fire Administration	793,721	16,824	776,897	0	793,721
Fire Operations	2,509,718	364,645	2,145,073	0	2,509,718
Fire Prevention	160,641	15,953	144,688	0	160,641
Emergency Radio Comm	0	0	0	0	0
<b>Total Expenditures</b>	<b>\$6,609,153</b>	<b>\$968,140</b>	<b>\$5,641,013</b>	<b>\$0</b>	<b>\$6,609,153</b>
<b>COMMUNITY DEVELOPMENT</b>					
<b>Total Expenditures</b>	<b>\$641,902</b>	<b>\$95,351</b>	<b>\$546,551</b>	<b>\$0</b>	<b>\$641,902</b>
<b>PUBLIC WORKS</b>					
Public Works Administration	308,061	51,934	256,127	0	308,061
Public Works Engineering	448,141	43,189	404,952	0	448,141
Building	352,185	43,892	308,293	0	352,185
Electrical Inspection	58,300	0	58,300	0	58,300
Plumbing Inspection	58,300	0	58,300	0	58,300
Code Enforcement Abatement	62,000	5	61,995	0	62,000
State Gas Tax/Street Repair	1,510,124	123,217	1,386,907	0	1,510,124
Bike Path	39,493	525	38,968	0	39,493
Water	3,563,358	155,540	3,407,818	0	3,563,358
Water SDC	275,216	545	274,671	0	275,216
Sewer	3,064,582	164,812	2,899,770	0	3,064,582
Sewer SDC	789,569	1,365	788,204	0	789,569
Storm Sewer	1,145,198	38,767	1,106,431	0	1,145,198
Storm Sewer SDC	79,411	240	79,171	0	79,411
Fleet Services	398,595	80,187	318,408	0	398,595
Facilities Maintenance	500,964	44,350	456,614	0	500,964
Public Parking Facilities	19,846	4,374	15,472	0	19,846
<b>Total Expenditures</b>	<b>\$12,673,343</b>	<b>\$752,942</b>	<b>\$11,920,401</b>	<b>\$0</b>	<b>\$12,673,343</b>
<b>FINANCE</b>					
Finance Administration	168,948	21,994	146,954	0	168,948
General Government	319,822	252,276	67,546	0	319,822
Municipal Court	118,222	21,847	96,375	0	118,222
Accounting	250,443	33,540	216,903	0	250,443
Intergovernmental/Interfund	4,341,804	392,799	3,949,005	0	4,341,804
PSB Debt Service	995,769	0	995,769	0	995,769
Photocopier	49,167	8,399	40,768	0	49,167
Telephone	91,956	7,564	84,392	0	91,956
Knutson Cemetary Trust	40,714	0	40,714	0	40,714
Forfeiture Trust	5,000	0	5,000	0	5,000
<b>Total Expenditures</b>	<b>\$6,381,845</b>	<b>\$738,419</b>	<b>\$5,643,426</b>	<b>\$0</b>	<b>\$6,381,845</b>
<b>TOTAL ALL PROGRAMS</b>					
<b>Total Expenditures</b>	<b>\$30,572,621</b>	<b>\$3,186,711</b>	<b>\$27,385,910</b>	<b>\$0</b>	<b>\$30,572,621</b>

**APPROPRIATION REPORT  
WITH FYE PROJECTIONS**

UND	APPROPRIATION CATEGORY	FY 1995-96 APPROPRIATION	YTD 5/31/96	balance	PROJECTION 6/30/96	OVER/ (UNDER)
<b>GENERAL FUND</b>						
	Administration/Community Service	279,616	33,373	246,243	0	279,616
	Police Services	2,961,320	558,474	2,402,846	0	2,961,320
	Community Development	641,902	95,351	546,551	0	641,902
	Public Works	468,785	43,892	424,893	0	468,785
	Finance	118,222	21,847	96,375	0	118,222
	Transfers	3,445,347	392,799	3,052,548	0	3,445,347
	Contingency	896,457		896,457	0	896,457
	<b>TOTAL GENERAL FUND</b>	<b>\$8,811,649</b>	<b>\$1,145,735</b>	<b>\$7,665,914</b>	<b>\$0</b>	<b>\$8,811,649</b>
<b>CODE ENFORCEMENT ABATEMENT FUND</b>						
	Public Works	57,000	5	56,995	0	57,000
	Contingency	5,000		5,000	0	5,000
	<b>CODE ENFORCMNT ABATMNT</b>	<b>\$62,000</b>	<b>\$5</b>	<b>\$61,995</b>	<b>\$0</b>	<b>\$62,000</b>
<b>STATE GAS TAX/ST REPAIR FND</b>						
	Public Works	1,506,666	123,217	1,383,449	0	1,506,666
	Contingency	3,458		3,458	0	3,458
	<b>TOTAL STATE GAS TAX FUND</b>	<b>\$1,510,124</b>	<b>\$123,217</b>	<b>\$1,386,907</b>	<b>\$0</b>	<b>\$1,510,124</b>
<b>BIKE PATH FUND</b>						
	Public Works	(24)	525	(549)	0	(24)
	Contingency	39,517		39,517	0	39,517
	<b>TOTAL BIKE PATH FUND</b>	<b>\$39,493</b>	<b>\$525</b>	<b>\$38,968</b>	<b>\$0</b>	<b>\$39,493</b>
<b>STORM SEWER SDC FUND</b>						
	Public Works	49,469	240	49,229	0	49,469
	Contingency	29,942		29,942	0	29,942
	<b>TOTAL STORM SEWER SDC FND</b>	<b>\$79,411</b>	<b>\$240</b>	<b>\$79,171</b>	<b>\$0</b>	<b>\$79,411</b>
<b>WATER SDC FUND</b>						
	Public Works	68,890	545	68,345	0	68,890
	Contingency	206,326		206,326	0	206,326
	<b>TOTAL WATER SDC FND</b>	<b>\$275,216</b>	<b>\$545</b>	<b>\$274,671</b>	<b>\$0</b>	<b>\$275,216</b>
<b>SEWER SDC FUND</b>						
	Public Works	164,180	1,365	162,815	0	164,180
	Contingency	625,389		625,389	0	625,389
	<b>TOTAL SEWER SDC FUND</b>	<b>\$789,569</b>	<b>\$1,365</b>	<b>\$788,204</b>	<b>\$0</b>	<b>\$789,569</b>
<b>PARKS &amp; REC DISTRICT FUND</b>						
	Administration/Community Service	\$1,626,554	\$303,466	\$1,323,088	\$0	\$1,626,554
<b>LIBRARY SERVICES FUND</b>						
	Administration/Community Service	1,204,405	165,739	1,038,666	0	1,204,405
	Contingency	132,699		132,699	0	132,699
	<b>TOTAL LIBRARY SRVCS FUND</b>	<b>\$1,337,104</b>	<b>\$165,739</b>	<b>\$1,171,365</b>	<b>\$0</b>	<b>\$1,337,104</b>
<b>PUBLIC SAFETY FUND</b>						
	Police Services	183,753	12,244	171,509	0	183,753
	Fire-Rescue Services	3,214,080	147,422	3,066,658	0	3,214,080
	Emergency Radio Communications	0	0	0	0	0
	Contingency	250,000		250,000	0	250,000
	<b>TOTAL PUBLIC SAFETY FUND</b>	<b>\$3,647,833</b>	<b>\$159,666</b>	<b>\$3,488,167</b>	<b>\$0</b>	<b>\$3,647,833</b>

APPROPRIATION REPORT  
WITH FYE PROJECTIONS

<b>WATER FUND</b>						
Public Works	2,223,667	155,540	2,068,127	0	2,223,667	
Debt Service	146,227	0	146,227		146,227	
Reserves	74,411	0	74,411		74,411	
Contingency	1,119,053		1,119,053	0	1,119,053	
<b>TOTAL WATER FUND</b>	<b>\$3,563,358</b>	<b>\$155,540</b>	<b>\$3,407,818</b>	<b>\$0</b>	<b>\$3,563,358</b>	
<b>SEWER FUND</b>						
Public Works	2,719,478	164,812	2,554,666	0	2,719,478	
Contingency	345,104		345,104	0	345,104	
<b>TOTAL SEWER FUND</b>	<b>\$3,064,582</b>	<b>\$164,812</b>	<b>\$2,899,770</b>	<b>\$0</b>	<b>\$3,064,582</b>	
<b>STORM SEWER FUND</b>						
Public Works	852,195	38,767	813,428	0	852,195	
Contingency	293,003		293,003	0	293,003	
<b>TOTAL STORM SEWER FUND</b>	<b>\$1,145,198</b>	<b>\$38,767</b>	<b>\$1,106,431</b>	<b>\$0</b>	<b>\$1,145,198</b>	
<b>PUBLIC SAFETY FACILITY DEBT SERVICE FUND</b>						
Debt Service	540,088	0	540,088	0	540,088	
Reserves	455,681		455,681	0	455,681	
<b>TOTAL PUBLIC SAFETY FAC DEBT SRV</b>	<b>\$995,769</b>	<b>\$0</b>	<b>\$995,769</b>	<b>\$0</b>	<b>\$995,769</b>	
<b>CAPITAL PROJECTS</b>						
Capital outlay	\$152,255	\$1,071	\$151,184	\$0	\$152,255	
<b>FLEET SERVICES</b>						
Public Works	\$398,595	\$80,187	\$318,408	\$0	\$398,595	
<b>FACILITIES MANAGEMENT</b>						
Public Works	\$520,810	\$48,724	\$472,086	\$0	\$520,810	
<b>ADMINISTRATIVE SERVICES</b>						
Legislative	38,310	3,178	35,132	0	38,310	
Administration/Community Service	832,539	125,032	707,508	0	832,539	
Public Works	756,202	95,123	661,079	0	756,202	
Finance	880,336	323,774	556,563	0	880,336	
<b>TOTAL ADMIN SERVICES FUND</b>	<b>\$2,507,387</b>	<b>\$547,106</b>	<b>\$1,960,281</b>	<b>\$0</b>	<b>\$2,507,387</b>	
<b>KNUTSON CEMETARY TRUST</b>						
Public Works	\$40,714	\$0	\$40,714	\$0	\$40,714	
<b>FORFEITURE TRUST</b>						
Transfers	\$5,000	\$0	\$5,000	\$0	\$5,000	
<b>TOTALS</b>	<b>\$30,572,621</b>	<b>\$2,936,711</b>	<b>\$27,635,910</b>	<b>\$0</b>	<b>\$30,572,621</b>	

**REVENUE REPORT  
WITH FYE PROJECTIONS**

<u>FUND</u>	<u>CATEGORY</u>	FY 1995-96 <u>budget</u>	YTD <u>5/31/96</u>	<u>balance</u>	PROJECTION <u>6/30/96</u>	OVER/ <u>(UNDER)</u>
<b>GENERAL FUND</b>						
	Fund Balance Available	1,751,090	0	1,751,090	0	(1,751,090)
	Property Taxes	4,901,770	0	4,901,770	0	(4,901,770)
	Intergovernmental Revenue	555,789	29,163	526,626	0	(555,789)
	Licenses, Permits & Charges for Service	418,000	34,368	383,632	0	(418,000)
	Fines & Forfeitures	142,500	31,923	110,577	0	(142,500)
	Franchise Fees	876,000	0	876,000	0	(876,000)
	Other Financing Sources	166,500	41,261	125,239	0	(166,500)
	<b>TOTAL GENERAL FUND</b>	<b>\$8,811,649</b>	<b>\$136,715</b>	<b>\$8,674,934</b>	<b>\$0</b>	<b>(\$8,811,649)</b>
<b>CODE ENFORCEMENT ABATEMENT FUND</b>						
	Fund Balance Available	60,000	0	60,000	0	(60,000)
	Fines & Forfeitures	0	0	0	0	0
	Other Financing Sources	2,000	293	1,707	0	(2,000)
	<b>CODE ENFORCMENT ABATMNT</b>	<b>\$62,000</b>	<b>\$293</b>	<b>\$61,707</b>	<b>\$0</b>	<b>(\$62,000)</b>
<b>STATE GAS TAX/ST REPAIR FND</b>						
	Fund Balance Available	307,643	0	307,643	0	(307,643)
	Intergovernmental Revenue	909,321	67,987	841,334	0	(909,321)
	Licenses, Permits & Charges for Service	5,000	320	4,680	0	(5,000)
	Franchise Fees	273,160	21,143	252,017	0	(273,160)
	Other Financing Sources	15,000	2,144	12,856	0	(15,000)
	<b>TOTAL STATE GAS TAX FUND</b>	<b>\$1,510,124</b>	<b>\$91,694</b>	<b>\$1,418,630</b>	<b>\$0</b>	<b>(\$1,510,124)</b>
<b>BIKE PATH FUND</b>						
	Fund Balance Available	28,100	0	28,100	0	(28,100)
	Intergovernmental Revenue	9,093	687	8,406	0	(9,093)
	Other Financing Sources	2,300	314	1,986	0	(2,300)
	<b>TOTAL BIKE PATH FUND</b>	<b>\$39,493</b>	<b>\$1,001</b>	<b>\$38,492</b>	<b>\$0</b>	<b>(\$39,493)</b>
<b>STORM SEWER SDC FUND</b>						
	Fund Balance Available	57,111	0	57,111	0	(57,111)
	Licenses, Permits & Charges for Service	20,000	1,892	18,108	0	(20,000)
	Other Financing Sources	2,300	293	2,007	0	(2,300)
	<b>TOTAL STORM SEWER SDC FND</b>	<b>\$79,411</b>	<b>\$2,185</b>	<b>\$77,226</b>	<b>\$0</b>	<b>(\$79,411)</b>
<b>WATER SDC FUND</b>						
	Fund Balance Available	234,716	0	234,716	0	(234,716)
	Licenses, Permits & Charges for Service	26,000	2,016	23,984	0	(26,000)
	Other Financing Sources	14,500	1,162	13,338	0	(14,500)
	<b>TOTAL WATER SDC FND</b>	<b>\$275,216</b>	<b>\$3,178</b>	<b>\$272,038</b>	<b>\$0</b>	<b>(\$275,216)</b>
<b>SEWER SDC FUND</b>						
	Fund Balance Available	704,569	0	704,569	0	(704,569)
	Licenses, Permits & Charges for Service	55,000	3,572	51,428	0	(55,000)
	Other Financing Sources	30,000	3,432	26,568	0	(30,000)
	<b>TOTAL SEWER SDC FUND</b>	<b>\$789,569</b>	<b>\$7,004</b>	<b>\$782,565</b>	<b>\$0</b>	<b>(\$789,569)</b>
<b>PARKS &amp; REC DISTRICT FUND</b>						
	Fund Balance Available	183,565	0	183,565	0	(183,565)
	Other Financing Sources	349,000	689	348,311	0	(349,000)
	Interfund Transfers	1,093,989	0	1,093,989	0	(1,093,989)
	<b>TOTAL PARKS &amp; REC FUND</b>	<b>\$1,626,554</b>	<b>\$689</b>	<b>\$1,626,865</b>	<b>\$0</b>	<b>(\$1,626,554)</b>
<b>LIBRARY SERVICES FUND</b>						
	Fund Balance Available	319,687	0	319,687	0	(319,687)
	Property Taxes	181,500	1,000	180,500	0	(181,500)
	Intergovernmental Revenue	512,500	0	512,500	0	(512,500)
	Fines & Forfeitures	26,000	4,885	21,115	0	(26,000)
	Other Financing Sources	11,000	1,903	9,097	0	(11,000)
	Interfund Transfers	286,417	47,736	238,681	0	(286,417)
	<b>TOTAL LIBRARY SRVCS FUND</b>	<b>\$1,337,104</b>	<b>\$56,624</b>	<b>\$1,281,580</b>	<b>\$0</b>	<b>(\$1,337,104)</b>
<b>PUBLIC SAFETY FUND</b>						
	Fund Balance Available	682,445	0	682,445	0	(682,445)
	Property Taxes	775,700	0	775,700	0	(775,700)
	Intergovernmental Revenue	103,750	0	103,750	0	(103,750)
	Licenses, Permits & Charges for Service	1,000	747	253	0	(1,000)
	Other Financing Sources	15,000	4,093	10,907	0	(15,000)
	Interfund Transfers	2,069,938	344,990	1,724,948	0	(2,069,938)
	<b>TOTAL PUBLIC SAFETY FUND</b>	<b>\$3,647,833</b>	<b>\$349,829</b>	<b>\$3,298,004</b>	<b>\$0</b>	<b>(\$3,647,833)</b>

**REVENUE REPORT  
WITH FYE PROJECTIONS**

<b>WATER FUND</b>					
Fund Balance Available	1,771,674	0	1,771,674	0	(1,771,674)
Licenses, Permits & Charges for Service	1,740,184	370,428	1,369,757	0	(1,740,184)
Other Financing Sources	51,500	8,181	43,319	0	(51,500)
<b>TOTAL WATER FUND</b>	<b>\$3,663,358</b>	<b>\$378,608</b>	<b>\$3,184,750</b>	<b>\$0</b>	<b>(\$3,663,358)</b>
<b>SEWER FUND</b>					
Fund Balance Available	905,582	0	905,582	0	(905,582)
Licenses, Permits & Charges for Service	2,143,000	344,465	1,798,535	0	(2,143,000)
Other Financing Sources	16,000	5,385	10,615	0	(16,000)
Special Assessment Debt Payments	0	0	0	0	0
<b>TOTAL SEWER FUND</b>	<b>\$3,064,582</b>	<b>\$349,850</b>	<b>\$2,714,732</b>	<b>\$0</b>	<b>(\$3,064,582)</b>
<b>STORM SEWER FUND</b>					
Fund Balance Available	484,383	0	484,383	0	(484,383)
Licenses, Permits & Charges for Service	648,815	109,366	539,449	0	(648,815)
Other Financing Sources	12,000	2,769	9,231	0	(12,000)
<b>TOTAL STORM SEWER FUND</b>	<b>\$1,145,198</b>	<b>\$112,134</b>	<b>\$1,033,064</b>	<b>\$0</b>	<b>(\$1,145,198)</b>
<b>PUBLIC SAFETY FACILITY DEBT SERVICE FUND</b>					
Fund Balance Available	520,166	0	520,166	0	(520,166)
Property Taxes	460,603	0	460,603	0	(460,603)
Other Financing Sources	15,000	2,729	12,271	0	(15,000)
<b>TOTAL PUBLIC SAFETY FAC DEBT SRV</b>	<b>\$995,769</b>	<b>\$2,729</b>	<b>\$993,040</b>	<b>\$0</b>	<b>(\$995,769)</b>
<b>CAPITAL PROJECTS</b>					
Fund Balance Available	152,255	0	152,255	0	(152,255)
Other Financing Sources	0	637	-637	0	0
<b>TOTAL CAPITAL PROJECTS</b>	<b>\$152,255</b>	<b>\$637</b>	<b>\$151,618</b>	<b>\$0</b>	<b>(\$152,255)</b>
<b>FLEET SERVICES</b>					
Fund Balance Available	0	0	0	0	0
Licenses, Permits & Charges for Service	363,595	0	363,595	0	(363,595)
Other Financing Sources	500	335	165	0	(500)
Interfund Transfers	34,500	0	34,500	0	(34,500)
<b>TOTAL FLEET SERVICES</b>	<b>\$398,595</b>	<b>\$335</b>	<b>\$398,260</b>	<b>\$0</b>	<b>(\$398,595)</b>
<b>FACILITIES MANAGEMENT</b>					
Fund Balance Available	0	0	0	0	0
Licenses, Permits & Charges for Service	508,310	79,343	428,967	0	(508,310)
Fines & Forfeitures	10,000	860	9,140	0	(10,000)
Other Financing Sources	2,500	2,340	160	0	(2,500)
<b>TOTAL FACILITIES MANAGEMENT</b>	<b>\$520,810</b>	<b>\$82,544</b>	<b>\$438,266</b>	<b>\$0</b>	<b>(\$520,810)</b>
<b>ADMINISTRATIVE SERVICES</b>					
Fund Balance Available	163,476	0	163,476	0	(163,476)
Licenses, Permits & Charges for Service	2,342,911	370,500	1,972,411	0	(2,342,911)
Other Financing Sources	1,000	315	685	0	(1,000)
<b>TOTAL ADMIN SERVICES FUND</b>	<b>\$2,507,387</b>	<b>\$370,815</b>	<b>\$2,136,572</b>	<b>\$0</b>	<b>(\$2,507,387)</b>
<b>KNUTSON CEMETARY TRUST</b>					
Fund Balance Available	39,714	0	39,714	0	(39,714)
Other Financing Sources	1,000	191	809	0	(1,000)
<b>TOTAL KNUTSON CEMETARY TRUST</b>	<b>\$40,714</b>	<b>\$191</b>	<b>\$40,523</b>	<b>\$0</b>	<b>(\$40,714)</b>
<b>FORFEITURE TRUST</b>					
Fund Balance Available	0	0	0	0	0
Fines & Forfeitures	5,000	0	5,000	0	(5,000)
<b>TOTAL FORFEITURE TRUST</b>	<b>\$5,000</b>	<b>\$0</b>	<b>\$5,000</b>	<b>\$0</b>	<b>(\$5,000)</b>
<b>TOTALS</b>	<b>\$30,572,621</b>	<b>\$1,945,855</b>	<b>\$28,626,766</b>	<b>\$0</b>	<b>(\$30,572,621)</b>

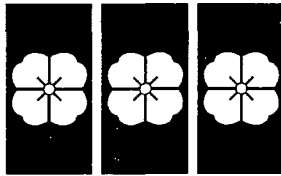
**FUND BALANCE REPORT  
WITH FYE PROJECTIONS**

<u>FUND</u>	<u>CATEGORY</u>	FY 1995-96 <u>budget</u>	YTD <u>5/31/96</u>	<u>balance</u>	PROJECTION <u>6/30/96</u>
<b>GENERAL FUND</b>					
	Total Revenues	8,811,649	136,715	8,674,934	0
	Total Expenditures	8,811,649	1,145,735	7,665,914	0
	<b>TOTAL GENERAL FUND</b>	<b>\$0</b>	<b>(\$1,009,021)</b>		<b>\$0</b>
<b>CODE ENFORCEMENT ABATEMENT FUND</b>					
	Total Revenues	62,000	293	61,707	0
	Total Expenditures	62,000	5	61,995	0
	<b>CODE ENFORCMNT ABATMNT</b>	<b>\$0</b>	<b>\$288</b>		<b>\$0</b>
<b>STATE GAS TAX/ST REPAIR FND</b>					
	Total Revenues	1,510,124	91,594	1,418,530	0
	Total Expenditures	1,510,124	123,217	1,386,907	0
	<b>TOTAL STATE GAS TAX FUND</b>	<b>\$0</b>	<b>(\$31,624)</b>		<b>\$0</b>
<b>BIKE PATH FUND</b>					
	Total Revenues	39,493	1,001	38,492	0
	Total Expenditures	39,493	525	38,968	0
	<b>TOTAL BIKE PATH FUND</b>	<b>\$0</b>	<b>\$475</b>		<b>\$0</b>
<b>STORM SEWER SDC FUND</b>					
	Total Revenues	79,411	2,185	77,226	0
	Total Expenditures	79,411	240	79,171	0
	<b>TOTAL STORM SEWER SDC FND</b>	<b>\$0</b>	<b>\$1,945</b>		<b>\$0</b>
<b>WATER SDC FUND</b>					
	Total Revenues	275,216	3,178	272,038	0
	Total Expenditures	275,216	545	274,671	0
	<b>TOTAL WATER SDC FND</b>	<b>\$0</b>	<b>\$2,632</b>		<b>\$0</b>
<b>SEWER SDC FUND</b>					
	Total Revenues	789,569	7,004	782,565	0
	Total Expenditures	789,569	1,365	788,204	0
	<b>TOTAL SEWER SDC FUND</b>	<b>\$0</b>	<b>\$5,639</b>		<b>\$0</b>
<b>PARKS &amp; REC DISTRICT FUND</b>					
	Total Revenues	1,626,554	689	1,625,865	0
	Total Expenditures	1,626,554	303,466	1,323,088	0
	<b>TOTAL PARKS &amp; REC FUND</b>	<b>\$0</b>	<b>(\$302,777)</b>		<b>\$0</b>
<b>LIBRARY SERVICES FUND</b>					
	Total Revenues	1,337,104	55,524	1,281,580	0
	Total Expenditures	1,337,104	165,739	1,171,365	0
	<b>TOTAL LIBRARY SRVCS FUND</b>	<b>\$0</b>	<b>(\$110,215)</b>		<b>\$0</b>
<b>PUBLIC SAFETY FUND</b>					
	Total Revenues	3,647,833	349,829	3,298,004	0
	Total Expenditures	3,647,833	159,666	3,488,167	0
	<b>TOTAL PUBLIC SAFETY FUND</b>	<b>\$0</b>	<b>\$190,163</b>		<b>\$0</b>
<b>WATER FUND</b>					
	Total Revenues	3,563,358	378,608	3,184,750	0
	Total Expenditures	3,563,358	155,540	3,407,818	0
	<b>TOTAL WATER FUND</b>	<b>\$0</b>	<b>\$223,069</b>		<b>\$0</b>

**FUND BALANCE REPORT  
WITH FYE PROJECTIONS**

<b>SEWER FUND</b>				
Total Revenues	3,064,582	349,850	2,714,732	0
Total Expenditures	3,064,582	164,812	2,899,770	0
<b>TOTAL SEWER FUND</b>	<b>\$0</b>	<b>\$185,038</b>		<b>\$0</b>
<b>STORM SEWER FUND</b>				
Total Revenues	1,145,198	112,134	1,033,064	0
Total Expenditures	1,145,198	38,767	1,106,431	0
<b>TOTAL STORM SEWER FUND</b>	<b>\$0</b>	<b>\$73,367</b>		<b>\$0</b>
<b>PUBLIC SAFETY FACILITY DEBT SERVICE FUND</b>				
Total Revenues	995,769	2,729	993,040	0
Total Expenditures	995,769	0	995,769	0
<b>TOTAL PUBLIC SAFETY FAC DEBT SRV</b>	<b>\$0</b>	<b>\$2,729</b>		<b>\$0</b>
<b>CAPITAL PROJECTS</b>				
Total Revenues	152,255	637	151,618	0
Total Expenditures	152,255	1,071	151,184	0
<b>TOTAL CAPITAL PROJECTS</b>	<b>\$0</b>	<b>(\$434)</b>		<b>\$0</b>
<b>FLEET SERVICES</b>				
Total Revenues	398,595	335	398,260	0
Total Expenditures	398,595	80,187	318,408	0
<b>TOTAL FLEET SERVICES</b>	<b>\$0</b>	<b>(\$79,852)</b>		<b>\$0</b>
<b>FACILITIES MANAGEMENT</b>				
Total Revenues	520,810	82,544	438,266	0
Total Expenditures	520,810	48,724	472,086	0
<b>TOTAL FACILITIES MANAGEMENT</b>	<b>\$0</b>	<b>\$33,820</b>		<b>\$0</b>
<b>ADMINISTRATIVE SERVICES</b>				
Total Revenues	2,507,387	370,815	2,136,572	0
Total Expenditures	2,507,387	547,106	1,960,281	0
<b>TOTAL ADMIN SERVICES FUND</b>	<b>\$0</b>	<b>(\$176,291)</b>		<b>\$0</b>
<b>KNUTSON CEMETARY TRUST</b>				
Total Revenues	40,714	191	40,523	0
Total Expenditures	40,714	0	40,714	0
<b>TOTAL KNUTSON CEMETARY TRUST</b>	<b>\$0</b>	<b>\$191</b>		<b>\$0</b>
<b>FORFEITURE TRUST</b>				
Total Revenues	5,000	0	5,000	0
Total Expenditures	5,000	0	5,000	0
<b>TOTAL FORFEITURE TRUST</b>	<b>\$0</b>	<b>\$0</b>		<b>\$0</b>
<b>TOTALS</b>	<b>\$0</b>	<b>(\$990,856)</b>	<b>\$0</b>	<b>\$0</b>

C I T Y O F



MILWAUKIE

\*\*\* M E M O R A N D U M \*\*\*

September 24, 1996

To: Mayor and City Council  
From: Dan Bartlett, City Manager *Dan*  
Re: Clear Vision Ordinance

Action Requested

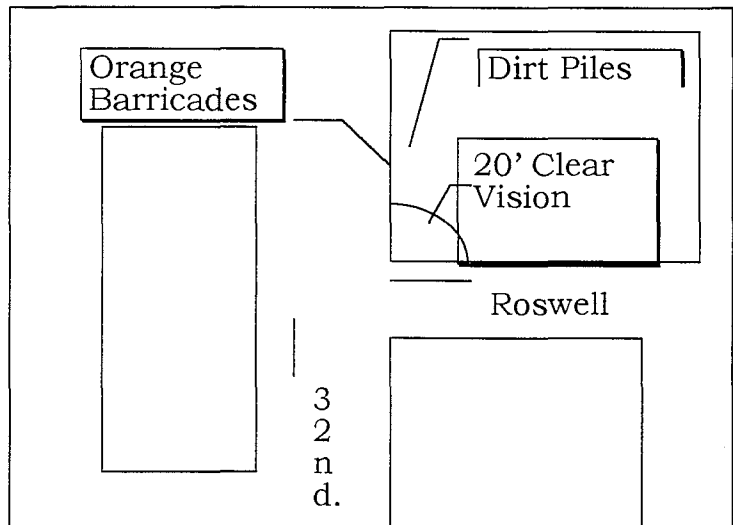
Informational.

Background

At the September 17, 1996, City Council meeting, Councilor Farley asked about the Clear Vision Ordinance. Attached is a copy of that Ordinance. He indicated that the piles of dirt at Roswell and 32nd. Street may be in violation of this ordinance. I inspected this area and have determined that the piles are outside the twenty foot clear vision radius.

There are temporary barricades which are within this radius. These were placed so that a vehicle stopping on Roswell has to slowly pull through the crosswalk before proceeding. The barricades in the street are part of the street closure (local traffic only). The barrels are part of the contractors effort to prevent trespass. Placement of the barrels were done in a manner to allow clear vision looking to the north on 32nd. from Roswell, once a vehicle had come to a full stop and pulled forward into the cross walk.

At this time, I do not plan to forward this request to Public Works for action. A follow-up will be made after the contractor has vacated the site.



cc: File  
cm1007/hd

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

## Chapter 12.24

### CLEAR VISION AT INTERSECTIONS

#### Sections:

12.24.010	Purpose.
12.24.020	Definitions.
12.24.030	Requirements.
12.24.040	Computation.
12.24.050	Variance.
12.24.060	Enforcement.
12.24.070	Liability.
12.24.080	Violation of Section 12.24.030—Penalty.

#### 12.24.010 Purpose.

The purpose of this chapter is to maintain clear vision areas at intersections in order to protect the safety and welfare of the public in their use of city streets. (Ord. 1679 § 1, 1990)

#### 12.24.020 Definitions.

As used in this chapter:

A. "Fence" means a barrier intended to prevent escape or intrusion or to mark a boundary. A fence may consist of wood, metal, masonry or similar materials, or a hedge or other planting arranged to form a visual or physical barrier.

B. "Street" means the entire width between right-of-way lines of every way for vehicular and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley" and other similar designations.

C. "Clear vision area" means that area, as computed by Section 12.24.040, which allows the public using the city streets an unobstructed view of an intersection.

D. "Person" means and includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

E. "Driveway" or "accessway" means the point at which a motor vehicle gains ingress or egress to a property from a public road or highway. (Ord. 1679 § 2, 1990)

#### 12.24.030 Requirements.

A. No person shall maintain, or allow to exist on property which they own or which is in their possession or control, trees, shrubs, hedges or other vegetation or projecting overhanging limbs thereof, which obstruct the view necessary for safe operation of motor vehicles or otherwise cause danger to the public in the use of city streets. It shall be the duty of the person who owns, possesses or controls the property to remove or trim and keep trimmed any obstructions to the view.

B. A clear vision area shall be maintained on the corners of all property adjacent to an intersection as provided by Section 12.24.040.

C. A clear vision area shall contain no planting, fence, wall, structure or temporary or permanent obstruction, except for an occasional utility pole or tree, exceeding thirty inches in height, measured from the top of the curb, or where no curb exists, from the street centerline grade. Trees exceeding this height may be located in this area; provided, all branches and foliage are removed to the height of eight feet above the grade. Open wire fencing that does not obscure sight

#### 12.24.030

more than ten percent is allowed to a maximum height of six feet. (Ord. 1679 § 3, 1990)

#### 12.24.040 Computation.

A. The clear vision area for all street intersections, all street and railroad intersections, and all street and driveway or accessway intersections shall be that area within a twenty-foot radius of the lot corner nearest the intersection, or within a twenty-foot radius of the intersection of the lot line, and the edge of a driveway.

B. Modification of this computation may be made by the director of public works, or his designee, after considering the standards set forth in the Traffic Engineering Handbook on intersection site distance after taking into consideration the type of intersection, site characteristics, types of vehicle controls, vehicle speed and traffic volumes. (Ord. 1679 § 4, 1990)

#### 12.24.050 Variance.

A. Variances from the provisions of this chapter may be granted by the traffic safety commission.

B. Vehicle and pedestrian safety shall be the primary factors in decisions when variances are considered. The type of intersections, site characteristics, types of vehicle controls, vehicle speed, traffic volume and other similar items are factors to be considered. The standards set forth in the Traffic Engineering Handbook on intersection sight distance and any other appropriate standards shall be considered. Aesthetics and length of time fences or vegetation have existed are not relevant factors.

C. A property owner or the owner's agent may initiate a request for a variance by filing an application with the city within ten working days of warning or citation for violation.

D. Any decision of the traffic safety commission may be appealed to the city council without fee within ten working days of receipt of the traffic safety commission's written decision.

E. Fees for the variance application to the traffic safety commission shall be set by resolution of city council. (Ord. 1679 § 5, 1990)

#### 12.24.060 Enforcement.

The provisions of Chapter 1.08 shall be used to enforce this chapter. Enforcement procedures shall be suspended while an application or appeal for a variance is being considered. Enforcement procedures shall resume upon denial of a variance. (Ord. 1679 § 6, 1990)

#### 12.24.070 Liability.

The person owning, in possession of, occupying or having control of any property within the city shall be liable to any person who is injured or otherwise suffers damage by reason of the failure to remove or trim obstructions and vegetation as required by Section 12.24.030. Furthermore, the person shall be liable to the city for any judgment or expense incurred or paid by the city, by reason of the person's failure to satisfy the obligations imposed by this chapter. (Ord. 1679 § 7, 1990)

#### 12.24.080 Violation of Section 12.24.030—Penalty.

Violation of Section 12.24.030 is punishable, upon conviction, by a fine of

12.24.080

not more than two hundred fifty dollars.  
When the violation is a continuous one,  
each day the violation continues to exist  
shall be deemed a separate violation.  
(Ord. 1679 § 8, 1990)