

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
DECEMBER 3, 1996**

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

Craig Lomnicki,
Mayor
Rick Farley

Jean Schreiber
Rob Kappa

Absent: Don Trotter

Also present:

Dan Bartlett,
City Manager
Paul Elsner,
City Attorney

Charlene Richards,
Assistant to the
City Manager

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

None.

CONSENT AGENDA

It was moved by Councilmember Kappa and seconded by Councilmember Schreiber to approve the Consent Agenda which consisted of the following: City Council minutes of November 19, 1996, and liquor license application for The Pitcher and Plate. Motion passed unanimously.

AUDIENCE PARTICIPATION -- None

PUBLIC HEARING -- None scheduled.

OTHER BUSINESS

Regional Water Providers Consortium -- Intergovernmental Agreement

Bartlett presented the staff report in which the City Council was requested to consider authorizing him to sign the Regional Water Providers Consortium Intergovernmental Agreement (IGA).

For the past several years, the region has been involved in a major study of future water provision options. Milwaukie participated in drafting the Regional Water Supply Plan which has been adopted by a majority of the region's providers. It was determined an ORS 190 entity needed to be formed to support the Plan and to continue cooperative efforts.

Bartlett reviewed the formula used to determine the cost to each participating agency. Milwaukie's share is estimated to be \$2,187. The City's estimate is based upon 1.75% of the total 1996 customer accounts; 1.83% of the average daily water demand; and .87% of the growth demand. He felt the City of Milwaukie was fairly represented by Alan Fletcher and the formula was equitable. He recommended the City Council designate its representative after the first of the year.

Councilmember Farley compared Milwaukie's share with that of Rockwood. **Bartlett** said Rockwood has a greater percentage of customer accounts, average water demand, and growth demands since it is a growing area. Milwaukie's percentage of growth demand is relatively small since it is built-out.

Councilmember Farley asked if both surface and ground water was being considered. **Bartlett** said both sources were being studied. Being part of this consortium would put Milwaukie in a position to coordinate conservation endeavors and improve interagency connections with neighboring providers.

Councilmember Kappa commented the governing board would be very large if all the agencies participated. **Bartlett** said the Consortium Board would probably only meet a few times each year, and smaller subcommittees would be established.

Councilmember Kappa asked what portions of this meet Metro's requirements. **Bartlett** said he felt the document addressed most of Metro's requirements. In an effort to conserve staff resources, Milwaukie has relied on Clackamas River Water's technical staff to take the lead. He discussed the possibilities of either drilling a new well or entering into purchase agreements with other agencies for backup water supply.

Councilmember Kappa asked how this information would impact the 195 process. **Bartlett** said the RPAG group will have about 23 members in addition to a group of Clackamas Basin parties. He felt it was a beneficial time to be at the table and added the City could not have done this amount of work on its own.

Councilmember Farley asked if conservancy was the main element or was quality taken into account also. **Bartlett** said the City of Milwaukie regularly has its water tested, and there are no detectable contaminants. An understanding of regional direction is a great benefit to the City.

It was moved by Councilmember Kappa and seconded by Councilmember Schreiber to authorize the City Manager to sign the Regional Water Providers Consortium IGA. Motion passed 4 - 0 with the following vote: Mayor Lomnicki, Councilmember Farley, Councilmember Schreiber, and Councilmember Kappa aye; no nays; Councilmember Trotter absent.

INFORMATION

1. **Councilmember Schreiber** asked Bartlett when the hiring process for Public Works Director would begin. **Bartlett** said, due to Measure 47, there would be no recruitment at this time. Each time a vacancy occurs, it must be determined if that function could be done in other ways. He indicated he was currently splitting his duties between the City Manager's Office and Public Works. He complimented the crews on their effectiveness during the recent flooding of Johnson, Mt. Scott, and Kellogg Creeks. He felt the contract with World Class Management was key to getting the City through Measure 47 and to streamlining operations.
2. **Bartlett** discussed the work session with the School Board and a letter from Patty Casanova regarding Rowe Jr. High's involvement in the Lake Road Multi-modal Program.
3. **Bartlett** pointed out an informational memo from City Engineer Brink regarding the work with the City of Portland to provide sewer services to an area on Sherrett Street. There are 17 houses in Milwaukie and 42 Portland, and work is beginning on a joint sewer program. Staff will probably come before City Council in January or February with decision packages.
4. **Bartlett** announced the Budget Committee meeting on Wednesday, December 4, 1996.

Mayor Lomnicki announced an executive session to discuss potential litigation and consult with counsel immediately following adjournment of the regular session.

Mayor Lomnicki adjourned the meeting at 7:35 p.m.

Pat DuVal

Pat DuVal, Recorder/Secretary

**CITY OF MILWAUKIE
CITY COUNCIL AGENDA
DECEMBER 3, 1996**

MILWAUKIE CITY HALL

10722 SE Main Street

1756th MEETING

WORK SESSION

4:45 - Council Information Sharing

5:00 - Joint Session with North Clackamas #12 School District Board

REGULAR SESSION

7:00 p.m.

I. CALL TO ORDER

Pledge of Allegiance

II. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

III. CONSENT AGENDA *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the "Consent" portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)*

A. City Council Minutes of November 19, 1996

B. OLCC Application -- The Pitcher and Plate, 12300 SE Mallard Way (new outlet)

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.)*

**Regional Water Providers Consortium -- Intergovernmental Agreement
(Dan Bartlett)**

VII. INFORMATION

- A. Clackamas Basin Water Suppliers Meeting**
- B. Historic Milwaukie NDA Minutes, June, September, October, and November 1996**
- C. Lake Road Multi-Modal Information**
- D. Monthly Financial Reports**

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.

MEMORANDUM

December 2, 1996

TO: Mayor and City Council
THRU: Dan R. Bartlett, Acting Public Works Director
FROM: Jim Brink, City Engineer *DB*
SUBJECT: Sherrett St Sanitary Sewer Project

Action Requested: None.

Purpose: Provide information on the status of the Sherrett St sanitary sewer project.

Discussion:

1. The Sherrett St sanitary sewer project is a 1996-97 CIP project with an estimated and budgeted cost of \$75,000.
2. Project scope of work: 820' of sanitary sewer line and associated manholes in Milwaukie on Sherrett St, 34th Av and Kathryn Ct and 701' of sewer line and associated manholes in Portland on Sherrett St, 33rd Av and Harney Ct.
3. Total project cost both for engineering and construction will be split between the City of Milwaukie and the City of Portland. City of Portland has the lead in concluding project design, and advertising, awarding and managing the project.
4. Within the COM there are 17 affected property owners and within COP there are 42 affected property owners (see attached map).
5. Schedule:

12-11-96	Meeting with affected property owners at Ardenwald Elementary School
5-1-97	Begin construction
6. Sewer Connection: Section 13.12.020 requires mandatory connection if a structure containing sanitary facilities is located with 200' of a sewer line; however, the code does not specify a time frame. My recommendation for a reasonable period of time is 12 months from the date that the

project is accepted by the City of Milwaukie. All affected residences within the COM (16) are within 200' of the proposed sewer line and therefore are obliged to connect.

7. Estimated Costs (COM only)

- a. Engineering \$9,000
- b. Construction \$117,500 (includes \$20,000 which is COM share of cost for sewer line that has already been constructed from 30th Av to 32nd Av by COP)
- c. Property owner \$6008 (includes \$3541 for line charge, \$1574 for branch charge and \$893 for System Development charge). This is an estimate only based on COP sewer construction cost data from the Mid County Sewer Project).

8. Funding

a. Advanced Financing

Advantages

- (1) Requires informational public hearing only
- (2) City Council has sole discretion to adopt or not adopt advanced financing resolution
- (3) Public improvement may be completed
- (4) Payment terms possible
- (5) Payments begin after sewer line is installed because connection is mandatory

Disadvantages

- (1) Code not yet adopted
- (2) Assumes that all benefiting property owners desire the improvement

b. LID

Advantages

- (1) Can be initiated by City Council
- (2) Code in place

Disadvantages

- (1) Normally initiated by property owners; however, in this case connection to the sewer line is mandatory
- (2) **Oral or written remonstrance by 2/3 of property owners to be assessed shall suspend action regarding the improvement for 6 months**
- (3) Process is more time consuming because of need to hold an assessment hearing; however, this is not a major issue

9. Issues

- a. Time requirement for sewer connection (12 months)?

b. Funding mechanism (LID or Advance Financing)?

c. Adoption of Advance Financing of Public Improvement code?



1" = 100'

34 FT

33 FT

32 FT

30 FT

SE SHERRETT

Mr. Wauk

Portland

40 39

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**CITY OF MILWAUKIE
CITY COUNCIL WORK SESSION
NOVEMBER 19, 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; Charlene Richards, Assistant to the City Manager; Jim Brink, City Engineer; Ruthanne Bennett, Civil Engineering Assistant; and Jack Perry, Operations Supervisor.

Information Sharing

Mayor Lomnicki discussed a notice for an upcoming meeting of the Clackamas River Basin Council. **Bartlett** said staff would attend and keep the City Council informed.

Mayor Lomnicki announced a light rail ride sponsored by the SE Uplift.

Councilmember Trotter discussed the sewerage facility siting recommendations. Both contained recommendations to retain Kellogg at its current location with modifications and mitigation. New plant construction was recommended at Site K or Tri-Cities. He added he was asked to continue as a subcommittee member. For clarification, **Councilmember Kappa** asked if there was a Kellogg expansion proposed. **Councilmember Trotter** said there was not, and Kellogg is proposed to stay as it is with the addition of purer effluent. The Clackamas County Board of Commissioners must determine how to finance the projects. **Councilmember Schreiber** expressed some concern that mitigation at Kellogg would not be a high priority, but **Councilmember Trotter** pointed out mitigation was recommended.

Councilmember Schreiber discussed a recent Parks District Board meeting and the proposed list of CDBG projects.

Bartlett discussed a letter from Clackamas River Water regarding an upcoming meeting and a recommendation that the districts work on developing an IGA.

Bartlett reviewed tentative work session topics: joint work session with the School Board on December 3 regarding the School Trip Safety Program; surface water issues on December 17; and water issues in January.

Bartlett discussed the Regional Water Consortium, growth management, and the implications of about 80 people per day moving into the region.

Bartlett discussed staffing for the potential flooding in the area. It was being treated as a limited Public Works incident, and he did not plan to activate the EOC since it was occurring in a localized area. Johnson Creek has already crested higher than in the February 1996 flood and will probably be 3 - 4 feet above flood stage. Kellogg Lake is low compared to the flood event, but upstream there have been flooding calls the City had never received before. There may be a blockage of some sort. There are sandbags that can be filled and picked up at the Johnson Creek Blvd. facility.

Councilmember Kappa asked how the water authority expects to organize the process since all the stakeholders are not involved. **Bartlett** responded both Gladstone and Happy Valley have indicated interest in being involved. Except for Milwaukie, which has interties, all of the suggested participants are on the Clackamas River supply. He felt SB 122 was speeding up these types of processes, and districts are more interested in annexation-friendly language. The group discussed possible Measure 47 impacts.

Mayor Lomnicki announced the Milwaukie Downtown Development Association (MDDA) meeting on Thursday and noted Councilmember Trotter's name was brought forward by the nominating committee for the position on the Board of Directors as the City's representative. The group agreed to review the contract to determine if the City Council should have the responsibility for naming its own designee.

Councilmember Schreiber announced the December 2, 1996, Livable Cities Conference sponsored by Blumenauer. Various members of the City Council and community have been invited to participate.

Surface Water Project Update

Bartlett introduced **Brink, Bennett, and Perry**.

Bennett described the two projects: replace 2400 feet and construct 400 feet of storm line with catch basins and manholes on Washington and 33rd, 34th and 35th Avenues. It was determined the existing storm line was inadequate to serve the new lines, so the project was expanded to include replacement of the undersized line. The project estimate was increased from \$20,000 to \$130,000.

Councilmember Trotter asked if the storm lines were going to catchbasins. **Bennett** said the project included catchbasins. The existing 18-inch storm line near Oak can be used, but the lines feeding into it need to be increased to 18 or 24 inches.

Urban Services Project

Bartlett presented the staff report and directed City Council attention to the November 1996 Briefing Sheet. This is an outline of discussion items, and his report to the Steering Committee on December 2, 1996, will be based on discussions in this work session.

The first issue is the governance scenario and incorporation. There are seven alternatives, some of which are inclusive and other exclusive. The seven alternatives are: status quo; city-county consolidation (this one is somewhat difficult because it contains City of Portland/Multnomah County language); municipal county; one city; new cities (this would create a new city in Damascus and one in the Oak Grove/Jennings Lodge area); multiple larger cities (Milwaukie, Oregon City, Happy Valley, and Gladstone would expand by annexation); and regional coordinating council (this would work on any of them and was supported by a large number of people).

The second issue is long-term service delivery. There were technical committees formed involving area service providers to discuss service provision options. The planners discussed a joint, local government agency to coordinate planning efforts. Suggestions included an intergovernmental agreement for a regional planning service until the cities asserted their annexation plans.

He discussed water supply issues on the Clackamas River. It was determined allocations should be planned and developed by one intake and treatment facility located outside the urbanized area. The idea would be to abandon the multiple intakes on the Clackamas River. Wholesale water supply should have a single boundary that includes all participants. There were several options for retail sale of water: a single boundary for all participants; boundaries determined by treatment facility locations; and cities may, at their discretion, decide whether to contract for the service from the wholesale entity.

Councilmember Kappa asked for clarification at this point. He said it seemed any proactive annexation would be impeded if cities were to buy water wholesale and sell at retail. This did not seem to give much encouragement to unincorporated areas to annex into a city. **Bartlett** said, on the retail side, most entities would retail water for similar rates. He referred to the later points that the cities have identified the desire to be the billing and customer service agency. For example, water would be sold at the same retail price in both incorporated and unincorporated areas.

Councilmember Farley said it seemed there would be a cost to go into this type of service delivery. **Bartlett** indicated the costs, if any, had not been determined.

Councilmember Kappa asked if treatment would be included. **Bennett** said this project scope is conveyance only, and the storm water will go into Kellogg Creek near Dogwood Park. **Perry** added the catchbasins will have sumps.

Councilmember Kappa asked how much more it would cost to capture 80% of the sediment. **Brink** said those estimates on the treatment element have not been made. The purpose of the proposed project is to quickly remove water from the streets. This project was designed to match the overall Storm Water Master Plan. **Bartlett** added there will be additional sumps added through this project. He discussed flooding problems in the area and the need to address conveyance problems.

Councilmember Farley asked if there will be an overload on the Oak Street lines if the feeder lines are larger. **Bennett** said there should be no problem and added the 10-inch pipe constricted the flow of storm water.

Perry discussed National Pollutant Discharge Elimination System (NPDES) permit requirements and the probable addition of a sump.

Bennett discussed the project to construct a storm line on Monroe from 40th to 37th where a line already exists. **Councilmember Schreiber** asked how this project would relate to proposed Monroe Street improvements. **Bennett** responded those improvements are planned for 45th Avenue and east.

Bartlett added there were funds available for both projects.

Councilmember Kappa asked if there was significant damage to the streets and sidewalks. **Brink** said, if a street has not been recently overlaid, water aggravates the situation. Anytime water can be gotten off the street, the life span of the pavement will be improved.

Councilmember Farley inquired if, on streets with no curbs, pavement can be driven up by water freezing underneath. **Brink** said this sort of thing could certainly contribute to the deterioration of the pavement.

Mayor Lomnicki commented it has taken about four years to accumulate enough money to begin making improvements. Utility improvements will be made on Monroe during the summers of 1998 and 1999, and after that, paving will begin.

Councilmember Kappa asked the status of the Monroe Street design. **Bartlett** said the design will be consistent with the TSP. **Councilmember Kappa** asked if options for cleaning water would be considered, and **Perry** responded there will be options considered.

Bartlett discussed watershed management and related this issue to the meeting announcement Mayor Lomnicki made earlier. There is agreement the whole Clackamas River drainage needs a single managing entity that has the authority to come together to conduct the planning.

Mayor Lomnicki said he understood there are various groups vying to be designated by the state legislature as the representative. Loosely formed partnerships are being established and they are seeking enough recognition and support from various agencies to be selected by the legislature as the coordinating agency. **Councilmember Kappa** said he did not think statutes gave the authority to set up a separate government council. **Mayor Lomnicki** responded these groups are forming partnerships, and they do not have any authority. They hope, with enough support, they will be chosen to represent the watershed basin.

Bartlett said the regional water purveyors in the Clackamas area want an intergovernmental agreement in which all of the entities are bound together. He discussed the possibility of interest groups executing an IGA stating there will be cooperation and the desire to be designated the Clackamas Watershed Coordinating Council. In such an instance, the governor's office would probably have to recognize the group. There is also a dynamic forming between the environmental groups and the water suppliers. The Clackamas River group is working toward developing partnerships with all the groups.

Bartlett went on to discuss sanitary sewers. The elements of this are treatment, transport, collection, and source control/industrial pre-treatment. There is a hope all current sewerage agencies will merge into one entity. EPA has identified sewage treatment as one of those services most cost effectively provided to populations over 250,000. Smaller entities are still interested in the billing element. **Councilmember Trotter** said he found it interesting that Tri-Cities and CCSD #1 are separate entities, but they both have the same board of directors and staff. A merger of these service districts would be simple. **Bartlett** added the County Commissioners support a merger.

Mayor Lomnicki asked if the major service lines would be part of the larger entity with local control of the smaller lines. **Bartlett** said that was correct. The group did not resolve the issues of who would be responsible for operations/maintenance of transport facilities. The sewer operators cannot agree on the line size that would require immediate service response. Milwaukie wants the ability to respond quickly to solve sewer backup problems. He felt the resolution was to be some type of line size agreement.

Councilmember Kappa felt there was an argument for 24-inch lines to be under control of the cities.

Councilmember Schreiber talked about the concern for clean sewers. The entities who handle the major systems want to control intake through industrial planning. The cleaning period may be longer if the service provider is a small entity. **Bartlett** said the agreement is that the most influential and powerful entities should handle the pre-treatment element.

Bartlett continued the discussion with surface water management issues. The customer service could be local, but the big source control should be regional. There is already a surface water commission in place.

He continued the discussion with roads. Planning, construction, and maintenance of arterials and collectors should be done by one entity. Local governments should plan, construct, and maintain local streets.

Councilmember Trotter said he was unclear why maintenance of collector streets should be a regional and local combination while planning for them was not. Collector streets, he felt, were defined as being within the local jurisdiction. He thought collector streets should be part of the local plan. **Bartlett** said he did not know why this type of identification was made.

Councilmember Schreiber commented on the planning issue. It seemed one point being missed was that the primary goal of the City has been to advocate services and to be the responder. She felt the whole plan was not dealing with that aspect and should be built into the service plan. Response and one-to-one contact with the public is very important.

Councilmember Trotter pointed out the issue of "who should do it" directly addressees Councilmember Schreiber's concern. **Mayor Lomnicki** added roads are very different from sewer or water services due to the fact they are on the surface, so there may be more concerns.

Councilmember Schreiber said she felt the issue was two parts: planning services and maintenance.

Councilmember Kappa said planning needs to be coordinated.

Councilmember Trotter said there is overall planning at localized levels and noted the interface between the regional and local transportation plans.

Mayor Lomnicki said the Oregon Transportation Initiative (OTI) will talk about funding two operations: maintenance/preservation and Livability and Economic Opportunity (LEO). The LEO funds would go to the regions with regional decision-making bodies established throughout the state. The trend will probably be to establish a body to allocate resources but not necessarily dictate to local jurisdictions.

Councilmember Schreiber said the ability to give input locally is very important and should not be overlooked in SB 122 discussions.

Councilmember Kappa said, whatever the service may be, he did not see the need for fragmented planning. There should be one planning entity, and the cities need to have strong, active participation in the planning process. Planning must address multiple service sources and not only the single entities.

Bartlett reviewed the fire/emergency medical service element. Clackamas and Oak Lodge led this piece. The biggest problem identified is emergency communications.

The final element was parks. The Parks District is meeting with the City of Happy Valley Parks Board, and it will probably only be a short time before that city joins. He discussed the City of Gladstone's appreciation of the Parks District model.

Bartlett asked for City Council direction on the service delivery options.

Councilmember Schreiber said elected officials had met, and it did not seem attendance was as important to the cities as it was to the special districts.

Bartlett said the various staff members involved were surprised there was so little dialogue and discussion. **Councilmember Schreiber** said most of the comments after the meeting were quite different. The elected officials felt service delivery was talked about all the time, and they could not be pushed into anything they did not like. She did not feel the situation is not being taken seriously.

Councilmember Trotter said he felt part of the difficulty was that most of the recommendations would have to go through the state legislature for anything to happen. He felt people did not believe there was any way for these changes to actually take place. The result would either be the status quo or the regional coordinating council. Even multiple large cities have a lot of things that have to happen beyond the control of any one entity. He felt no one was really paying attention because everyone thinks nothing will ever happen.

Councilmember Schreiber said the small districts and those who let someone else take the lead will be really surprised.

Councilmember Kappa said we cannot go with the status quo since it leads nowhere.

Bartlett said what he needs to know prior to the December meeting is what Milwaukie supports.

Mayor Lomnicki said the City Council could indicate which recommendations it definitely does or does not support.

Councilmember Kappa said he could not support alternatives #1, #2, #3, or #4. His choices were alternatives #6 and #7. He also indicated support of #5 with reservations.

Mayor Lomnicki said his preference was also #6. He had reservations on #5 and #7.

Councilmember Trotter concurred. He felt #7 was simply a way to extend the status quo.

Councilmember Kappa asked if there would be an impact from Measure 47. **Bartlett** assured him there would.

Councilmember Trotter was interested in the county service districts and the county's supposedly stated position to get out of the urban service delivery system. He asked how that would relate to the county service district. Are they saying we want to get rid of our county service districts? **Bartlett** said both "yes" and "no." They have said they want to get out of service delivery, but, on the other hand, the county seems interested in creating a service district toward Sunnyside Village and to the east.

Councilmember Trotter asked if the county would be agreeable to Milwaukie's annexing and taking over service areas. **Bartlett** said the county would be agreeable.

Councilmember Farley asked how this would be coordinated with the Urban Growth Boundary (UGB). **Bartlett** said all of this agreement assumes the current UGB plus the urban reserves. The Portland State White Paper Report discussed the relationship of the urban reserve and incorporation.

Councilmember Kappa said the functional plan works well with #6.

Mayor Lomnicki felt, as densities increase, populations should be targeted that still provide a sense of citizen access to government. He read that 80,000 - 100,000 populations make sense for many service provision reasons while still giving citizens access to their decision makers.

Councilmember Kappa commented this would still be a very controllable area.

Mayor Lomnicki said his sense was that if there is a group of cities in the UGB area with that target population, there will be an equal level of power and influence within the Metro regional decision-making process. Currently, some jurisdictions do not have the same influence as the larger cities such as Beaverton or Gresham. Both Councilmember Schreiber and he are at the regional meetings and participating at various levels, but those cities not directly involved have lost a lot of their influence.

Councilmember Schreiber felt the people in the unincorporated areas had no voice. **Mayor Lomnicki** agreed with the accuracy of the statement.

Councilmember Trotter said he has not been able to understand the way the current annexation laws are written. There is a requirement that both the city and the area to be annexed have to vote on the action. He wondered what would motivate people in unincorporated areas to vote to annex to a city.

Councilmember Schreiber said some people assumed it would be automatic in light of SB 122 and Metro's lobbying the legislature to change to Boundary Commission. **Councilmember Trotter** said this has not happened.

Councilmember Schreiber said this would take five to six years, at least. She felt whatever plan Metro develops should cause as little disruption as possible when it comes to annexation. The Metro Council and planners want to see everything within the UGBs urbanized in such a manner so there is some entity with which people can deal. When she looks at the map, she looks at what would be the most comfortable solution to getting all of the land and people into some kind of incorporated pattern.

Councilmember Trotter said he has read nothing about how we get the legislators to either change the law or get the people in the unincorporated areas to agree to join up with cities, as outlined in alternatives # 5 and #6.

Councilmember Schreiber said some people assumed, because of the Boundary Commission issue and Metro's impact on the legislature, it would go in as a package. She discussed similar problems Washington County is facing.

Councilmember Kappa said he felt Measure 47 would impact the situation and shift the burden more onto the unincorporated areas. We will have to look at what services are being paid for on a county-wide basis, and cities can no longer subsidize unincorporated areas.

The group discussed the levels of service to unincorporated areas, and **Councilmember Trotter** commented he felt there was little incentive for people to vote to join a city.

Mayor Lomnicki suggested incentives or disincentives to move people toward incorporating. Another option would be control by the state legislature. If there are established UGBs, annexation will be automatic, and residents understand it is for the better public good to deal with problems as cities.

Councilmember Schreiber said that process would go more smoothly if the already existing entities were to absorb the unincorporated area. She thought Metro's push and the legislature's response would be much more acceptable.

Mayor Lomnicki pointed out, in the beginning of the SB 122 process, participants did an exercise in which, if they had to be in a city, which one they would select.

Councilmember Schreiber said she felt the focus and discussion groups really talked against incorporating new cities because of the work involved. She did not have a strong feeling about how big the City of Milwaukie should be.

Councilmember Trotter said, in reality, any of these options are very difficult. All of them are going to require something from the state legislature, so he felt it was a matter of which one was best.

Councilmember Schreiber said she felt it was time to face up to that question.

Councilmember Trotter said the involvement of the state legislature was the element missing from all of the alternatives. There is no real talk about what must be done if we, for example, support alternative #6.

Councilmember Kappa said some of that issue is addressed in the conclusion to the White Paper. **Councilmember Trotter** said the conclusions were very general and questioned at what point in the process would that issue be addressed. **Councilmember Kappa** said it all depends for which alternative we wish to plan.

Bartlett summarized the statements: Milwaukie would like to look further at alternative #6 -- multiple larger cities. The next step of the model will be to begin writing scenarios to visualize actions in 1997.

The group discussed scenarios created with the Parks District and the lack of turf issues in that framework.

Bartlett said he would review the minutes and asked the City Council to read the draft before the December 2 Steering Committee meeting.

Bartlett reviewed the comments. The Milwaukie City Council basically supports alternatives # 5 (with reservations), #6, and #7 with strong preference for #6. The City of Milwaukie feels in many of the areas, the local control is an important issue.

Councilmember Schreiber said she wants one service provider phone number for residents to call.

Councilmember Trotter said another issue involved with the one phone number is that it should be more than simply a message center. The City of Milwaukie has little control over what the Parks District realistically does. Milwaukie is an entity of the District and has major control over what happens to City-owned property. There has to be some leverage to maintain some control.

Councilmember Schreiber urged continuing to be very altruistic and letting people know we want to represent them. Local representation is part of the planning and decision-making processes.

Mayor Lomnicki said he liked the term "local accountability." The general public does not want to be controlled by anyone, but people want to know who is accountable. He suggested talking about local accountability rather than local control.

Bartlett discussed the Lane County/Springfield/Eugene process and how it fell apart because the parties rushed into it. Entities are more cooperative in that region than in this one, and he feared the consultant was pushing to complete the project within the contract time. Relationships need to be built.

Councilmember Trotter said relationship building was the advantage of alternative #7. He was not sure he totally supported alternative #5, but he personally felt either #6 or #7 was the way to go.

Mayor Lomnicki said perhaps alternative #7 was the way to get to #6.

Mayor Lomnicki adjourned the work session at 6:45 p.m.

Pat DuVal, Recorder/Secretary

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
NOVEMBER 19, 1996**

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

Craig Lomnicki, Mayor	Jean Schreiber
Rick Farley	Rob Kappa
	Don Trotter

Also present:

Dan Bartlett, City Manager	Linda Mullen, Neighborhood Services Coordinator
Paul Elsner, City Attorney	JoAnn Herrigel, Program Services Coordinator
Charlene Richards, Assistant to the City Manager	Jim Brink, City Engineer
Maggie Collins, Community Development Director	Ruthanne Bennett Civil Engineering Assistant

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Unified Traffic Management Plan

Bartlett presented the staff report on the Neighborhood Traffic Management Program (NTMP). The Gantt Chart was prepared in response to Council's request to develop a tracking and measuring system for the elements of the project. He reviewed the elements of the draft program and explained the importance of the first task to the success of the entire plan. The first task elements were: staff development of policy, goals, and objectives; Traffic Safety and Transportation Board review; and finally City Council approval. The subsequent tasks were: develop NTM procedures; 1996 - 1997 project construction; 1998 - 1999 project lists; 1998 - 1999 project construction; and the School Trip Safety Plan.

He reviewed the relationship of the projects to the CIP and the discussion being held with the School Board to determine areas of partnership and responsibility. Some of the School Trip Safety Program elements will be completed by March while others will be more long term. For example, City staff is looking at installing the flashing yellow beacons this year.

Councilmember Farley asked for clarification of the short vertical lines on page three of the chart. **Bartlett** said ID #43, for example, indicates installation of the flashing yellow beacons. In other instances, the lines indicate a dependency on other elements such as the NTMP.

Councilmember Farley asked why there were no rolled-up milestones. **Bartlett** said it was very early in the project management system, and the rolled-up milestones have not been included at this time.

Councilmember Kappa referred to task #44 -- "traffic calming on 32nd Avenue." He thought the criteria for speed humps was already part of the process. **Bartlett** said there was a statement on how to consider speed humps, but the criteria were not adopted. In this example, staff is not necessarily sure speed humps are the solution for the neighborhood.

Councilmember Kappa asked about the process for raised school crossings. **Bartlett** said the criteria have not been approved. Staff will be reviewing the projects with the Transportation Safety and Transportation Board (TSTB) to recommend project priorities.

Councilmember Kappa asked if raised cross walks meet any kind of ADA or CDBG requirements. **Bartlett** said they did not.

Bartlett pointed out the article included in the packet regarding a moratorium on speed hump construction in the City of Portland. Staff is in dialogue with the TSTB to sustain both engineering principles and neighborhood livability. He discussed the positive impacts of photoradar which include reduction of speeds and neighborhood cut-through traffic.

Councilmember Kappa added he felt the narrow street design has a positive influence on traffic calming.

Councilmember Schreiber said she had assumed these were approved projects, but they are actually issues under study. She recommended the City be sure to communicate with the public that these are under consideration at this point in time.

Councilmember Trotter said the information helped clarify the time frames and provided information on the appropriateness of projects to the situation. He asked if this chart with a cover letter would be sent to the groups involved in suggesting the projects. **Bartlett** said staff intends to meet with the neighborhood associations and the school trip safety groups on a regular basis to share information. **Councilmember Trotter** concluded his remarks by saying he felt this was a good proposal, and it is important to let residents know what the City is doing.

Councilmember Kappa asked if this plan would be discussed with the School Board. **Bartlett** said the draft plan and other issues will be discussed with the Board at the December 3, 1996, City Council work session.

Flood Update

Mayor Lomnicki asked for an update on the rains and flooding in the City.

Bartlett reported worse flooding on Johnson Creek than during the February 1996 flood event. He activated a local 24-hour incident command with the Public Works crews to make sandbags available for pick up, to pump certain locations, and to monitor bridge locations. Residents on Johnson Creek and Kellogg Lake are taking their normal precautions.

Councilmember Trotter asked how the City was notifying people of the availability of sandbags. **Bartlett** said there have been television and radio announcements in addition to information on proactive and remedial actions.

Councilmember Farley asked when Johnson Creek was expected to crest. **Bartlett** said sometime early Wednesday morning.

Property Acquisition

Bartlett announced the acquisition of a small parcel near the trestle on McLoughlin Blvd. The purchase was made with Metro Greenspace funds in the amount of \$17,560.

CONSENT AGENDA

It was moved by **Councilmember Kappa** and seconded by **Councilmember Farley** to approve the Consent Agenda which consisted of the following: liquor license application for Pisces Restaurant and City Council minutes of November 5, 1996. Motion passed unanimously.

AUDIENCE PARTICIPATION

None.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

Approve 1996 - 1997 Waste Reduction Plan and Receive Challenge Grant Funds -- Resolution

Herrigel presented the staff report in which the City Council was requested to consider adopting a resolution approving the 1996 - 1997 Annual Waste Reduction Plan activities and authorize the City Manager to sign an intergovernmental agreement with Metro. The amount of the challenge grant funds was \$9,264 to assist with implementation of the tasks. This is the seventh year of the program.

Councilmember Kappa referred to page 16 of the packet material and asked for more information on the Building Industry Foundation. **Herrigel** said there are no solutions for recycling building materials at this point.

Councilmember Kappa referred to page 17 of the packet material regarding clients "glazing over" when it comes to waste reduction. **Herrigel** said staff is looking at making waste reduction the first element of the evaluation with commercial customers.

Councilmember Trotter pointed out the agreement indicates a beginning date of July 1996 and asked if that was appropriate. **Herrigel** said it is based on the fiscal year, and she has already begun the work.

Councilmember Farley asked why the annual allocations fluctuate. **Herrigel** said the amount is determined by the Metro Council. There may, for example, be more entities vying for funds.

Councilmember Farley asked if the amount of the grant is based on performance. **Herrigel** said in some ways that was correct, but it also depends on what the City agrees to do.

Councilmember Kappa said he would like some history about Metro's policy and process in the next report.

Councilmember Schreiber commented she felt it was important to encourage people to maintain and repair goods rather than simply replace.

It was moved by Councilmember Kappa and seconded by Councilmember Farley to adopt the resolution adopting fiscal year 1996 - 1997 annual waste reduction plan. Motion passed unanimously.

RESOLUTION 40-1996:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING FISCAL YEAR 1996 - 1997 (YEAR SEVEN) ANNUAL WASTE REDUCTION PLAN.

Community Development Block Grant Projects -- Resolution

Mullen presented the staff report in which City Council was requested to adopt a resolution supporting the City and Parks District Community Development Block Grant applications for the 1997 - 1999 funding cycle. Block grants are federally funded and administered by Clackamas County. In order to be eligible, projects must benefit low- and moderate-income residents, and she indicated such areas on a City map. In each case, the City of Milwaukie is responsible for a 20% funding match.

Staff reviewed the School Trip Safety project recommendations and developed a list of sidewalk, curb, and drainage projects in the Ardenwald and Campbell neighborhoods. The five projects are: SE 42nd Avenue between Monroe and Washington; SE Washington from 37th Avenue to the 4300 block; Olsen between 42nd and 32nd Avenues; 37th Avenue between Monroe and Washington; and 37th Avenue between Harrison and Monroe. Additionally, there is an application to install sidewalk ramps at various locations particularly near schools, parks, and public facilities.

Mayor Lomnicki asked for clarification of the eligible areas. **Mullen** said 51% or more of the residents must be low to moderate income. **Bartlett** added the data is collected from the census.

Councilmember Farley said there is a care facility near 42nd and Roswell he felt was badly in need of sidewalk ramps for the handicapped. **Mullen** said the City of Milwaukie is trying to install ramps on existing sidewalks and added Roswell Street is north of the eligible area.

Mullen said Milwaukie is also supporting two projects on City-owned property being proposed by the Parks District. These are adding a mechanical lift to the Milwaukie Center stage for ADA compliance and development of Furnberg Park in the Linwood neighborhood.

Councilmember Kappa asked how the in-house funding would be justified. **Bartlett** said the City share would come from the storm water utility and in-house engineering services. Milwaukie does not want to make street and sidewalk improvements without addressing drainage.

It was moved by Councilmember Kappa and seconded by Councilmember Trotter to adopt the resolution supporting City and Parks District Community Development Block Grant applications for the 1997 - 1999 funding cycle.

Councilmember Trotter complimented staff for creatively suggesting projects to support both the School Trip Safety Program and the Transportation System Plan.

Councilmember Kappa asked if this was a three-year funding cycle. **Mullen** said that was correct. If there proves to be unused CDBG funds, staff may be able to re-submit some projects.

Councilmember Farley indicated his support of staff's proposed projects, but he was very concerned about sidewalks for the disabled housing unit on Roswell.

Motion passed unanimously.

RESOLUTION 41-1996:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING THE SUBMITTAL OF PROPOSED PROJECTS FOR COMMUNITY BLOCK GRANT FUNDING.

Authorize Letting Bids for Storm Water Projects

Brink presented the staff report in which the City Council was requested to authorize the Public Works Department to let bids for two projects: storm line replacement on Washington Street east of 32nd Avenue and to replace and extend the storm line on 33rd, 34th, and 35th Avenues south of Washington; and construction of a storm line on Monroe Street from 40th Avenue to 37th Avenue.

Bennett discussed the projects on 34th and 35th south of Washington. The original budget was \$20,000, but staff determined the existing pipeline that would serve the new project was undersized. This proposal increases the size of the pipes that serve the area bringing the cost to \$130,000. The project includes replacing 2400 feet and constructing 400 feet of storm line with catchbasins and manholes.

Mayor Lomnicki commented both projects being presented had been discussed during the work session.

Councilmember Farley asked if there would be much disruption to traffic if the project is implemented. **Bennett** said there may be some slowing or brief interruptions.

Councilmember Farley asked when construction would begin. **Bennett** said, at this point, staff projects construction could start as early as January.

Bennett continued the report by describing the 40th Avenue storm line extension. She noted 800 feet of storm line with catchbasins is proposed on Monroe between 37th and 40th Avenues.

Councilmember Kappa asked what the benefits would be. **Bennett** said surface water has contributed to local flooding icy streets, and sidewalk, curb, and retaining wall damage.

Councilmember Schreiber asked the funding source. **Bennett** said these funds are available in the General Storm Projects budget. **Bartlett** added these projects were identified as ones that would solve a community problem.

It was moved by Councilmember Kappa and seconded by Councilmember Trotter to authorize the Public Works Department to let bids for the 34th and 35th storm line construction and the 40th Avenue extension storm line construction. Motion passed unanimously.

Model Bylaws Review -- Planning Commission

Collins presented the staff report in which the City Council was requested to consider recommendations from the Planning Commission concerning its draft model bylaws. The Planning Commission made these recommendations in August. She discussed the proposed amendments based on the Commission's existing bylaws and language felt to be constructive due to the quasi-judicial nature of the group.

Councilmember Trotter said he was a member of the Planning Commission when these bylaws were adopted and he felt they were appropriate and valuable to orderly conduct of Planning Commission meetings.

Councilmember Kappa referred to Article VI.F and asked how the Planning Commission chair or vice-chair shared information gained from the Community Development Director with the rest of the Commissioners. **Collins** said it is normal procedure for the Chair to confer with the department and share information with the Commission.

Councilmember Kappa and **Mayor Lomnicki** expressed concern that Article VII.A -- *Duties of the Commission* be part of the bylaws rather than be included as an operating guideline.

Councilmember Trotter felt the concern about how people were addressed during the meeting was valid and should be included in the bylaws.

Mayor Lomnicki said he did not care for the language. **Collins** suggested striking the first line of the section.

Councilmember Schreiber asked for clarification of Article VI.A.2 regarding the Chair's summarizing the issues and criteria. **Collins** said the purpose was for the Chair to help focus the Commissioners on what has been heard and where discussions need to begin.

Councilmember Schreiber felt this was specific and might give rise to the need to outline other procedural issues.

Mayor Lomnicki said staff should be responsible for making sure certain issues have been addressed. The Planning Commission Chair is helping the group focus.

Collins suggested adding language that this would be done at closure of the public testimony portion of the hearing. She pointed out the hearing process is printed on the back of the agenda.

Councilmember Kappa indicated his support of these suggestions.

Councilmember Farley asked about the reference to reasonable time limits. **Collins** said there have been times when setting time limits for testimony might have better served the public purpose.

Councilmember Farley suggested rephrasing some of the sections.

It was moved by Councilmember Trotter and seconded by Councilmember Kappa to accept the recommendation of the Planning Commission as modified.

Mayor Lomnicki asked if he was correct in assuming in Article VI.D the chair appoints commissioners to projects or committees within the Planning Commission work plan. **Collins** said that was correct and added the Planning Commission was working on its 1997 work plan.

Councilmember Kappa asked the procedure when Commissioners are working with volunteer organizations. **Collins** said the Planning Commission does not have this authority but hoped these kinds of proposals would be brought through the chain of command.

Motion passed unanimously.

Amend Purchase Order with City of Portland for 800 MHz Access Fees

Bartlett presented the staff report in which the City Council was requested to authorize an amendment to blanket purchase orders for the City of Portland 800 MHz access fees for an additional amount of \$6,872. The City of Portland did a cost study that increased the cost from \$20 to \$24.50 per radio. This amount is beyond his authority, and City Council authorization is required.

Councilmember Farley asked if there could be additional increases in the future. **Bartlett** said this is an enterprise fund, so an increase in the number of users may cause a decrease in fees.

Councilmember Kappa commented this was not included in the original purchase order request. **Bartlett** responded the City of Milwaukie signed a contract saying it would pay the City of Portland's charges. The City issues a purchase order based on the previous year's charges. Users are not informed of any new rates until cost findings are completed.

It was moved by Councilmember Kappa and seconded by Councilmember Trotter to authorize an amendment to blanket purchase orders for the City of Portland 800 MHz access fees for an additional amount of \$6,872 for a total of \$37,632. Motion passed unanimously.

INFORMATION

Councilmember Trotter discussed the purchase of the Daniels' property and Planning Commission discussions with ODOT regarding pedestrian access to McLoughlin Blvd.

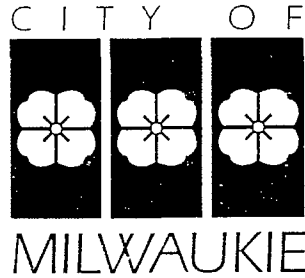
Bartlett announced the Milwaukie, Happy Valley, and Clackamas County joint work session to discuss the Town Center Plan on November 20 at Happy Valley.

Councilmember Kappa asked **Bartlett** how many PTO's he would meet with to discuss the School Trip Safety Program. **Bartlett** said staff has met with four so far, and there is an ongoing plan to meet with each PTO annually. **Councilmember Farley** and **Bartlett** discussed meeting with St. John's School.

Councilmember Kappa said there were both audio and video problems on the cable access channel. **Bartlett** said Jones Intercable was working on the problem, and he suggested General Manager O'Leary be included in an upcoming work session to make a report to Council.

Mayor Lomnicki adjourned the meeting at 8:35 p.m.

Pat DuVal, Recorder/Secretary



To: Mayor Lomnicki and Milwaukie City Council
Through: Dan Bartlett, City Manager *[Signature]*
From: Brent W. Collier, Chief of Police *[Signature]*
Date: November 22, 1996
Subject: O.L.C.C. Application - The Pitcher and Plate

Action Requested:

It is respectfully requested the Mayor and Council approve the O.L.C.C. Application To Obtain A Liquor License from The Pitcher and Plate - 12300 S.E. Mallard Way.

Background:

We have conducted a background investigation and can find no reason to deny the request for a liquor license.



MEMORANDUM

TO: Mayor and City Council
 FROM: Dan R. Bartlett, City Manager *Dan*
 SUBJECT: Regional Water Providers Consortium

DATE: November 26, 1996

ACTION REQUESTED

Authorize the City Manager to sign the Regional Water Providers Consortium Intergovernmental Agreement committing the City to pay a share of the project budget.

BACKGROUND

The City has participated in the drafting of the Regional Water Supply Plan. The Plan has now been adopted by the majority of the water providers. The providers have determined that an ORS 190 entity needs to be formed to maintain the plan and continue the cooperative effort.

Milwaukie would pay less than two percent of the projected cost of the Consortium. The current estimate is that our share would be \$2,187. Our final share will be determined once all of the participants have considered the agreement.

The dollar amount of the agreement is well within the \$25,000 I can authorize. I am submitting this for Council approval because it involves the formation of an intergovernmental agency.

If Council agrees to participate, then one member of Council will need to be designated as our representative to the Consortium Board. I would suggest that we consider this designation after the first of the new calendar year when Council usually reviews their intergovernmental assignments.

COMMUNITY DEVELOPMENT • PUBLIC WORKS
 6101 SE JOHNSON CREEK BLVD.
 MILWAUKIE, OREGON 97206
 PHONE: (503) 786-7600 • FAX: (503) 774-8236

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REGIONAL WATER SUPPLY PLAN

Portland Metropolitan Area

September 24, 1996

PARTICIPATING
WATER
PROVIDERS

- City of Beaverton
Canby Utilities
Board
- Clackamas Water
District
- City of Gladstone
Clairmont Water
District
- Damascus Water
District
- City of Fairview
- City of Gresham
- City of Hillsboro,
Utilities Commission
- City of Forest Grove
- City of Lake Oswego
- City of Milwaukie
- Mt. Scott Water
District
- Oak Lodge Water
District
- City of Portland
Raleigh Water
District
- Rockwood Water
City of Sandy
- City of Sherwood
- South Fork Water
Board,
- (City of Oregon City
- City of West Linn)
- Tigard Water Dist.
- City of Troutdale
- City of Tualatin
Tualatin Valley
Water District
- West Slope Water
District
- City of Wilsonville
- City of Wood Village
Metro

Dear Participant Committee members,

You are now being given copies of the Intergovernmental Agreement (IGA) for you to take to your decision making bodies for your signature. It basically is the same agreement that you saw in July, with a couple of very minor changes to reflect some last minute changes by the legal staff and a couple to reflect concerns expressed by a couple of participants. There are a couple of things to do in regards to the adoption process:

1) The IGA copies that are actually signed by your relevant signatory persons needs to have a signatory page that fits your particular jurisdiction's process. This signatory block can either be added to the end of page 14 under the date, or you may add a separate page after page 14. In addition, the two exhibits mentioned in the IGA are Exhibit A - the Regional Water Supply Plan and Exhibit B - the list of original Phase 2 participants eligible to sign the IGA as founders of the consortium. Exhibit B is already attached to the IGA, however the RWSP needs to be added from the copies you pick up at the September 24 Participants meeting or are delivered to you by other means. It would be normal procedure to attach a label to the upper right corner of a RWSP marked Exhibit A for attachment to the original for your records.

2) Once you have signed the IGA please provide an copy to the project management staff at the Portland Water Bureau where we will keep a file record of all of the signed IGA's. We do not need to have the RWSP attached to these copies. Also, upon signing the IGA the project staff would like to have a written letter assigning the two relevant representatives your entity selects to serve on the Consortium Board (a governing body representative) and on the Technical Committee (a staff person). Each of these positions also needs to have an alternate named, for the Board representative this needs to also be a member of the governing board, commission, or council (See Section 9 A of the IGA).

3) There are a couple of attachments that might be useful in your adoption process in addition to others that have been provided to you. A flow chart showing the organization and roles of the consortium bodies is one of them. A chart with potential first year dues based on what we know about the participants who will consider joining the consortium will be sent later this week. At this point we know that the City of Sandy will not likely join and we know that Metro is considering a flat payment of \$10,000. This chart will reflect these facts, plus the idea of capping to dues

contribution of any entity at not more than \$1.00 per customer account, which affects three potential participants.

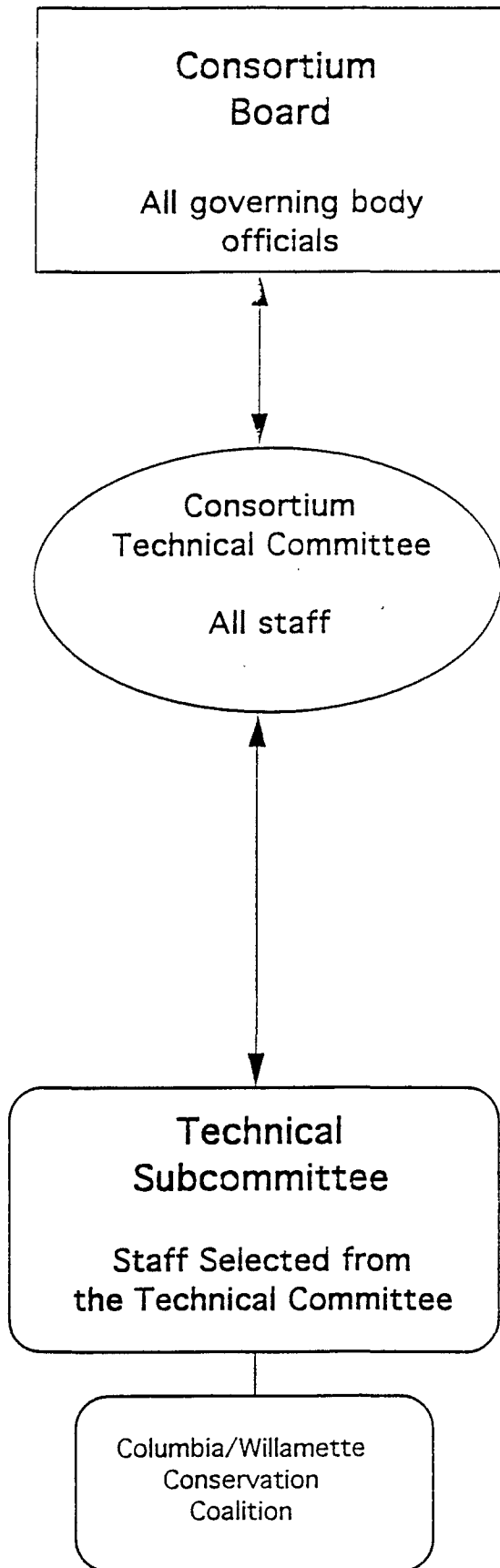
4) More copies of the RWSP can be obtained from project staff next week when the final printing order is completed. Only the first 200 copies of the RWSP will have the color graphics in Chapter 12, subsequent copies will have these graphics in black and white.

Sincerely Yours,

A handwritten signature in cursive script that reads "Lorna Stickel". The signature is written in black ink and is positioned below the typed name.

Lorna Stickel,
Project Manager

Organization & Functions for a Regional Water Providers Consortium



- Meets once or a few times a year
- Adopts the work plan, budget, sets major policy, approves new members, and minor plan amendments
- Recommends IGA Amendments and Major Plan revisions to governing bodies
- One official from each member entity
- May create a smaller representative group of officials which meets more often to advise the Board

- Reviews and makes recommendations to the Consortium Board on work plan , budget, plan amendments, IGA review and amendments and revisions, new members, etc.
- Provides advise to the steering committee on implementation actions and other work program activities
- Presents annual report or other special reports to the Consortium Board
- Meets every or every other month as needed

- Includes representative staff from the technical committee based on county representation (3 from each county and one metro staff)
- Meets every month or more frequently as needed
- Develops and recommends budget, work plan, policy recommendations, plan amendments, IGA amendments, and plan revisions to the Technical Committee
- Conducts the coordination activities of the consortium and the implementation actions under the RWSP
- Prepares annual or special reports to the Technical Committee

6

INTER-GOVERNMENTAL AGREEMENT

OF

REGIONAL WATER PROVIDERS CONSORTIUM

TABLE OF CONTENTS

Section 1. Definitions 2

Section 2. Purposes 3

Section 3. Endorsement of Regional Water Supply Plan 4

Section 4. Cooperation and Participants' Retained Powers 4

Section 5. Consortium Authority 4

Section 6. Participants 6

Section 7. Dues 7

Section 8. Work Plan and Budgeting 9

Section 9. Consortium Board 10

Section 10. Consortium Technical Committee 11

Section 11. Consortium Technical Subcommittee 12

Section 12. Dispute Resolution 13

Section 13. Duration and Dissolution 13

Section 14. Legal Liability 14

Section 15. Oregon Law and Forum 14

Section 16. Public Notification 14

REGIONAL WATER PROVIDERS CONSORTIUM

This Inter-Governmental Agreement is entered into by and among the under-
signed municipalities and districts, hereinafter called "Participants," to establish and
operate the Water Providers Consortium for the Portland Metropolitan Region.

RECITALS

WHEREAS, ORS Chapter 190 authorizes units of local government to enter into
written agreements with any other unit or units of local government for the performance
of any or all functions and activities that any of them has authority to provide; and

WHEREAS, all the Participants of this Agreement are thus authorized to enter
into an inter-governmental agreement; and

WHEREAS, many of the water providers of the Portland metropolitan area have
been meeting together since 1989 through an informal group called the Regional
Providers Advisory Group to coordinate water supply planning efforts; and

WHEREAS, twenty seven of the area's water providers agreed in May, 1993,
through the *Inter-Governmental Agreement to Fund Phase Two of the Regional Water
Supply Plan* jointly to fund an integrated Regional Water Supply Plan and have been
meeting monthly since then as the Phase Two Participants Committee to manage the
development of that Regional Water Supply Plan; and

WHEREAS, a draft of the resulting Regional Water Supply Plan has been
circulated for public review since September, 1995; and

WHEREAS, a final Regional Water Supply Plan has now been completed; and

WHEREAS, that Regional Water Supply Plan contains specific recommendations
for future cooperation and coordination between the water providers in this region
through the formation of a regional water providers consortium; and

WHEREAS, as the Regional land use agency under state law and Regional charter, the Metropolitan Service District (“METRO”) has responsibilities to plan and coordinate the provision of public facilities in the region, including responsibilities created by the Metro Charter requiring that Metro’s Regional framework plan address water sources and water storage; and

WHEREAS, Metro has adopted Regional goals and objectives to encourage coordinated planning and management of water resources to ensure a sufficient water supply for the region; and

WHEREAS, Metro’s participation in preparation of the Regional Water Supply Plan and this Agreement is consistent with its regional coordination functions and its Charter responsibilities; and

WHEREAS, Metro’s adoption of the Regional Water Supply Plan and execution of this Agreement are important parts of Metro studies preliminary to adoption of a water supply component of its regional framework plan; and

WHEREAS, the Participants desire to enter into an inter-governmental agreement in order to endorse the Regional Water Supply Plan and coordinate and cooperate in its implementation;

NOW, THEREFORE, the Participants agree as follows:

Section 1. Definitions

For purposes of this Agreement the following terms shall be defined as follows:

“Agreement” - This document and any authorized amendments thereto.

“Consortium” - Shall mean all Participants to this Agreement acting pursuant to and under the terms of the Agreement.

“Consortium Board” - Shall mean the Board of Directors established by Section 9 of this Agreement, consisting of one representative from the governing board, commission or council of each Consortium Participant.

“Consortium Funds” - Consortium funds shall consist of all dues, voluntary contributions, grant monies and funding from any other source provided to the Consortium to conduct the activities and business of the Consortium.

“Consortium Technical Subcommittee” - Shall mean the Committee established by Section 11 of this Agreement consisting of ten of the Technical Committee members.

“Consortium Technical Committee” - Shall mean the Committee established by Section 10 of this Agreement, consisting of one staff representative appointed by the governing board, commission, or council of each Participant.

“Plan” - That document dated October, 1996, entitled Regional Water Supply Plan for the Portland Metropolitan Area, referred to herein as the “Plan.”

Section 2. Purposes

The general purposes of the Consortium are as follows:

- A. To promote the voluntary coordination of individual and collective actions of Participants implementing the Plan;
- B. To serve as the central custodian for Plan documents, including computer models;
- C. To review and recommend revisions to the Plan, as appropriate;
- D. To provide a forum for the study and discussion of water supply issues of mutual interest to Participants and to coordinate the responses of Participants to such issues;
- E. To provide a forum for review and discussion of water resource related issues preliminary to any final actions by individual Participants, regarding issues which could be considered to relate to application of the statewide land use goals, comprehensive plans, regional plans, or land use regulations;
- F. To establish an avenue for public participation in water supply issues in addition to public participation activities of the individual Participants.

Section 3. Endorsement of Plan

A. By entering into this Agreement, the individual Participants endorse the Plan, attached hereto as Exhibit A, and agree to cooperate among themselves in its implementation.

B. The Participants have endorsed the Plan in order to provide guidance for individual water supply decisions and to provide an outline for Regional water supply cooperation. Endorsement of the Plan and coordination of its implementation by the Consortium are part of the ongoing commitment of the Participants jointly to study and coordinate means to meet the water supply needs for the region. The Plan does not, however, require any mandatory action by any Participant. Each Participant jurisdiction remains responsible for determining and adopting appropriate comprehensive and functional plan provisions, including city and county public facility plans and special district capital improvement plans. The Plan is not any part of any Participant's comprehensive land use plan or framework plan or implementing regulations unless an individual participant takes such action. No part of the Plan or any coordinated activity of the Consortium constitutes a final land use decision by any Participant applying statewide or regional land use goals, comprehensive plans, functional plans, and/or land use regulations. For any part of the Plan to be applied to a Participant's land use actions, direct action to that effect is required by that Participant.

Section 4. Cooperation and Participants' Retained Powers

The Participants intend that the Consortium shall act through the processes laid out herein in the spirit of cooperation. Unless specifically provided for herein, by entering into this Agreement, no Participant has assigned or granted to any other or to the Consortium its water rights or the power to plan, construct, and operate its water system or perform any other obligation or duty assigned to it under law.

Section 5. Consortium Authority

In accomplishing its purposes, and utilizing the organizational structure and decision-making processes contained herein, the Consortium is authorized to:

A. Adopt by-laws and other operating procedures consistent with the terms of this Agreement to govern Consortium operation and administration, including such things as meeting arrangements, voting procedures, election of officers of Consortium

component boards or committees, notice procedures, procedures for execution of legal documents such as contracts, budgeting, and financial operations.

B. Adopt and implement an annual work plan and issue annual reports and such supplementary reports as the Consortium may determine appropriate;

C. Collect regular dues from Participants to support the routine business of the Consortium in amounts established as provided herein;

D. Accept voluntary contributions from Participants in amounts higher than the regular dues for the purpose of conducting studies or engaging in other activities consistent with the Consortium purposes;

E. Apply for and receive grants and accept other funds from any person or entity to carry on Consortium activities;

F. Expend Consortium funds, however obtained, and establish accounts and accounting processes to manage Consortium funds or utilize the accounts and processes of Participants for such purposes under appropriate agreements;

G. Execute contracts to obtain goods and services and to enter into arrangements whereby Participants may contract on behalf of the Consortium to obtain goods and services;

H. Execute intergovernmental agreements;

I. Establish procedures for the hiring and firing of its own staff;

J. Accept assignment of staff from individual Participants to conduct Consortium work and to reimburse the Participants for the salary and other costs associated with the assigned staff;

K. Establish procedures and criteria whereby other units of government may enter into this Agreement subsequent to its initial creation by the execution of the Agreement by fifteen or more Participants, subject to the provisions herein enabling any Participant in the *Inter-Governmental Agreement to Fund Phase Two of the Plan* to join as a Participant of the Consortium at any time after the Consortium's creation;

L. Establish a process to coordinate Participant response to water policy issues of mutual concern;

M. Establish procedures to solicit the views of the public on water supply and water resource issues within the Consortium's purview;

N. Establish a process whereby water policy and water supply disputes or disagreements among Participants may be resolved;

O. Protect Consortium rights and enforce obligations owed to the Consortium by third parties to the extent permitted by law;

P. Take other action within the powers specifically granted the Consortium herein by the Participants to exercise the authority granted in subsections A. through O. above and to carry out the purposes stated in Section 2 above.

Section 6. Participants

A. **Participants in General.** Any Participant in the *Inter-Governmental Agreement to Fund Phase Two of the Plan*, as listed in Exhibit B to this Agreement, may initially join the Consortium at any time. Any Participant which, having once joined, withdraws or is expelled from the Consortium for non-payment of dues, may only re-join as provided in Section 7F. Participants in *Phase Two* may join in their own name or in the name of a separate inter-governmental entity, but not both. (For example, the Cities of West Linn and Oregon City may join as two separate Participants or as one, in the name of the South Fork Water Board.)

B. **Initial Creation By Fifteen Participants.** The Consortium shall be created and this Agreement shall become effective upon its execution by fifteen or more Participants in the *Inter-Governmental Agreement to Fund Phase Two of the Plan*. This Agreement may be signed in counterparts.

C. **Additional Participants.** The Consortium Board may accept additional governmental entities as Participants into the Consortium under terms and financial arrangements that the Board determines just and appropriate. The Board may establish standards for membership in its by-laws or may allow new members to join on a case by case basis. Provided, however, that in all cases, no new member may join the Consortium without the affirmative vote of a majority of the Board.

D. **Withdrawal.** Any Participant may withdraw from the Consortium at any time by giving written notice to the Chair of the Consortium Board. Consortium dues already paid shall not be refunded to the withdrawing Participant. To the extent it is able to do so, any Participant intending to withdraw from the Consortium shall endeavor to advise the Chair of that fact prior to February 1 and the approval of the Consortium's next fiscal year's budget.

Section 7. Dues

A. Each Participant of the Consortium shall pay annual dues no later than September 1 of each year sufficient to fund the approved annual budget of the Consortium, as established by the Board, provided, however, that the Board may establish a different payment amount and/or schedule for a Participant upon request from that Participant or upon the Board's own motion.

B. The dues of each water provider Participant shall be determined annually as follows:

1. Total annual dues for all members shall be set to equal the annual budget for the Consortium, not counting budget items to be funded by fewer than all the Participants as provided in Section 8.C., and taking into account any grants or non-dues monies available to fund the annual budget.

2. The total annual dues of Participants that are not water providers shall then be subtracted from the total annual dues-based budget, described in subsection 7.B.1. above, leaving a budget number to be funded by provider dues. Dues shall be set so that the dues of each water provider reflects its proportional share of that sum based on the following formula:

(a) 25% of the total provider dues shall be allocated proportionally based on the individual provider's proportional share of the total number of all Participants' retail customer accounts for the prior year;

(b) 25% of the total provider dues shall be allocated proportionally based on the individual provider's proportional share of total average daily retail water use (in million gallons a day) in the prior year of all Participants;

(c) 50% of the total provider dues shall be allocated proportionally based on the individual provider's share of the projected incremental growth in average daily summer peak season use (in million gallons a day) of all Participants. The projected incremental growth in use shall be based on the total incremental growth of all Participants projected from the first to the last year of the regional water demand forecast contained in the Plan or any more recent regional forecast approved as a Plan Amendment by the Consortium Board or the Participants' governing boards, commissions, or councils.

C. The amount of Metro's dues shall be established each year in the Annual Work Plan and budget. Metro's dues may include in-kind contributions.

D. The dues obligation of any additional Participant that is not a water provider shall be established by the Consortium Board at the time it approves an entity's membership.

E. A Participant that fails to pay its assigned dues by September 1 or a time otherwise established by the Board pursuant to Section 7A. shall be automatically removed as a Consortium Participant.

F. Upon a majority vote of the Board, a defaulting Participant (or a Participant that has previously withdrawn from membership) may be reinstated in the Consortium upon its agreement to pay its dues for the year during which it wishes to rejoin (calculated as if the entity had been a Participant at the time the budget was approved). Upon receipt of such dues by a rejoining member, the Board shall re-calculate the dues owed by other entities and provide a credit on the next year's dues to Participants who paid more than their total dues as recalculated.

G. If a new entity joins the Consortium as a Participant during an annual dues cycle, its dues and those of the existing Participants shall be calculated as follows:

1. If a new Participant is a water provider, its dues requirement will be calculated pursuant to Section 7.B. above.

2. If a new member is not a water provider, its dues will be determined as provided in Section 7.D. above.

3. The initial year dues for a new Participant joining part way through a budget cycle will be pro-rated to reflect partial year membership.

4. Upon addition of a new Participant part way through a budget cycle, the current year dues for existing Participants will be re-calculated and re-assigned as follows:

(a) The new Participant's initial year dues will be deducted from the total current dues-based budget.

(b) The remaining budget amount will be allocated to existing members in accordance with the percentage of the budget each Participant was assigned in the current annual budget.

(c) Existing members shall receive a credit on their next year's dues payment for any amounts they paid as dues that are greater than their revised dues obligation as determined herein.

5. New Participants joining at any time after September 1 shall pay their initial year dues by the following September or at a time otherwise established by the Board upon admission of the new Participant.

Section 8. Work Plan and Budgeting

A. By February 1 of each year, the Board shall adopt an annual work plan of Consortium activities for the upcoming fiscal year beginning on July 1.

B. At the same time, the Board shall adopt a budget sufficient to conduct the Consortium's Annual Work Plan. The budget shall also include a calculation of the dues owed by each Participant to fund the budget as provided in Section 7, taking into account any grants or non-dues funds available to the Consortium, and a table apportioning the dues to each Participant.

C. The budget may include special studies that will be funded by fewer than all of the Participants on a voluntary basis.

D. The Board may amend the budget and the work plan at any time during the year as it deems appropriate except that dues may only be increased annually as provided for in Section 7. Additional expenditures may be permitted so long as there are identified sources of revenue, other than increased dues, for such expenditure(s).

E. Participants are expected to provide to Consortium staff the data necessary to calculate the annual dues for budgeting and planning.

Section 9. Consortium Board

A. The Consortium Board shall be made up of one representative from the governing board, commission, or council of each Participant. Each Participant shall also name an alternate Board representative from its governing board, commission, or council to serve in case the primary representative cannot. Provided, however, that if the Board Chair does not attend a meeting, the Vice-Chair shall assume the Chair's duties rather than the Chair's alternate.

B. Multnomah, Clackamas, and Washington Counties may each also name a representative (and alternate) to serve on the Board as non-voting *ex officio* members of the Board.

C. The Board is authorized to: (1) approve the Consortium's annual work plan and budget; (2) set Consortium policy; (3) approve new Consortium Participants; (4) recommend water supply, water planning, and regional cooperation actions to Participant governing boards, commissions, or councils, especially, but not limited to, actions to implement the Plan; (5) approve minor amendments to the Plan; (6) recommend to the governing boards, commissions, or councils of the Consortium Participants major amendments to the Plan; (7) periodically review the Plan comprehensively, on a schedule providing for review at least every five years, commencing with the date upon which the Consortium is formed, or on a shorter schedule determined by the Board; (8) recommend to the governing boards, commissions, or councils of the Consortium Participants amendments to this Agreement; (9) adopt by-laws; (10) exercise any other powers and authority granted to the Consortium by this Agreement necessary to accomplish the Consortium's purposes.

D. The Board shall have the authority to designate which Plan Amendments are major and which are minor for purposes of determining the process for amendment consideration. Generally, major amendment to the Plan should include revisions to the Plan's policy objectives, resource strategies, or implementation actions which significantly alter Plan direction or would significantly change the implementation strategies. Minor amendments are all other changes to the Plan.

E. Upon its first meeting, the Board shall elect a temporary Chair and Vice-Chair and shall proceed within three months thereafter to adopt such by-laws as it deems advisable, consistent with this Agreement. Consistent with the terms of this Agreement, the by-laws shall, at least, (1) establish the offices of Chair and Vice-Chair and determine their terms, their general duties, and the method for their election; (2) establish how the Participants' governing boards, commissions, or councils shall notify the Consortium of their appointment of Board members and alternates; (3) establish a method to allow additional entities to join the Consortium; (4) establish a method to determine timing of meetings, provided that the Board must meet at least once a year; (5) establish a process for resolution of disputes among Participants; and (6) establish a method whereby the Board can create subcommittees of itself and other advisory committees or bodies to assist the Board in conducting its business, including a standing "Executive Committee." In creating a Board Executive Committee, the Board shall endeavor to achieve geographic representation and representation from municipalities, districts, and other types of entities that form the Participants' group.

F. Each year in the annual work plan or its amendments, the Board may assign such duties or delegate such Board authority as the Board deems advisable to any Board committee or to the Technical Committee, except that the Board may not delegate the authority (1) to execute inter-governmental agreements, (2) to designate Plan amendments as minor or major, (3) to recommend major Plan Amendments or amendments to this Agreement, (4) to approve the annual work plan and the budget, (5) to approve minor Plan amendments, (6) to approve the admission of Participants to the Consortium, or (7) to dissolve the Consortium.

G. To be effective, Board actions must be approved by a vote of a majority of the Board at a meeting at which a quorum of two-thirds of the Board is present.

Section 10. Consortium Technical Committee

A. The Consortium Technical Committee shall be made up of one staff representative appointed by the governing board, commission, or council of each Participant. Each governing board, commission, or council shall also name a Technical Committee representative alternate to serve when the primary representative cannot. Provided, however, that if the Technical Committee Chair does not attend a meeting, the Vice-Chair shall assume the Chair's duties rather than the Chair's alternate.

B. The Technical Committee shall advise and provide assistance to the Board on any matters falling within the Consortium's purview under this Agreement, shall direct the work of the Technical Subcommittee, and may act upon Board delegation of authority as provided in Section 9F.

C. The Technical Committee shall, upon its first meeting, elect a temporary Chair and Vice-Chair and shall proceed within three months thereafter to adopt such by-laws for its operation as it deems advisable, consistent with this Agreement. The by-laws shall, at least, (a) establish the offices of Chair and Vice-Chair and determine their terms, their general duties, and the method for their election; (b) establish how the Participants' governing boards, commissions, or councils shall notify the Consortium of their appointment of Technical Committee members and alternates; (c) establish a method to determine timing of meetings, provided that the Technical Committee must meet at least three times a year; and (d) establish a method whereby the Technical Committee can create subcommittees of itself and other advisory committees or bodies to assist the Technical Committee in conducting its business.

D. The Technical Committee shall, at its discretion, assign duties and tasks to and direct the work of the Technical Subcommittee.

E. To be effective, Technical Committee actions must be approved by a vote of a majority of the Committee at a meeting at which a quorum of two-thirds of the Committee is present.

Section 11. Consortium Technical Subcommittee

A. The Consortium Technical Subcommittee shall be made up of ten of the Technical Committee members (or, as required, their alternates) as follows:

1. Three of the Technical Subcommittee representatives must come from Participants in Clackamas County, three from Washington County, and three from Multnomah County, and one from Metro. Further, in each County, if possible given the Consortium membership, there must be at least one representative from a city and one from a special district.

2. The Technical Subcommittee representatives for each county shall be selected by the vote of the Technical Committee representatives for each county, provided, however, that in any case the Chair of the Technical Committee shall, without requiring election, be automatically named to the Technical Subcommittee as one of the

County representatives or as the Metro representative, as appropriate, and shall be Chair of the Technical Subcommittee, as well. If the relevant Technical Committee members are unable to select the required three Technical Subcommittee members from a county, then the Board representatives for the relevant county or counties shall select Technical Subcommittee members.

B. The Technical Subcommittee shall operate under the supervision of and advise the Technical Committee on any matters within the Consortium’s purview. It is anticipated that the Technical Subcommittee shall, under the direction of the Technical Committee, or as provided for in any agreement or contract to provide staffing, supervise Consortium staff (including employees of Participants assigned to the Consortium) and assume the responsibility to draft proposed work plans, budgets, annual and other reports, plan amendments, and implementation proposals for submission to the Technical Committee for review and submission to the Board.

C. To be effective, actions or recommendations for action by the Technical Subcommittee must be approved by a majority vote of those members present and voting at a meeting at which a quorum of a majority of the Technical Subcommittee is present.

Section 12. Dispute Resolution

The Participants intend to work cooperatively to accomplish the water resource strategies of the Plan and the purposes of this Agreement. It is understood, however, that there may be disagreements among the Participants on issues within the purview of the Consortium. The Consortium will also, therefore, provide a forum whereby such disagreements may be aired and, if possible, resolved. The Board shall establish a mandatory, but non-binding dispute resolution mechanism through its by-laws.

Section 13. Duration and Dissolution

This Agreement shall remain in effect, subject to the following: (1) any Participant may withdraw at any time as provided in this Agreement; (2) should all but one Participant withdraw, the Agreement shall end and the Consortium shall be dissolved; (3) the Agreement may be ended and the Consortium dissolved by a vote of the Board.

Section 14. Legal Liability

Participants agree to share any costs or damages, including reasonable attorney's fees, from third party actions against the Consortium. The obligation shall apply to any entity that was a Participant in the Consortium at the time the liability arose or the cause of action accrued. Payment obligations shall be proportional to the dues of each entity. Participants agree to assist and cooperate in the defense of such an action. Settlement of any action that would impose an obligation to pay upon the Participants under this provision must be approved by a majority of the Board.

Section 15. Oregon Law and Forum

A. This Agreement shall be construed according to the law of the State of Oregon.

B. Any litigation between the Participants under this Agreement or arising out of work performed under this Agreement shall occur, if in the state courts, in the Multnomah County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon.

Section 16. Public Notification

Meetings of the Consortium Board, the Consortium Technical Committee, and any subcommittees of those bodies shall be considered open meetings as provided by law.

DATED this _____ day of _____, 1996.

**PHASE 2
of the
REGIONAL WATER SUPPLY PLAN**

PARTICIPANTS:

- City of Beaverton
- Canby Utility Board
- Clackamas River Water
- City of Gladstone
- Damascus Water District
- City of Fairview
- City of Gresham
- City of Hillsboro Utilities Commission
- City of Forest Grove
- City of Lake Oswego
- Metro
- City of Milwaukie
- Mt. Scott Water District
- Oak Lodge Water District
- City of Portland
- Raleigh Hills Water District
- Rockwood Water
- City of Sandy
- City of Sherwood
- South Fork Water Board: City of Oregon City/City of West Linn
- City of Tigard Water Department
- City of Troutdale
- City of Tualatin
- Tualatin Valley Water District
- West Slope Water District
- City of Wilsonville
- City of Wood Village

Water Providers Consortium Preliminary Dues Share Table 1997-98

Participants	1996 Customer Accounts **	% of Total	Dues Funding Share	1996 Avg. Wtr Dmd **	% of Total	Dues Funding Share	Peak Season MGD Growth ***	% Wtr Dmd Growth	Dues Funding Share	Total Funding Share
JWC Beaverton	6,620	1.90%	\$810	4.84	2.77%	\$1,181	1.96	1.24%	\$935	\$2,826
Canby	2,878	0.83%	\$352	1.33	0.79%	\$338	2.16	1.37%	\$1,030	\$1,721
Clackamas RW	11,407	3.27%	\$1,396	6.71	4.01%	\$1,707	11.78	7.47%	\$5,619	\$8,722
Gladstone	3,285	0.84%	\$400	1.6	0.95%	\$407	0.17	0.11%	\$81	\$888
Damascus										\$2,589
Fairview										\$663
Gresham	18,840	5.35%	\$2,281	4.72	2.82%	\$1,201	11.65	7.38%	\$5,557	\$9,039
JWC Hillsboro	13,446	3.86%	\$1,646	6.43	3.84%	\$1,638	21.06	13.35%	\$10,045	\$13,328
JWC Forest Grove	3,965	1.14%	\$485	2.27	1.35%	\$578	2.49	1.58%	\$1,188	\$2,250
Lake Oswego	11,997	3.44%	\$1,468	6.04	3.81%	\$1,537	2.29	1.45%	\$1,092	\$4,097
Milwaukie	6,183	1.78%	\$757	3.11	1.86%	\$791	1.34	0.85%	\$639	\$2,187
Mt. Scott	3,879	1.11%	\$475	1.26	0.75%	\$321	4.09	2.59%	\$1,951	\$2,748
Oak Lodge	8,032	2.31%	\$983	3.39	2.02%	\$863	1.10	0.70%	\$525	\$2,370
Portland	159,257	45.72%	\$19,490	79.03	47.17%	\$20,108	29.37	18.61%	\$14,008	\$53,605
Raleigh WD	1,000	0.29%	\$122	0.59	0.35%	\$150	0.11	0.07%	\$52	\$325
Rockwood	12,424	3.57%	\$1,520	6.25	3.73%	\$1,580	6.27	3.97%	\$2,991	\$8,101
Sandy										\$0
Sherwood										\$1,248
South Fork WB	8,482	2.43%	\$1,036	4.89	2.92%	\$1,244	3.35	2.12%	\$1,598	\$3,878
Tigard	12,386	3.56%	\$1,516	5.37	3.21%	\$1,368	5.69	3.61%	\$2,714	\$5,596
Troutdale	2,850	0.82%	\$349	1.05	0.63%	\$267	4.02	2.55%	\$1,917	\$2,533
Tualatin	4,477	1.29%	\$548	2.14	1.28%	\$544	2.73	1.73%	\$1,302	\$2,394
Tualatin Valley WD	38,923	11.17%	\$4,783	19.47	11.62%	\$4,954	38.10	24.15%	\$18,172	\$27,889
West Slope WD	3,401	0.98%	\$416	1.19	0.71%	\$303	0.98	0.62%	\$467	\$1,188
Wilsonville	3,488	1.00%	\$427	2.49	1.49%	\$634	4.82	3.05%	\$2,299	\$3,359
Wood Village	1,247	0.36%	\$153	0.49	0.29%	\$125	0.50	0.32%	\$238	\$516
Powell Valley WD	10,091	2.90%	\$1,235	3.08	1.84%	\$784	1.75	1.11%	\$835	\$2,853
SUB TOTAL	348,318	100.00%	\$42,627	167.54	100.00%	\$42,627	157.78	100.00%	\$75,254	\$165,000
Metro									\$10,000	\$10,000
Grand Total	348,318		42,627	167.54		\$42,627	157.78		\$85,254	\$175,000

** MGD & Accounts From the RWSP Demand Forecast, based on h *** Growth in peak season demand based on RWSP Demand Forecast High PMGD 1988-2050

24

November 13, 1996

MEMORANDUM
REGIONAL WATER PROVIDERS CONSORTIUM

TO: Participants Committee

FROM: Lorna Stickel

RE: Progress on signing the IGA to form the Regional Water
Providers Consortium

Well, it has happened, as of today, November 13, 1996 the 15th member (the Portland City Council) approved the IGA and the Regional Water Providers Consortium is under way. We most likely will meet at the end of the month at our regular time, November 26 as the Technical Advisory Committee. Attached you will find the most recent form showing who has approved the IGA and the most recent estimate of dues removing Troutdale as a potential member, but adding back Sandy which now feels they may join the Consortium. We will soon have much to discuss about the next IGA for Portland and the Consortium Board to sign to provide the staffing for the IGA, the formation of a proposed work plan and a budget in preparation for the first Consortium Board meeting probably to be scheduled sometime in February.

Those of you have not yet signed the IGA are certainly still expected to participate in these meetings and everyone will be included in the review and development of work products until we are closer to having a full idea of the full consortium membership sometime in January. In the meantime, those of you who have signed the IGA but have not sent a letter letting us know the members and their alternates that you wish to select should be sent to Dominique Bessee as soon as possible.

Congratulations to all of you for the hard work we have put into this project over the last several years. It took a lot of time, but we did get there. See you soon.

Water Providers Consortium Preliminary Dues Share Table 1997-98

Participants	1996 Customer Accounts **	% of Total	Dues Funding Share	1996 Avg. Wtr Dmd **	% of Total	Dues Funding Share	Peak Season MGD Growth ***	% Wtr Dmd Growth	Dues Funding Share	Total Funding Share	IGA Yes/No
BAYCO Bayshore	13,381	3.78%	\$1,813	7.25	4.27%	\$1,819	1.96	1.27%	\$954	\$4,386	Yes
Caribou	2,878	0.81%	\$347	1.33	0.78%	\$334	2.16	1.40%	\$1,051	\$1,732	Yes
Chickamaucki RW	11,407	3.22%	\$1,375	6.71	3.95%	\$1,684	11.78	7.62%	\$5,734	\$8,793	Yes
Gladstone	3,265	0.92%	\$393	1.6	0.94%	\$402	0.17	0.11%	\$83	\$878	Yes
Danvers										\$2,589	Yes
Fairview										\$663	
Gresham	18,640	5.27%	\$2,246	4.72	2.78%	\$1,184	11.65	7.54%	\$5,671	\$9,102	Yes
JACO Harbor	13,446	3.80%	\$1,620	6.43	3.79%	\$1,614	21.08	13.62%	\$10,252	\$13,486	Yes
JWC Forest Grove	3,965	1.12%	\$478	2.27	1.34%	\$570	2.49	1.61%	\$1,212	\$2,280	
Lake Oswego	11,997	3.39%	\$1,446	6.04	3.56%	\$1,516	2.29	1.48%	\$1,115	\$4,076	
Milwaukie	6,183	1.75%	\$745	3.11	1.83%	\$780	1.34	0.87%	\$652	\$2,178	
Mt. Scott	3,879	1.10%	\$467	1.26	0.74%	\$316	4.09	2.65%	\$1,991	\$2,775	
Oakridge	8,032	2.27%	\$968	3.39	2.00%	\$851	1.10	0.71%	\$535	\$2,354	Yes
Portland	159,257	45.02%	\$19,192	78.03	46.52%	\$19,832	29.37	19.00%	\$14,297	\$53,321	Yes
Raleigh WD	1,000	0.28%	\$121	0.59	0.35%	\$148	0.11	0.07%	\$54	\$322	
Rockwood	12,424	3.51%	\$1,497	6.25	3.69%	\$1,568	6.27	4.06%	\$3,052	\$6,118	
Sandy	1,492	0.42%	\$180	0.77	0.45%	\$193	0.83	0.54%	\$404	\$777	
Sherwood										\$1,240	
South Fork WB	8,462	2.39%	\$1,020	4.89	2.88%	\$1,227	3.35	2.17%	\$1,631	\$3,878	Yes
Tigard	12,388	3.50%	\$1,493	5.37	3.16%	\$1,348	5.68	3.68%	\$2,770	\$5,610	
Truett Lake										\$0	No
Tualatin	4,477	1.27%	\$540	2.14	1.26%	\$537	2.73	1.77%	\$1,329	\$2,405	Yes
Tualatin Valley WD	38,923	11.00%	\$4,691	19.47	11.46%	\$4,898	38.10	24.65%	\$18,547	\$28,123	Yes
West Slope WD	3,401	0.96%	\$410	1.19	0.70%	\$299	0.98	0.63%	\$477	\$1,186	Yes
Wilsonville	3,488	0.99%	\$420	2.49	1.47%	\$825	4.82	3.12%	\$2,346	\$3,392	Yes
Wood Village	1,247	0.35%	\$150	0.49	0.29%	\$123	0.50	0.32%	\$243	\$517	Yes
Powell Valley WD*	10,091	2.85%	\$1,218	3.08	1.81%	\$773	1.75	1.13%	\$852	\$2,841	
SUB TOTAL	353,721	100.00%	\$42,627	169.87	100.00%	\$42,627	154.59	100.00%	\$75,254	\$165,000	
Metro									\$10,000	\$10,000	
Grand Total	353,721		42,627	169.87		\$42,627	154.59		\$85,254	\$175,000	

* Powell Valley WD is not an original RWSP participant, Portland will pick up their share, until other arrangements may be made.

** MGD & Accounts From the RWSP Demand Forecast, based on *** Growth in peak season demand based on RWSP Demand Forecast High PMGD 1996-2050

**REGIONAL WATER SUPPLY PLAN -- PHASE 2
STEERING COMMITTEE MEETING
Minutes of September 4, 1996**

The meeting was called to order at 1:35 p.m. by Tim Erwert from the City of Hillsboro/Joint Water Commission. Steering Committee members in attendance included Mike Rosenberger from the Portland Water Bureau, Gene Seibel for Tualatin Valley Water District, Dale Jutila from Clackamas River Water, and Greg DiLoreto from the City of Gresham. Duane Robinson from Rockwood Water PUD also attended the meeting.

Portland Water Bureau staff included Lorna Stickel, Roberta Jortner, and Dominique Bessee.

Approval of Minutes: Tim Erwert pointed out that a word had been omitted from a sentence in the meeting minutes. With that addition, the Steering Committee minutes of July 17, 1996 were approved as written.

Progress Report: Lorna Stickel reported that project staff has been working to finalize the Regional Water Supply Plan (RWSP) that will be submitted to regional decision-makers for endorsement. Lorna indicated that reproduction of the final plan is now underway. Project staff has been contacting participant water provider agencies to determine the status of review of the draft Intergovernmental Agreement (IGA) by decision-makers and legal counsel. Lorna said that project staff anticipates being able to distribute copies of the RWSP and IGA at the next Participants Committee meeting.

Project staff is preparing a preliminary FY 1997-98 budget for the Regional Water Providers Consortium.

Project staff indicated that the written progress report on project staff activities distributed at the last Participants Committee meeting will be mailed to Steering Committee members unable to attend that meeting.

IGA Report: Lorna Stickel said the water provider agencies present at the last Participants Committee meeting gave reports on the status of their jurisdiction's Intergovernmental Agreement (IGA) adoption activities. Project staff contacted those water provider agencies not represented at the meeting for similar reports. Lorna reported that fifteen water provider agencies have indicated they are likely to join the Regional Water Providers Consortium. These entities include Beaverton, Canby, Gladstone, Fairview, Hillsboro, Milwaukie, Portland, Gresham, Sherwood, Tualatin, Canby Utility Board, Clackamas River Water, Damascus Water District, Rockwood Water PUD, and South Fork Water Board. Lorna said that she has not heard from Forest Grove, Lake Oswego, Mt. Scott Water District, Oak Lodge Water District, Raleigh Hills Water District, Troutdale, or Metro. Lorna indicated that Mike Walker requested the IGA adoption materials although he indicated that the City of Sandy is unlikely to join the Consortium.

Steering Committee Meeting
Minutes of September 4, 1996
Page 2

Tim Erwert indicated that he has not heard whether the City of Forest Grove will participate in the Consortium but offered to contact them for more information. Greg DiLoreto said that he believed the City of Troutdale could decide to participate in the Consortium.

Greg asked whether the Participants Committee made a decision regarding the dues allocation for the three smaller water provider agencies believed to be disproportionately impacted by the proposed funding formula. Lorna indicated that project staff mailed correspondence on the proposed capping system to Damascus Water District, and the Cities of Fairview and Sherwood. Damascus Water District indicated that the proposed capping system would need to be in place in order for them to join the Consortium, the City of Sherwood indicated that the capping system was not necessary for them to participate in the Consortium, and the City of Fairview indicated that a capping system would be useful although not critical for their participation.

Lorna reported that the Metro Council has voiced favorable comments in the past regarding the Regional Water Providers Consortium although Metro has not formally responded to the IGA. Metro staff is in the process of contacting each Councilor regarding participation. Lorna noted that the nature and amount of Metro's contribution to the Consortium is still unclear at this time, although Metro staff has communicated that Metro is considering making a \$10K contribution.

Tim said he would be interested to see how Metro's growth projections settle out and how they will impact the proposed funding allocation. The Steering Committee discussed how the projected growth figures generated in the Phase 2 Demand Model will be revised once new information becomes available. The committee discussed the latest growth figures being projected for the three county area.

Roberta Jortner said the proposed dues capping system will be reflected in the revised Consortium funding chart, and covered in the memorandum that will accompany the IGA adoption materials.

Dale Jutila indicated that the Clackamas River Water Board discussed the capping concept at a recent meeting and expressed concern that the system could be a deterrent to participant agencies joining the Consortium as equal partners. After some discussion, the Steering Committee agreed that the proposed capping system should not be covered in the IGA although there would need to be some resolution on this issue before participant entities begin the IGA adoption process.

Lorna noted that since the IGA gives the Consortium Board the authority to make reductions in funding amounts, the memorandum could explain that the funding chart represents an estimate of the Consortium's first year budget and the workplan will be among the first actions undertaken by the Consortium in 1997. In addition, the illustrative dues allocation table could be distributed reflecting the capping approach. She suggested that project staff could make a recommendation regarding the capping concept to the Consortium Board once it is formed. Project staff could recommend a one-year cap on the funding allocation or until the demand forecast figures are

Steering Committee Meeting
Minutes of September 4, 1996
Page 3

revised. Lorna said that if Damascus Water District or the other water provider agencies experience significant growth then the subsidy could be significantly reduced over time. The Steering Committee voiced support for this strategy.

Lorna said that project staff will prepare a cover memorandum to introduce the IGA adoption materials and provide instructions to the participant agencies. The Steering Committee will be asked for input on the memorandum before these materials are distributed to the Participants Committee.

Dale asked about anticipated activities after the Consortium is formed and before funding begins in July 1997. Lorna said that Portland will continue to donate staff time to coordinate these activities.

Mike Rosenberger asked whether the Consortium will have a workplan for the first six month period. Lorna said the Consortium will devote this time to developing the Consortium by-laws and workplan.

Duane Robinson asked whether Metro could be encouraged to provide a more immediate response regarding their participation in the Consortium, and information regarding the nature and amount of their contribution. Lorna said that Metro is following the same adoption timeline as other participant entities and would soon provide a response to those questions. Tim recommended that the preliminary dues table be modified to show Metro's contribution with a blank space rather than a zero to better reflect the status of their contribution. Project staff agreed to make this change.

Willamette Basin Reauthorization: Roberta Jortner reported that there was not much new information to share regarding activity on the U.S. Army Corps Willamette Basin Reauthorization Feasibility Study. Roberta reported that the Corps and Oregon Water Resources Department (WRD) is considering reducing the base condition forecast period from 50 to 20 years, and project staff has been revisiting how this change would affect previous assumptions in the base condition.

Roberta asked the Steering Committee to comment regarding their comfort level with the base condition including some development of the Willamette River given the new forecast period and the near-term water needs for certain water providers.

Roberta said that if the base condition included zero development on the Willamette River then the perception would be that is not a real option to meet identified near-term local needs in places like Wilsonville and Canby. Roberta noted that an over-estimated amount for the Willamette River would require that compensation occur elsewhere. Roberta said that since an objective is to

be as certain as possible about the base condition, then the committee needs to determine how much certainty exists regarding future development of the Willamette.

The Steering Committee discussed recent activities of Canby and Wilsonville in terms of near-term and local options. Gene Seibel recalled that Wilsonville indicated between 10-12 mgd could be needed from the Willamette River depending on the actions of other water providers. Greg said he believed that the Willamette River should continue to be a part of the base case option for Wilsonville's near-term needs. The Steering Committee decided that 20 mgd was an appropriate figure to include in the base condition given that some water provider agencies are considering the Willamette River as a local option.

Roberta asked the Steering Committee to comment on whether the revised base condition memorandum should be distributed to the Participants Committee for approval before the document is given to the Oregon Department of Water Resources and the U.S. Army Corps of Engineers as the regional response. The Steering Committee said it would be appropriate for the Participants Committee to review the response. Project staff will distribute the revised memorandum to the Participants Committee at its next meeting or via fax transmission if a more timely response is required.

Other Business and Next Meeting Agenda: Gene Seibel asked whether the Steering Committee had the opportunity to review the results of the mail-in survey sent to approximately 3,000 customers of Tualatin Valley Water District. Gene reported that there was a 6% response rate to the survey which generated interesting results. Gene shared some of the survey results regarding financing, bottled water, use of water filters, and water utility structures. Gene noted that survey respondents expressed a huge overall satisfaction with water quality.

Tim Erwert reported that the Barney project is progressing reasonably well and has just passed the 50% completion mark in terms of total expenditures. Tim said the treatment plant and transmission line are targeted to come on-line in 1997.

Lorna Stickel reported that the Water Bureau continues to receive telephone calls regarding the anticipated future water demand of the high technology industrial sector. Lorna asked whether other water providers had received similar inquiries. Lorna said she has heard that high tech production is slowing and water demand may not be as high as first anticipated. Some committee members reported that Fujitsu has slowed production although Intel has not announced similar plans.

Lorna said project staff would like to update the high tech paper with new information that has recently become available. The Steering Committee agreed that high tech water demand in the Portland metropolitan area is a controversial subject and voiced support for revising the paper.

Steering Committee Meeting
Minutes of September 4, 1996
Page 5

Roberta Jortner mentioned that the Unified Sewerage Agency also recently prepared materials on high tech waste water disposal and reuse options.

After some discussion, the Steering Committee decided that it was unnecessary to hold a second meeting in September given the current status of project activities. Lorna indicated that project staff will communicate any urgent issues that might arise before the next Steering Committee meeting via telephone or fax transmission. The next Steering Committee meeting will be on October 2, 1996.

The meeting adjourned at 2:30 p.m.

Submitted by Dominique Bessee

**REGIONAL WATER SUPPLY PLAN -- PHASE 2
PARTICIPANTS COMMITTEE MEETING
Minutes of October 22, 1996**

The meeting was called to order at 1:40 p.m. by Lorna Stickel from the Portland Water Bureau. Lorna announced that Mike Rosenberger was unable to attend the meeting because he was on a consultant assignment in Bratislava, Slovakia as part of the "Water For People" program. Lorna mentioned that the City of Portland and the Unified Sewerage Agency recently co-hosted a study tour for ten Slovak public and water/wastewater officials. Alan Fletcher from Clackams River Water, and Vice Chair of the Participants Committee, facilitated the meeting.

Introductions were made. Other meeting attendees included David Winship from the City of Beaverton; Bob Rapp from Canby Utility Board; Denny Klingbile from Damascus Water District; Jerry Anderson from the City of Wood Village; Rosemary Furfey from Metro; Mike McKillip from the City of Tualatin; Jeff Bauman from the City of Wilsonville; Larry Sparling from South Fork Water Board; Ed Wegner from the City of Tigard; Alan Fietcher from Clackamas River Water; David Wheaton from the City of Milwaukie; Roberta Jortner, Bruce Niss, Steve Kucas, and Dominique Bessee from the Portland Water Bureau.

Approval of Minutes: The meeting minutes of September 24, 1996 were approved as written.

Progress Report: Steering Committee: In the absence of the committee Chair, Lorna Stickel reported on recent Steering Committee activities. Lorna noted that the Steering Committee met once during October to begin discussion about the types of issues that will need to be addressed in the Intergovernmental Agreement (IGA) to implement the staffing arrangement between the Consortium Board and the Portland City Council.

Project Staff: Lorna reported that project staff has been distributing copies of the IGA to form a Regional Water Providers Consortium, the Regional Water Supply Plan (RWSP), and other project-related materials to interested persons. Lorna noted that project staff has responded to a number of public document requests for information regarding the regional water supply planning project and the IGA adoption process.

Project staff attended several meetings of the Metro Technical Advisory Committee (MTAC) and Metro Water Resources Policy Advisory Committee (WRPAC) to hear presentations on the urban reserves and how much population can be absorbed in the Urban Growth Boundary (UGB). Lorna noted that the primary subject at a recent WRPAC meeting was development of the Title 3 model code for implementation in the Functional Plan. Rosemary Furfey expressed a willingness to make a presentation on the model code at a future Participants Committee meeting.

Update on Endangered Species Act: Lorna Stickel introduced Steve Kucas, Fish Biologist for the Portland Water Bureau, who gave an update presentation on the Endangered Species Act (ESA). Steve provided some general background information about the ESA, the listing process, and the project review process.

Participants Committee Meeting
Minutes of October 22, 1996
Page 2

Steve explained that the ESA was established in 1973 to strengthen environmental laws and prevent species extinctions. The ESA is implemented by the Secretaries of the Interior and Commerce. It is based on biology and not economics. Steve said that the listing process begins with a petition that is usually initiated by an environmental organization. The species status review process lasts for approximately one year and, if deemed warranted, the proposed rule listing process begins thereafter. Steve noted that the final listing for the Coho Salmon occurred in October 1996, and regulation for the Steelhead is anticipated to occur in August 1997.

Steve described the agency consultation and project review process. The review process can involve a pre-listing conference with the National Marine Fisheries Service (NMFS) for anadromous fish. A formal consultation with the lead agency is required of project applicants after the final rule declares that a species is threatened or endangered.

Steve recommended that water provider agencies work proactively with NMFS during the project review process and attempt to coordinate activities as much as possible before meeting with the agency. Steve noted that pending species listings are for the West Coast Chinook Salmon with a proposed listing date of December 1, 1997, and for the West Coast Cutthroat Trout with a proposed listing date of January 1, 1998.

The Participants Committee expressed its appreciation for the presentation. Lorna commented that other presentations on water resource issues could be among future staffing services provided to the Consortium.

Intergovernmental Agreement: Lorna Stickel reported that approximately nine participant agencies have approved the Intergovernmental Agreement (IGA) to form the Regional Water Providers Consortium. These participant agencies include the West Slope Water District, the City of Gladstone, Clackamas River Water, the City of Wood Village, South Fork Water Board, the City of Hillsboro, Tualatin Valley Water District, Damascus Water District, and the City of Beaverton. Lorna reported that other participant agencies have scheduled hearings on the IGA in the next few weeks.

Alan Fletcher recalled that several participant entities were reported to be uncertain of their participation in the Consortium at the last Participants Committee meeting. Alan asked whether more recent information has become available. Lorna reported that the Troutdale City Council has voted not to participate in the Regional Water Providers Consortium at this time but plans to revisit the issue as part of its normal budgeting process in Spring 1997. Lorna indicated that Lake Oswego, Forest Grove, and Raleigh Hills Water District have indicated that they are likely to join the Consortium although have not yet taken formal action to do so. Rosemary Furfey announced that the IGA will be addressed by various Metro committees within the next few weeks and will be discussed by the Metro Council after that time.

Participants Committee Meeting
Minutes of October 22, 1996
Page 3

Lorna asked the Participants Committee to provide input on the status other adoption activities. David Wheaton indicated that the Milwaukie City Council has scheduled a meeting to discuss the IGA. Ed Wegner indicated that the City of Tigard will take public comment on the IGA in mid-November. Mike McKillip reported that Tualatin City Council will vote on approval of the IGA at its meeting on October 28, 1996. Bob Rapp said that the Canby Utility Board will address the IGA adoption in November.

Lorna reported that the Portland City Council was initially scheduled to discuss adoption of the IGA on October 30, 1996 but the hearing date was changed to November 7, 1996 at 2:00 p.m. Lorna said that the meeting date was changed to provide a time certain for citizens that plan to provide comments at the meeting.

Lorna noted that project staff and the Portland Council have received a number of public comments about whether Portland should join the Consortium and endorse the RWSP. Lorna pointed to a Bull Run Interest Group newsletter attached to the meeting agenda as an example of the type of critical comments that will probably be voiced at the Portland meeting. Lorna said that among the comments being expressed is that Portland should delay taking action to approve the IGA until several months after the new Council is seated in January 1997. Lorna said that she was uncertain what impact these comments will have on the Council although project staff is preparing materials to address the various issues and concerns raised.

Alan Fletcher asked whether it would be helpful for representatives of the participant water provider agencies to attend and provide comments at the Portland meeting. Lorna said she believed that the Portland Council will probably consider the number of participant agencies that have already signed the IGA to be evidence of the need for continued regional coordination. Alan said that Portland can rely on the participant agencies to provide whatever assistance or support is needed in bringing the IGA to the Council.

Roberta Jortner mentioned that the Oregon Water Resources Department (WRD) has expressed a desire to send correspondence to participant decision-makers that supports the IGA and the continued regional approach to water management. The WRD correspondence may also address other broader issues. Roberta indicated that project staff would like to provide WRD with an updated listing of the participant decision-makers. She suggested that participant representatives attending the meeting could provide the names of their decision-makers on a sheet of paper to be circulated. The Participants Committee agreed to do so.

The Participants Committee discussed the increasing focus on municipal water supply by state and federal agencies, and the importance of continued coordination in the region. Lorna reported that the Willamette Province Advisory Committee (WPAC) recently indicated that municipal water supply is among their primary interest areas. The WPAC is comprised of representatives of agencies, interest groups, and citizens to advise on the Clinton Forest Plan implementation. Lorna

Participants Committee Meeting
Minutes of October 22, 1996
Page 4

relayed that the Bureau of Land Management representative shared that Senator Ron Wyden has written letters to several federal department heads and others indicating that there are a number of issues that occur on federal lands which affect municipal watersheds. Lorna said that municipal water supply and related issues have received the attention of some stakeholders who have expressed significant concerns. Lorna said that project staff will notify the Participants Committee when the WPAC intends to conduct a session on municipal water supply.

Public Comment: Jack Polans, writer "for the public's best interest," referred to the Participants Committee meeting minutes of September 24, 1996. Jack asked about the proposed level of funding for the Regional Water Providers Consortium. Lorna indicated that funding the first year of the Consortium is anticipated to be about \$175K.

Jack asked for information about the type of groundwater contaminants in the Troutdale Sandstone Aquifer (TSA). Bruce Niss indicated that the primary contaminants of concern include the chlorinated volatile organic chemicals (VOCs) trichloroethene (TCE) and tetrachloroethylene (Perchloroethylene (PCE)). Bruce indicated that the TCE contaminants in the wellfield are just over the detection level. Bruce noted that Bruce Gilles, from the Oregon Department of Environmental Quality Waste Management & Clean-up Division, gave the presentation on the proposed clean-up plan for the East Multnomah County Groundwater Area at the last Participants Committee meeting and would be able to provide copies of the staff report.

Jack asked for information about the estimated \$10-\$12M cost of the recommended clean-up alternative for the TSA. Alan Fletcher suggested that information on how the estimated costs were derived would be provided in the DEQ staff report.

Jack asked about assumptions in the Regional Water Supply Plan (RWSP) regarding use of the groundwater wellfield to meet water demand. Roberta Jortner said that the computer simulation model reflects assumed current and future availability and current constraints on the wellfield yield.

Jack asked about the number of persons that attended the public hearings on the DEQ staff report. Jack was referred to DEQ for more information.

Jack asked about Metro's intention to participate in the Regional Water Providers Consortium. Jack asked whether Metro had particular concerns that have prevented it from committing to Consortium participation. Rosemary Furfey indicated that the Metro Council has previously voiced support for formation of the Consortium and implementation of the RWSP. She said that Metro Council has not commented about the IGA or the final plan but will address this issue in their formal review and adoption process.

Participants Committee Meeting
Minutes of October 22, 1996
Page 5

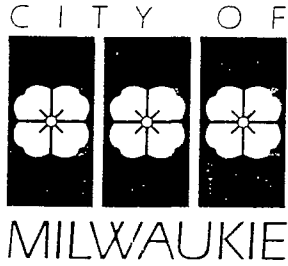
Jack asked about the revised chart that shows the potential first year funding dues for the Consortium. Jack mentioned that he had not received the project newsletter on revision and finalization of the RWSP and IGA. Project staff indicated that copies of both documents will be mailed to him.

Jack asked why there were no public comments at the last Participants Committee meeting, and what the Participants Committee was doing to increase public participation. Lorna Stickel indicated that the RWSP project has included a number of public information/involvement activities and opportunities, and a listing of those activities would be included in the materials to be mailed.

Other Business: Jeff Bauman introduced Floyd Peoples, Operations Manager for the City of Wilsonville. Jeff said that Floyd will be working on issues related to water supply, and parks and recreation.

The meeting adjourned at 2:50 p.m. The next Participants Committee meeting will be on November 26, 1996.

Submitted by Dominique Bessee



MEMORANDUM

TO: Mayor and City Council
 FROM: Dan R. Bartlett, City Manager *[Signature]*
 SUBJECT: Water Basin Water Suppliers Meeting

DATE: November 26, 1996

ACTION REQUESTED

This material is provided as background for future Council action on a possible intergovernmental agreement.

BACKGROUND

On November 25, 1996, I attended the Clackamas Basin Water Suppliers Meeting. The Four Water Districts have been meeting for several months now and have developed the attached materials. At last nights meeting, they invited cities and South Fork for the first time. They have proposed an aggressive project schedule to develop a Clackamas Basin Water Supply Plan. They have prepared a draft intergovernmental agreement.

At this time, I have not had time to fully review this material. I will submit the agreement to the City Attorneys Office for review. I will have the project discussed by the Citizens Utility Advisory Board and report back to Council at a later date.

Clackamas Basin Water Suppliers Meeting

OIT Conference Room
7740 SE Harmony Road
Milwaukie, Oregon

Agenda
November 25, 1996
7:00 p.m.

- | | | |
|----|---|---------------------|
| 1. | Introduction | All |
| 2. | Approve Agenda | All |
| 3. | Project Status and Preliminary Schedule - Memo to Local Governments and Clackamas Basin Water Suppliers - November 12 | EES |
| 4. | Status Report - PGE/Timothy Lake Storage Water Right | Balfour/
Hammond |
| 5. | Integrated Schedule - IGA/Clackamas Basin Supply Plan/Urban Services Agreement | EES |
| 6. | Draft Position Statement on Urban Services Agreement | A. Fletcher |
| 7. | Draft IGA Review/Discussion | EES |
| 8. | Summary of Joint Projects | |
| | a. Hydraulic Efficiencies/Service Area Agreement | EES |
| | b. Water Wheeling/Blending Studies | EES |
| | c. Mt. Scott/Clackamas Pipeline | J. Thomas |
| | d. Oak Lodge/Clackamas River Crossing | D. Jutila |
| | e. Shared Operation and Maintenance Functions | T. Hoffman |
| 9. | Next Meeting | |

**Clackamas River Water, Damascus Water District,
Mt. Scott Water District, & Oak Lodge Water District**

**Meeting Summary
October 28, 1996, 7:00 PM**

The meeting was called to order at 7:00 PM at the Clackamas Community College. The four District Managers and a majority of all Board Members were in attendance (see attendance list).

1. The primary objective of the meeting was to review Economic and Engineering Services, Inc. (EES) proposed options for addressing the Timothy Lake Storage Water Right use and to provide guidance to the Managers and EES, on proceeding with the development of a Clackamas Basin Water Supply Organization and Operational Intergovernmental Agreement (IGA). (See attached Agenda and handouts.)
2. EES provided background on the key objectives of the IGA.
 - a. To establish written agreements on the designated retail service areas in Clackamas County.
 - b. To recognize that the land use decisions for the service areas will indirectly establish the supply requirements;
 - c. To confirm that retail service areas and the Urban Service Area policies and agreements are linked to a cooperative relationship between all local governments;
 - d. To confirm that the Clackamas Basin Water Supply Plan requires a long-term agreement on use of existing and scheduled supply capacity, on an agreed upon phasing and coordination and sharing of available water rights - both diversion and storage;
 - e. To establish a cooperative organization and operating program for the distribution and supply systems.
3. After extensive discussion about the two options EES offered for addressing the Timothy Lake Storage issue, and proceeding with the IGA, the four Districts agreed to follow an amended Option #2. The agreed upon strategy is as follows:

The Districts will proceed immediately to develop a regional supply approach, involve all key water suppliers in the development of an intergovernmental agreement, and request PGE to amend the agreement to reflect the approach whereby the storage is to be available and used to the benefit of all the Clackamas Basin public water suppliers.

To accomplish this, the four Districts agreed to proceed on concurrent paths to seek to amend the CRW/PGE Timothy Lake Storage Agreement and to finalize the IGA as soon as possible in 1997. Both documents will be prepared for concurrent signature by the Districts and other suppliers consistent with the above statement.

The Districts' Boards instructed EES and the Managers to proceed as follows:

- a. Contact and brief the managers of the following five additional water suppliers in the Clackamas Basin. Extend an invitation to them to attend the next joint meeting of the Districts and to become involved in the cooperative process. The water suppliers are: South Fork Water Board, Milwaukee, Lake Oswego, Gladstone and Estacada.
 - b. Instruct Clark Balfour and Jack Hammond to review the CRW/PGE Agreement and develop an agreed upon approach to amend the PGE Agreement consistent with the above objective. The two attorneys are to work with the Managers to establish the approach and schedule to seek the amendment. The attorneys are to report back to the four Districts at the next meeting. The objective is to sign the amendment at the same time as the IGA.
 - c. The Managers are to work with EES and the other water suppliers to refine the draft IGA, and to develop a schedule for signing the IGA as soon in 1997 as possible, to complete the joint project analysis and to outline the steps necessary to implement the IGA. The draft IGA is to be presented to the District Boards at the next joint meeting.
4. EES and the Managers will coordinate efforts to brief the other water suppliers prior to the meeting and incorporate their input into the draft schedule. EES is to incorporate the schedule related to the Urban Services Agreement to ensure that the District's efforts support the decision schedule for the Urban Services Agreement.
 5. The next meeting of the four Districts and other water suppliers will be November 25 at 7:00 PM, Clackamas Community College.

**Clackamas River Water, Damascus Water District,
Mt. Scott Water District, & Oak Lodge Water District**

**Meeting Summary
September 23, 1996**

1. The first item on the agenda was to review the results of the Four District managers meeting held by telephone conference on September 10, 1996. The managers meeting included a review of options and organizational strategies for moving forward with the intergovernmental agreement (IGA). Possible cooperative projects were identified under three categories: watershed management, supply system coordination and expansion, and urban service distribution system plans.
2. The second item was to review findings of meetings held by EES with each of the Four Districts' Board of Directors on an individual basis. There was a general agreement to speed up the organizational agreement timeline to develop a draft IGA as soon as possible. Although there were some concerns among the Four Districts, there was a general agreement that everyone was ready to come to the table to develop the IGA.
3. The third item was to discuss Senate Bill 122 strategies. The group discussed several options and decided to develop the IGA outline and then meet with Lake Oswego, South Fork Water Board, City of Milwaukie, and other parties so that the issues of conflict between the Four Districts could be resolved before proceeding.
4. The fourth item was to review the Timothy Lake Storage Agreement issue. Dale Jutila presented a discussion on Clackamas River Water's strategy for obtaining the Timothy Lake Storage Agreement. In 1993, Alan Fletcher and Jack Hammond began discussions on the Timothy Lake storage issue. In 1993 and early 1994, PGE developed data to identify the costs and amount of potentially available storage. After 1994, there was a period without any involvement with PGE. In 1995, CRW made a decision to move ahead on its own. They were concerned that the on-going differences between the Districts may interfere with effective negotiations with PGG. Ultimately, the Agreement was signed. The agreement allows 2,200 acre/feet to be used before Labor Day and 9,100 acre/feet to be used after Labor Day.

CRW stressed that there were a number of additional pieces to be put together before the storage could be put to beneficial use. These included a FERC licensing permit redesignation and the obtaining of secondary permits. CRW further stressed that the storage was an important regional supply component and their intent was to share the Timothy Lake storage water with all the Clackamas Basin public water purveyors. There was a great deal of discussion concerning the permit and the process that CRW undertook to obtain it.

5. The final item was to review the IGA outline. Handouts were passed out that included a September 9th review of organizational and operational strategies and a September 23rd draft of the IGA.
6. There was a request that the Clackamas River Water Board present a letter to the Four Districts identifying their intent and position on the basin use of the Timothy Lake storage water.
7. The meeting was adjourned at 9:00 PM
8. The next meeting was scheduled for October 28, 1996.

Memorandum

To: Local Governments, and Date: November 12, 1996
Clackamas Basin Water Suppliers

From: Tom Hoffman, Manager, Oak Lodge Water District
Dale Jutila, Manager, Clackamas River Water
Denny Klingbile, Manager, Damascus Water District
John Thomas, Manager, Mt. Scott Water District

Subject: Clackamas Basin Water Supply Plan and Related Intergovernmental Agreements

The water districts, cities, and other organizations in and adjacent to Clackamas County have been seeking a cooperative way to plan for and meet the long-term water supply needs of the Clackamas Basin. Some of the efforts have included a large number of agencies and organizations. Others have been more of an individual effort.

Since early in 1996, Clackamas River Water, Mt. Scott Water District, Damascus Water District, and Oak Lodge Water District Board of Commissioners have met on four occasions. The goal was to resolve conflicting viewpoints and seek a joint and cooperative approach to meeting the Basin's future water supply needs. The four Districts recognized that all water suppliers and local governments needed to participate to meet the needs of the Clackamas Basin. However, they believed that they needed to address some technical and policy issues impacting only the Districts.

The four Districts believe the following agencies, at a minimum, need to provide input, and, hopefully, they will participate in the joint program outlined in this discussion paper:

- Clackamas County
- City of Milwaukie
- South Fork Water Board (West Linn and Oregon City)
- City of Lake Oswego
- City of Gladstone
- City of Estacada
- Four Water Districts (Clackamas, Damascus, Mt. Scott, & Oak Lodge)

The four Districts, at a minimum, have agreed to enter into an Intergovernmental Agreement (IGA) that will define a cooperative "organizational and operational" water supplier program for the Clackamas Basin. The four Districts have confirmed that a single cooperative and integrated supply plan for the Clackamas Basin Area is the most effective and efficient method to plan, design, build, and cooperatively operate the existing and future source of supply. This program should include impoundments and regional public water supply and storage facilities for the Clackamas Basin public water supply customer. They believe the public water supply program which is necessary to support the Urban Services Agreement, can best be met by developing a regional supply plan and a distribution service area agreement. They recognize that future service areas may require

transfer or adjustment to coincide with municipal corporate boundaries if it is in the best interest of the public water supply customer.

Due in part to the status of the schedule for completing the Urban Services Agreement and the pending recommendations from the Clackamas Basin Water Supply Study, the four Districts have agreed to actively pursue the development of the IGA and Clackamas Basin Water Supply Plan in early 1997. The following is the general schedule and tasks being pursued:

1. November, 1996 - Meet with, and involve, other Clackamas County local governments and water suppliers.
2. November, 1996 - Outline draft IGA and strategy to incorporate recent PGE Timothy Lake Storage Water Rights into an action plan for the Clackamas Basin Water Supply Plan. The plan will include, at a minimum:
 - An IGA that ensures a cooperative organizational and operational water supply plan.
 - A common strategy that supports an effective Clackamas Basin Watershed Management Plan.
 - A program that is designed to ensure an integrated water supply development and use plan for the Clackamas Basin, including appropriate shared use of water diversion and storage rights.
 - A written service area agreement to optimize water service both in the rural and urban areas of the Basin, with the recognition that some cities may choose to seek or retain retail water distribution responsibilities under future urban service programs.
3. November 25, 1996 - Boards and managers will meet to review the draft schedule and proposed scope of work for the IGA and other agreements, and authorize staff to proceed. All possible participants will be invited to participate.
4. December, 1996 - Meet with all Clackamas Basin water suppliers and cities to confirm their interest and cooperation.
5. Early 1997 - Complete the technical studies related to the supply options, and to identify a recommended plan early in 1997 for inclusion in the program outlined in the IGA.
6. Early 1997 - Sign the IGA and other agreements early in 1997, with the objective of actively supporting and ensuring consistency with the objectives of the Urban Services Agreement. Following signing of the IGA, the Clackamas Basin Water Supply development will be pursued following the schedule and work plan outlined in the IGA.

**Integrated Schedule for
Clackamas Basin Water Supply Plan and
Clackamas County Urban Services Agreement
November 25, 1996**

November 1996

I. Water Supply Plan

- A. The Boards of Four Districts and other water suppliers meet to review Work Plan for Clackamas Basin Water Supply Plan and draft of Timothy Lake Water Right and IGA Agreements. Discuss draft position paper on Urban Services Agreement. (November 25)

II. Urban Services Agreement

- A. Governing bodies discuss options for governance and service delivery boundaries.

December 1996

I. Water Supply Plan

- A. Meet with all Clackamas Basin water suppliers and cities to confirm interest and general agreement with proposed Water Supply Plan programs.
- B. Water Suppliers staff meet to refine IGA and confirm documentation and schedule to revise PGE/CRW Timothy Lake Agreement.
- C. Review EES assignments:
1. Final draft of existing/proposed retail service area boundaries per IGA.
 2. Draft of integrated hydraulic model of Four Districts (and other Water Suppliers) supply, transmission, and storage systems.
 3. Preliminary draft of water wheeling/blending issues per IGA; including water quality, reliability, schedule, and cost criteria.
- D. Establish work plan and schedule for joint projects.
1. Mt. Scott/Damascus/CRW Pipeline
 2. Oak Lodge/CRW River Crossing
 3. Shared operation and maintenance functions
 4. Watershed Management Work Plan by water suppliers

II. Urban Services Agreement

- A. Steering Committee finalizes and forward recommendations on service delivery and begins development of governance recommendations.
- B. Public outreach: letters and briefing materials sent to newspapers, neighborhood associations, CPO, community interest organization. (Public involvement continues through remainder of project.)

January 1997

I. Water Supply Plan

- A. The Boards of the Clackamas Basin Water Suppliers (Four Districts and others) meet to establish position on Urban Service Agreement relative to water supply strategy and to provide direction for preparation of final draft of IGA and Timothy Lake Water Right Agreement; including service area agreement and water wheeling/blending and operational strategy.
- B. Review final recommendations on Clackamas Basin Water Supply Strategy.
- C. Integrate No. 1 and 2 above into Clackamas Basin "Water Supplier Hydraulic Model and Service Area" framework for comparative purposes and scenario analysis.

II. Urban Services Agreement

- A. Continue with items initiated in December 1996.
- B. Public meetings to discuss project, governance and service delivery alternatives and preliminary recommendations.
- C. Conduct second round of focus groups on preliminary recommendations.
- D. Continue developing recommendations on governance and remaining service delivery issues as needed.

February 1997

I. Water Supply Plan

- A. The Boards of the Clackamas Basin Water Suppliers meet to finalize IGA and Timothy Lake Agreement consistent with their position on the Urban Services Agreement.
- B. Develop subagreements on the following:
 - 1. Watershed Management Strategy

- 2. Service Area Agreements
- 3. Water Wheeling/Supply Sharing
- 4. Joint Pipelines/River Crossings
- 5. Shared Operation and Maintenance Functions

II. Urban Services Agreement

- A. Continue with items initiated in January.

March 1997

I. Water Supply Plan

- A. The Boards of the Clackamas Basin Water Suppliers sign IGA and other Agreements.
- B. Implement Work Plans and Joint Projects.

II. Urban Services Agreement

- A. Begin drafting agreed-upon elements of urban service agreements.
- B. Begin drafting cooperative agreements.

April - June 1997

I. Water Supply Plan

- A. Implement IGA and work plans

II. Urban Services Agreement

- A. Continue developing cooperative agreement.

w:61040\schedule.doc

Draft Intergovernmental Agreement for Clackamas Basin Water Supply Plan

This Intergovernmental Agreement (hereinafter "Agreement") made and entered into this _____ day of _____ 1996 between Clackamas River Water, Damascus Water District, Mt. Scott Water District, Oak Lodge Water District, and (others to be named) (hereinafter referred to as "Water Suppliers".)

Recitals

The Water Suppliers agree upon the following recitals:

1. Whereas the signators to this Agreement recognize that the most cost effective and efficient public water service to the citizens of the Clackamas Basin and adjacent areas will occur through a cooperative organization and operation program by all area water purveyors; and
2. Whereas the provision of public water service should be consistent with the urban and rural land use and urban service requirements of the local government with land use jurisdictions; and
3. Whereas effective watershed management requires the cooperative management and financial participation by all area local governments and water purveyors; and
4. Whereas the Portland Regional Water Supply Plan and the Clackamas Basin Water Supply Plan confirms that a single cooperative and integrated supply plan for the Clackamas Basin Area is the most effective and efficient method to plan, design, build, and cooperatively operate the existing and future source of supply, impoundments, regional public water supply and storage facilities for the Clackamas Basin public water supply customer; and further believe that the public water supply program necessary to support the Urban Services Agreement can best be met by developing a regional supply plan, a distribution service area agreement and to agree that future service area responsibilities may require transfer or adjustment to coincide with municipal corporate boundaries if it is in the best interest of the public water supply customer, and
5. Whereas the signators to this Agreement recognize that the existing requirements and the long-term objectives of the signators may require a phased program to achieve the mutual objectives of all citizens, local governments, and special districts in the Clackamas River Basin.

Now, therefore, the Water Suppliers agree to the following:

1. To plan, develop, financially support, and assist in the implementation of the Watershed Management Plan outlined in this Agreement; and
2. To provide the resources associated with the existing and pending water rights, storage rights, treatment plant capacities, and regionally beneficial transmission and storage facilities to be used collectively to develop a Clackamas Basin Water Supply System. This provision is made with the following understandings: a) that each signator agency will be reimbursed proportionately for documented costs that are used for the benefit of another agency's customer; b) that all future source, treatment, and storage projects that will be used to meet any portion of the Clackamas Basin Public Water Supply needs will be jointly developed and operated for the collective good of the Clackamas Basin area water customers; c) that existing supplies and water rights will be utilized to meet the individual water suppliers retail distribution service area needs first, the needs of adjacent service areas within the Clackamas Basin next, and then the collective needs of the metropolitan area outside the Clackamas Basin; and
3. The cities and water districts will develop a retail distribution plan based on system hydraulics, cost-effective and reliable service, and efficient operation. After developing this plan, if it is in the best interest of the customers, as measured by service and cost, those portions of the distribution system located in another utility's logical service area, or the incorporated area of a city that can be transferred without creating new long-term operations costs, such area should be transferred to the adjacent entity upon the showing of the same; and
4. To achieve the above objectives on a logical and phased approach, the signators agree to plan, finance, and implement the remaining section of this Agreement.

Section 0

Note: The original draft of this IGA proposed consideration of the formation of a new Clackamas Basin Water Supply Commission to achieve the objectives of this IGA. The new Commission would essentially replace or expand the North Clackamas Water Commission with the new charge based on the objectives incorporated in this IGA.

The Water Suppliers agreed that it was necessary to establish the technical and operational agreements within the Clackamas Basin, before the organizational and governance options are evaluated. At a minimum, the recitals, work plan, and coordination requirements will require an ORS 190 type agreement to manage the cooperative efforts. The management of the watershed program, the incremental decisions on source development and treatment and the joint operational strategies will require continuing management by the participating agencies. The draft schedule suggests that their preliminary decision on the type of management agreement will need to be made in about February 1997.

Section 1 Clackamas Watershed Management

The Water Suppliers will assist Clackamas County and the cities within the Clackamas River Watershed and other governmental and private landowners prepare and implement a Watershed Management Plan. The primary objective is to maintain and enhance water quality in the Clackamas River. To accomplish this, each water supplier will:

- 1.1 Designate a lead person to guide their participation in the Watershed Management Program.
- 1.2 Assist in the development of a public Water Supplier/agency participation plan in the Clackamas Basin Watershed Management Plan and will financially participate in the plan proportionate to the water suppliers annual water use within the water suppliers retail service area. The Watershed Management Plan and Funding program will be based on a minimum of a five-year program and budget that includes, at a minimum:
 - a. Professional and technical support staff to implement the program.
 - b. Water quality and quantity monitoring and laboratory support program required to achieve the Water Suppliers and Watershed Management.
 - c. A public education program that will be jointly developed and presented to the community as a whole and by each Water Supplier through their customer communication program.
 - d. A jointly selected water provider representative to serve on the Stakeholders Group for the Clackamas Basin Watershed Management Plan.

(Note: The interim list of representatives from the Water Suppliers includes: Alan Fletcher, CRW Chair; John Thomas, Mt. Scott; Denny Klingbile, Damascus; and Tom Hoffman, Oak Lodge.)

Section 2 Clackamas Basin Water Plan

The following tasks will be completed by the Water Suppliers as an element of the Clackamas Basin Water Supply Plan. A separate work plan will be developed as required to achieve the identified objectives.

- 2.1 Service Area Agreement. A detailed service area map will be prepared showing existing and planned retail service areas, municipal boundaries and existing or planned interties between all participating Water Suppliers.
 - 2.11 All areas within the Urban Service Area or Reserve Area will be assigned to an existing utility to ensure that all areas are planned for water service.

- 2.12 Hydraulic or service problems that may be more easily resolved by an adjacent utility will be identified, and a program developed to transfer customers if better or more cost effective service can be provided.
 - 2.13 A written agreement will be prepared outlining the service area, customer service roles, and a shared approach to meeting service needs.
- 2.2 Existing and Scheduled Supply System. The existing and scheduled Regional Supply System facilities to meet the projected requirements will be superimposed on the Service Area Map developed for Section 2.1. A master service area, supply, and distribution plan will be prepared for the Clackamas Basin consistent with the Urban Services Agreement.
- 2.21 Using EPANET, the Water Suppliers will prepare a hydraulic model of all major source, storage, pumping and transmission facilities for all participating Water Suppliers in Clackamas Basin. A copy of the model will be provided to all Water Suppliers for use in evaluating supply system alternatives,
 - 2.22 A Work Plan and alternative approaches that promote future joint projects of the recommended supply and related water right alternatives, including use of Timothy Lake Storage and Release options, will be prepared for evaluation by the Water Suppliers. The data will be incorporated in the EPANET Scenario analysis for future management decisions and operational strategies.
 - 2.23 The Water Suppliers will develop a detailed supply development and joint projects plan and schedule for a one, five, and ten year program. The schedule will be updated annually, consistent with the recommended Clackamas Basin Water Supply Plan.
- 2.3 Joint Project Analysis. Using the model developed for Section 2.2, the Water Suppliers will evaluate possible joint projects.
- 2.31 New Mt. Scott Pipeline (24" or larger). (Note: John Thomas, Greg Drexler, and Murray Smith will evaluate this project for the Water Suppliers. Preliminary routing and project cost, as well as sizing, will be developed by December 15, 1996, for review. This project will be scheduled for bid, at the earliest, for the fall of 1997.)
 - 2.32 Oak Lodge/CRW River Crossing. (Note: Tom Hoffman and Greg Drexler will evaluate this project to establish options for joint use, sizing and schedule. Construction is scheduled via open cut between July 15 and August 31, 1997.)
 - 2.33 Pilot Plant Data Review and Use. (Note: Tom Hoffman and Dale Jutila met with others on November 13, to review and evaluate results of both Pilot Plant Study results, and to establish common protocol to evaluate plant compliance with new SDWA requirements; outline and recommend treatment plant reliability criteria; summarize current cost estimates and anticipated construction schedules; and identify design criteria as it relates to the incorporation of the project into the

Clackamas Basin Water Supply Plan. EES will assemble the results of the meeting and receipt of subsequent data from Oak Lodge to present the technical findings for a "Water Wheeling/Blending and Operational Considerations" for an integrated supply system as referenced in Section 2.34.)

- 2.34 Joint Operation and Supply Plan. Based on the results of 2.33, the Water Suppliers will identify operational strategies to meet demand during poor raw water quality events in the Clackamas River if plant operations are impacted. (Note: EES will outline water quality and operational issues and options. Tom Hoffman and Dale Jutila will review and recommend options to meet operational and SDWA requirements.)
- 2.35 Timothy Lake Storage. Using the results of Section 2.2, evaluate the options to best utilize the Timothy Lake Storage and Release strategies for the collective benefit of the Clackamas Basin Water Supply Plan, the Water Suppliers will recommend a specific operational strategy for the storage project. (Note: Jack Hammond and Clark Balfour are developing revisions to the existing PGE/CRW Agreement.)
- 2.36 Timothy Lake Storage Water Rights. Initiate steps to modify FERC License and to obtain secondary diversion rights consistent with strategy developed in 2.35.
- 2.37 Water Wheeling/Water Exchange. Develop criteria and procedure to evaluate, assign cost, verify water quality, and outline service conditions that will promote water wheeling and water exchange. (EES will develop specific recommendations related to Blending, SDWA compliance, supply and treatment reliability, and cost sharing.)

2.4 Develop Clackamas Basin Water Supply Plan

- 2.41 Based on Sections 2.1, 2.2, and 2.3, prepare Clackamas Basin Water Supply Plan.
- 2.42 Prepare Operations Plan to cooperatively operate existing supply systems and planned new supply program to meet the urban and rural area water needs.

Section 3 Schedule and Expansion of Facilities

Identify Urban Service Area Water Service needs in cooperation with Cities and Counties. Incorporate process that provides for distribution system to be transferred to Cities under specified conditions.

Section 4 Operation and Maintenance

Water Suppliers will review specific operation and maintenance programs of each entity to identify and prioritize possible joint operational benefits and cost reductions. (Note: Tom Hoffman and Denny Klingbille prepared the following initial list of possible shared operations programs:

- Safety programs
- Meter reading
- Backflow prevention programs
- Hydrant maintenance programs
- Main flushing programs
- Gate valve maintenance programs
- Water Quality, monitoring, and laboratory
- Emergency Response - night, weekend, and holiday stand-by
- Vehicle and equipment maintenance
- Joint purchasing
- Water billing programs and billing
- Public Information Programs

Section 5 Sale of Treated Water to Other Entities

Review status and include other Water Suppliers using Clackamas River as a source, and enter into supply agreement with Portland and others. Develop Four District Strategy by February 1, 1997.

- To Be Signed by:
- Clackamas River Water
 - Damascus Water District
 - Mt. Scott Water District
 - Oak Lodge Water District

Other Possible Water Suppliers

- Estacada
- Gladstone
- Milwaukie
- South Fork Water Board
- Lake Oswego

Others

Meeting Report
Downtown/Waverly
Neighborhood Association
Thursday, June 13, 1996

George Rodriguez called the meeting to order 7:00pm, welcoming and thanking those in attendance.

Chair Rodriguez motioned to pass with the normal agenda and introduced guest speaker Mel Zucker. Mr. Zucker was fully experienced in the field of transportation, especially light rail. He was very informative and brought out many facts, figures, and different views why light rail fails on all levels. Chair Rodriguez recommended inviting Mr. Zucker back for the September to speak to other neighborhood associations and spread the word on light rail. The group left the meeting with even more zest to fight light rail.

Chair Rodriguez introduced two other speakers, Traute Goertzen, Riverfront Committee and Carolyn Tomee, North Clackamas Sewerage Committee. They both spoke about their work and asked the membership for support and the spread the word on those issues.

Chair Rodriguez collected questionnaires from the group on livability for our neighborhood.

Meeting was adjourned at 9:00pm

Historic Milwaukie
Neighborhood Association
September 12, 1996

Meeting Called to Order: George Rodriguez called the meeting to order at 7:00pm and welcomed all those in attendance.

Guest Speaker: State Representative Jerry Grisham. Mr. Grisham is currently running for Clackamas County Commissioner in the November election. Part of his campaign were as follows:

- . To stop the South/North Light Rail project. The proposed transit project will not do nothing to improve our current and future transportation needs. The people will not be served only the politicians in Portland.
- . Anti-government - to bring government back to the people not county agencies.
- . Anti-tax - to account and direct tax dollars to programs which help county residents.
- . To voice out against poor legislation and policies.
- . Improved better communications between elected officials and residents of Clackamas county.

Light Rail Campaign: Money was collected to have a page in the Voters Pamphlet. A copy of the page is attached. Clair Kuppenbender read the statement at the meeting. Chair Person for project was Jean Baker. Thank you Jean Baker.

Signs were disussed and funds will be collected.

Land Use Committee: Clair Kuppenbender reported that we all need to keep active to the Waterfront, Regional plan, Sewage plant and other issues to our city and voice our concerns. If we don't City Hall will.

General Minutes: George Rodriguez kept the meeting active with open questions to Mr. Grisham. The meeting turned out the be positived and residents were encouraged to hear the true about Light Rail. Vision statement was another big concern but the final draft has not been completed. We are hoping for final draft by November meeting.

Next Meeting: October 10, 1996 at 7:00pm at the Milwaukie Elementary School. Please join us. It will be our final rally for countdown to derail Light Rail.

Agenda: Crime prevention month
Fire prevention week
Vision statement
Land Use
Vision statement
Committee Assignments

Meeting adjourned approximately 9:00pm

**HISTORIC MILWAUKIE NEIGHBORHOOD ASSOCIATION
MEETING REPORT
OCTOBER 10, 1996**

Meeting was called to order at 7:00 by Co-Chair George Rodriguez and welcomed all in attendance.

GUEST SPEAKER #1: Randal O'Toole, publisher of the *Different Drummer*, is an Oak Grove area resident. The latest issue of this publication, *The Vanishing Automobile*, is the final product of a four-month study of Metro. Copies were distributed to those in attendance, and discussion of Metro and their goals, including high density and heavy congestion, followed. O'Toole shared a brochure his neighborhood put together, and offered assistance with a similar item from our neighborhood association.

LIGHT RAIL - NEW ALIGNMENT: A new alignment possibility was announced by Metro. This will be added to the DEIS already underway. No residential takings in this neighborhood, however 2 industrial businesses and 8 commercial businesses would be impacted. The route would be approximately the same from behind Milwaukie Market Place on to Town Center. A copy of the plan is available through the Light Rail Field Office, Metro, or the City of Milwaukie.

LIGHT RAIL: UPDATES/CONCERNS: Clair Kuppenbender had it brought to his attention that a couple of Realtors, selling homes in this area, are NOT telling potential buyers of the light rail possibilities. He then read highlights from the Minutes of the October 1 City of Milwaukie City Council Work Session, in particular that dealing with South/North Light Rail, and the MDDA's indicated support for this alignment. It was stressed that the Monroe option was still in the picture, however studies are continuing to find the best route available.

On this same note, all were urged to keep up the Anti-Light Rail campaign. Post your lawn signs, write letters to the editors, speak to anyone who will listen.

GUEST SPEAKER #2: Chief of Milwaukie Police, Brett Collier, was introduced to speak on Crime Prevention.

TRAFFIC: A major problem in the City, and especially around the schools. Traffic citations are up this year from a year ago. Chances this year are about 5 times greater of receiving a citation for infractions. More patrols, greater emphasis on safety.

CRIME: A large increase in patrols in the down town areas. Officers using bicycles and undercover officers are being used, and anticipation of greater number of arrests as a result of this operation.

Chief Collier urged people to call him (786-7405) to report any problems, or problem areas, that are observed. A Federal Grant is being applied for that would hire 2 additional officers, one of which would be working mostly in the schools.

QUESTIONS: Regarding increase in crime, how will Light Rail in our community affect us? Chief Collier reported he has spent considerable time talking to Officers who deal with Light Rail in their districts. Trying to gain as much insight into this scenario as possible to allow his department to be ready for the influx of riders Light Rail will bring. Part of the problem lies in the fact that problem people often ride transit! The exclusion ordinance recently adopted by City Council will help.

SKATE PARK: Discussion of possibility and general neighborhood support for the idea of an area designated for a Skate Park. Chief Collier stated he has people researching this possibility right now. However, feelings were that it needs to be more of a center for youth, rather than JUST a skate park. He will keep us informed of the progress on this issue.

TRAFFIC PROBLEMS: Traffic problems were discussed and a vote was taken to support SAFE NEIGHBORHOOD TRAFFIC SECURITY. Bill Hupp encouraged all that could to attend the October 15 City Council meeting to voice support for Safety in the Neighborhoods.

Chief Collier was thanked for taking the time from his busy schedule to come and speak to us and share some of the things his department has been doing.

NEED FOR VOLUNTEERS: It was noted tat we need more people to help with communications process. There are so many meetings with important information we need - however, everyone cannot attend every meeting. Anyone who can attend even one meeting, please keep this group informed on the content of that meeting. Co-Chair Rodriguez thanked Clair Kuppenbender for his faithful attendance at the Land Use meetings and keeping us so well informed of their progress. Thank you for any meeting you can attend and for your report back to this group. It was also noted the need to meet with other Neighborhood Officers. Co-Chair Rodriguez will speak to the other officers and set something up soon.

MISC: The article in the Voters Pamphlet was noted - be sure to read it. Be sure to vote! There are also some lawn signs still available - if interested, speak to someone after this meeting.

NEW BUSINESS: Dick Baker proposed the December meeting of this group be held on Friday, December 20, and consist of a HayRide/Caroling evening. It was moved and seconded and passed that by the next meeting we will have an invitation for this event underway. Discussion of extending the invitation to other neighborhood associations followed. This is something that would need to be discussed with them, and their willingness to help with expenses. Will continue at the next meeting.

Meeting was adjourned at 8:30.

NEXT MEETING:

NOVEMBER 14, 1966

7:00 PM

MILWAUKIE ELEMENTARY SCHOOL

*HISTORIC MILWAUKIE
Neighborhood Association*

November Meeting

- WHERE** Milwaukie Elementary School--Gymnasium
11250 S. E. 27th Avenue
- WHEN** Thursday, November 14 -- 7:00 p.m.
- SUBJECT** You have heard the City politicians and Metro define *LIVEABILITY*. Come and receive the results of the survey taken by our Association in this Neighborhood. The results of the survey might surprise you as to how different they are from what *WE* have been told by others.
- Election results and what they mean. Where do we go from here?
- What issues to you feel important? How can we improve our neighborhood? Come prepared to discuss your "pet peeves". Is it traffic? Crime? Sidewalks? Run-down housing? Shrubs/trees hanging over walkways? Lack of enforcement of our City Ordinances? Old cars or junk accumulating? We all have something that bugs us.
- FUTURE** Liveability is a major issue. Land Use issues will be vital. Waterfront? Our citizens have spoken and we should discuss what we will do next.
- FUND RAISING?** | Every organization needs funds to achieve their goals. What action should we take? What should we do?
- CONGRATULATIONS** We would be remiss if we didn't extend our congratulations to all those hard working "foot soldiers" that worked long hours in getting signatures opposing Lite Rail. We also owe a world of thanks to Senator Bob Tiernan who sacrificed his position to fight us. The outcome is definitely a *Mandate of the People*. Light rail is **not** right for Clackamas County. The people spoke. This win was against unbelievable odds when our own tax money was used against us for those expensive ads.
- CO-CHAIRMEN** George Rodriquez - 659-2701 & Dick Baker - 659-6249



Lake Road Area Multimodal Working Group

November 1, 1996

Milwaukie City Council
10722 SE Main Street
Milwaukie, OR 97222

Mayor and Councilors:

The Lake Road Area Multimodal Working Group met last night, and among the issues discussed were the serious safety problems on Lake Road at Rowe Junior High School. Pedestrians, bicyclers, and even people in vehicles face congestion and speeding cars, and it is dangerous! We are all especially concerned for Rowe students who walk to and from school.

The Working Group voted unanimously to request that City staff work with parents to develop a School Trip Safety Program for Rowe Junior High. We understand that this program has been very successful elsewhere, and would like to see baseline information collected and mitigation measures developed for Lake Road at Rowe school. This project may also involve the Traffic Safety and Transportation Board, and we would be happy to meet with them.

Thank you for your attention to this matter. We specifically hope that you will direct City staff to work on this assignment as soon as reasonably possible.

On behalf of the Lake Road
Multimodal Working Group,

A handwritten signature in cursive script that reads "Patti Casanova".

Patti Casanova, Chair

cc: Dan Bartlett
Charlene Richards
Dave Wheaton
Maggie Collins

COMMUNITY DEVELOPMENT • PUBLIC WORKS
6101 SE JOHNSON CREEK BLVD.
MILWAUKIE, OREGON 97206
PHONE: (503) 786-7600 • FAX: (503) 774-8236



TO: CITY COUNCIL and BUDGET COMMITTEE,
CITY OF MILWAUKIE, OREGON

THRU: Dan R. Bartlett, City Manager *DB*

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

DATE: November 19, 1996

RE: Monthly Financial Reports

This report is the financial report for October 31, 1996, covering the first quarter of the new fiscal year which began on period July 1, 1996. The final audit adjustments have been made and sufficient revenues have been received this year so that the results presented and projections are considered to have significant degrees of accuracy.

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 October), 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 October), 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 October), 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 October 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**

PROGRAM	FY 1996-97	YTD		PROJECTION	OVER/ UNDER
	<u>budget</u>	<u>10/31/96</u>	<u>balance</u>	<u>6/30/97</u>	
LEGISLATIVE					
Total Expenditures	\$38,310	\$14,198	\$24,112	\$38,000	\$310
ADMINISTRATION/COMMUNITY SERVICES					
City Manager	109,946	40,280	69,666	116,369	(6,423)
City Records	114,197	35,697	78,500	111,203	2,994
Data Processing	286,094	70,902	215,192	298,041	(11,947)
Neighborhood Services	114,407	35,096	79,311	108,783	5,624
City Attorney	109,100	20,746	88,354	100,000	9,100
Human Resources	213,202	63,720	149,482	199,611	13,591
Recycling Programs	165,209	35,075	130,134	151,482	13,727
Parks Land Acquisition	1,626,554	319,493	1,307,061	1,778,614	(152,060)
Ledding Library	1,337,104	344,232	992,872	1,106,865	230,239
Public Safety Bldg Const	152,255	2,936	149,319	152,255	0
Total Expenditures	\$4,228,068	\$968,176	\$3,259,892	\$4,123,223	\$104,845
PUBLIC SAFETY					
Police Administration	193,763	63,623	130,140	190,436	3,327
Police Field Services	2,371,109	974,820	1,396,289	3,043,210	(672,101)
Police Support Services	182,414	62,243	120,171	212,145	(29,731)
Emergency Dispatch	397,787	122,407	275,380	356,843	40,944
Fire Administration	793,721	45,867	747,855	189,998	603,723
Fire Operations	2,509,718	774,860	1,734,858	2,533,071	(23,353)
Fire Prevention	160,641	44,436	116,205	160,000	641
Emergency Radio Comm	0	0	0	0	0
Total Expenditures	\$6,609,153	\$2,088,255	\$4,520,898	\$6,685,703	(\$76,550)
COMMUNITY DEVELOPMENT					
Total Expenditures	\$641,902	\$190,183	\$451,719	\$552,039	\$89,863
PUBLIC WORKS					
Public Works Administration	308,061	110,123	197,938	342,682	(34,621)
Public Works Engineering	448,141	106,588	341,553	351,223	96,918
Building	352,185	78,630	273,555	210,789	141,396
Electrical Inspection	58,300	0	58,300	50,000	8,300
Plumbing Inspection	58,300	0	58,300	50,000	8,300
Code Enforcement Abatement	62,000	8	61,992	5,000	57,000
State Gas Tax/Street Repair	1,510,124	464,318	1,045,806	1,500,028	10,096
Bike Path	39,493	1,052	38,441	3,000	36,493
Water	3,563,358	526,411	3,036,947	2,374,908	1,188,450
Water SDC	275,216	1,091	274,125	3,200	272,016
Sewer	3,064,582	-605,263	3,669,845	2,549,000	515,582
Sewer SDC	789,569	2,731	786,838	8,000	781,569
Storm Sewer	1,145,198	103,997	1,041,201	821,116	324,082
Storm Sewer SDC	79,411	480	78,931	1,500	77,911
Fleet Services	398,595	199,099	199,496	388,708	9,887
Facilities Maintenance	500,964	121,578	379,386	411,994	88,970
Public Parking Facilities	19,846	8,606	11,240	20,000	(154)
Total Expenditures	\$12,673,343	\$1,119,450	\$11,553,893	\$9,091,148	\$3,582,195
FINANCE					
Finance Administration	168,948	43,623	125,325	176,376	(7,428)
General Government	319,822	143,391	176,431	276,500	43,322
Municipal Court	118,222	52,378	65,844	117,685	537
Accounting	250,443	69,434	181,009	233,781	16,662
Intergovernmental/Interfund	4,341,804	1,866,628	2,475,176	3,590,344	751,460
PSB Debt Service	995,769	0	995,769	455,315	540,454
Photocopier	49,167	18,054	31,113	50,000	(833)
Telephone	91,956	20,232	71,724	85,000	6,956
Knutson Cemetary Trust	40,714	0	40,714	0	40,714
Forfeiture Trust	5,000	0	5,000	0	5,000
Total Expenditures	\$6,381,845	\$2,213,741	\$4,168,104	\$4,985,001	\$1,396,844
TOTAL ALL PROGRAMS					
Total Expenditures	\$30,572,621	\$6,594,004	\$23,978,617	\$25,475,114	\$5,097,507

**APPROPRIATION REPORT
WITH FYE PROJECTIONS**

FUND	APPROPRIATION CATEGORY	FY 1996-97 APPROPRIATION	YTD 10/31/96	balance	PROJECTION 6/30/97	OVER/ (UNDER)
GENERAL FUND						
	Administration/Community Service	279,616	70,171	209,445	260,266	19,350
	Police Services	2,961,320	1,157,542	1,803,778	3,500,514	(539,194)
	Community Development	641,902	190,183	451,719	552,039	89,863
	Public Works	468,785	78,630	390,155	310,789	157,996
	Finance	118,222	52,378	65,844	117,685	537
	Transfers	3,445,347	1,866,628	1,578,719	3,590,344	(144,997)
	Contingency	896,457		896,457	0	896,457
	TOTAL GENERAL FUND	\$8,811,649	\$3,415,531	\$5,396,118	\$8,331,637	\$480,012
CODE ENFORCEMENT ABATEMENT FUND						
	Public Works	57,000	8	56,992	5,000	52,000
	Contingency	5,000		5,000	0	5,000
	CODE ENFORCMNT ABATMNT	\$62,000	\$8	\$61,992	\$5,000	\$57,000
STATE GAS TAX/ST REPAIR FND						
	Public Works	1,506,666	464,318	1,042,348	1,500,028	6,638
	Contingency	3,458		3,458	0	3,458
	TOTAL STATE GAS TAX FUND	\$1,510,124	\$464,318	\$1,045,806	\$1,500,028	\$10,096
BIKE PATH FUND						
	Public Works	(24)	1,052	(1,076)	3,000	(3,024)
	Contingency	39,517		39,517	0	39,517
	TOTAL BIKE PATH FUND	\$39,493	\$1,052	\$38,441	\$3,000	\$36,493
STORM SEWER SDC FUND						
	Public Works	49,469	480	48,989	1,500	47,969
	Contingency	29,942		29,942	0	29,942
	TOTAL STORM SEWER SDC FND	\$79,411	\$480	\$78,931	\$1,500	\$77,911
WATER SDC FUND						
	Public Works	68,890	1,091	67,799	3,200	65,690
	Contingency	206,326		206,326	0	206,326
	TOTAL WATER SDC FND	\$275,216	\$1,091	\$274,125	\$3,200	\$272,016
SEWER SDC FUND						
	Public Works	164,180	2,731	161,449	8,000	156,180
	Contingency	625,389		625,389	0	625,389
	TOTAL SEWER SDC FUND	\$789,569	\$2,731	\$786,838	\$8,000	\$781,569
PARKS & REC DISTRICT FUND						
	Administration/Community Service	\$1,626,554	\$319,493	\$1,307,061	\$1,778,614	(\$152,060)
LIBRARY SERVICES FUND						
	Administration/Community Service	1,204,405	344,232	860,173	1,106,865	97,540
	Contingency	132,699		132,699	0	132,699
	TOTAL LIBRARY SRVCS FUND	\$1,337,104	\$344,232	\$992,872	\$1,106,865	\$230,239
PUBLIC SAFETY FUND						
	Police Services	183,753	65,552	118,201	302,120	(118,367)
	Fire-Rescue Services	3,214,080	865,162	2,348,918	2,883,069	331,011
	Emergency Radio Communications	0	0	0	0	0
	Contingency	250,000		250,000	0	250,000
	TOTAL PUBLIC SAFETY FUND	\$3,647,833	\$930,714	\$2,717,119	\$3,185,189	\$462,644

APPROPRIATION REPORT
WITH FYE PROJECTIONS

WATER FUND					
Public Works	2,223,667	526,411	1,697,256	2,374,908	(151,241)
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
TOTAL WATER FUND	\$3,563,358	\$526,411	\$3,036,947	\$2,374,908	\$1,188,450
SEWER FUND					
Public Works	2,719,478	(605,263)	3,324,741	2,549,000	170,478
Contingency	345,104		345,104	0	345,104
TOTAL SEWER FUND	\$3,064,582	(\$605,263)	\$3,669,845	\$2,549,000	\$515,582
STORM SEWER FUND					
Public Works	852,195	103,997	748,198	821,116	31,079
Contingency	293,003		293,003	0	293,003
TOTAL STORM SEWER FUND	\$1,145,198	\$103,997	\$1,041,201	\$821,116	\$324,082
PUBLIC SAFETY FACILITY DEBT SERVICE FUND					
Debt Service	540,088	0	540,088	455,315	84,773
Reserves	455,681		455,681	0	455,681
TOTAL PUBLIC SAFETY FAC DEBT SRV	\$995,769	\$0	\$995,769	\$455,315	\$540,454
CAPITAL PROJECTS					
Capital outlay	\$152,255	\$2,936	\$149,319	\$152,255	\$0
FLEET SERVICES					
Public Works	\$398,595	\$199,099	\$199,496	\$388,708	\$9,887
FACILITIES MANAGEMENT					
Public Works	\$520,810	\$130,184	\$390,626	\$431,994	\$88,816
ADMINISTRATIVE SERVICES					
Legislative	38,310	14,198	24,112	38,000	310
Administration/Community Service	832,539	231,345	601,194	825,223	7,316
Public Works	756,202	216,712	539,490	693,905	62,297
Finance	880,336	294,735	585,601	821,657	58,679
TOTAL ADMIN SERVICES FUND	\$2,507,387	\$756,990	\$1,750,397	\$2,378,785	\$128,602
KNUTSON CEMETARY TRUST					
Public Works	\$40,714	\$0	\$40,714	\$0	\$40,714
FORFEITURE TRUST					
Transfers	\$5,000	\$0	\$5,000	\$0	\$5,000
TOTALS	\$30,572,621	\$6,594,004	\$23,978,617	\$25,475,114	\$5,097,507

**REVENUE REPORT
WITH FYE PROJECTIONS**

<u>FUND</u>	<u>CATEGORY</u>	<u>FY 1995-96</u> <u>budget</u>	<u>YTD</u> <u>10/31/96</u>	<u>balance</u>	<u>PROJECTION</u> <u>6/30/96</u>	<u>OVER/</u> <u>(UNDER)</u>
GENERAL FUND						
	Fund Balance Available	1,751,090	2,532,781	-781,691	2,532,781	781,691
	Property Taxes	4,901,770	135,364	4,766,406	5,237,526	335,756
	Intergovernmental Revenue	555,789	111,330	444,459	361,153	(194,636)
	Licenses, Permits & Charges for Service	418,000	105,256	312,744	455,343	37,343
	Fines & Forfeitures	142,500	75,938	66,562	253,120	110,620
	Franchise Fees	876,000	29,094	846,906	876,000	0
	Other Financing Sources	166,500	66,177	100,323	100,000	(66,500)
	TOTAL GENERAL FUND	\$8,811,649	\$3,055,940	\$5,755,709	\$9,815,924	\$1,004,275
CODE ENFORCEMENT ABATEMENT FUND						
	Fund Balance Available	60,000	61,466	-1,466	61,466	1,466
	Fines & Forfeitures	0	0	0	0	0
	Other Financing Sources	2,000	986	1,014	2,500	500
	CODE ENFORCMNT ABATMNT	\$62,000	\$62,452	(\$452)	\$63,966	\$1,966
STATE GAS TAX/ST REPAIR FND						
	Fund Balance Available	307,643	508,888	-201,245	508,888	201,245
	Intergovernmental Revenue	909,321	226,963	682,358	910,000	679
	Licenses, Permits & Charges for Service	5,000	20,796	-15,796	21,000	16,000
	Franchise Fees	273,160	103,440	169,720	270,000	(3,160)
	Other Financing Sources	15,000	6,959	8,041	18,000	3,000
	TOTAL STATE GAS TAX FUND	\$1,510,124	\$867,046	\$643,078	\$1,727,888	\$217,764
BIKE PATH FUND						
	Fund Balance Available	28,100	67,092	-38,992	67,092	38,992
	Intergovernmental Revenue	9,093	2,293	6,800	5,000	(4,093)
	Other Financing Sources	2,300	1,066	1,234	3,000	700
	TOTAL BIKE PATH FUND	\$39,493	\$70,451	(\$30,958)	\$75,092	\$35,599
STORM SEWER SDC FUND						
	Fund Balance Available	57,111	62,166	-5,055	62,186	5,075
	Licenses, Permits & Charges for Service	20,000	9,622	10,378	20,000	0
	Other Financing Sources	2,300	1,007	1,293	3,000	700
	TOTAL STORM SEWER SDC FND	\$79,411	\$72,795	\$6,616	\$85,186	\$5,775
WATER SDC FUND						
	Fund Balance Available	234,716	243,521	-8,805	243,521	8,805
	Licenses, Permits & Charges for Service	26,000	8,568	17,432	25,000	(1,000)
	Other Financing Sources	14,500	3,926	10,574	8,000	(6,500)
	TOTAL WATER SDC FND	\$275,216	\$256,015	\$19,201	\$276,521	\$1,306
SEWER SDC FUND						
	Fund Balance Available	704,569	718,790	-14,221	718,790	14,221
	Licenses, Permits & Charges for Service	55,000	15,654	39,346	45,000	(10,000)
	Other Financing Sources	30,000	11,582	18,418	25,000	(5,000)
	TOTAL SEWER SDC FUND	\$789,569	\$746,026	\$43,543	\$788,790	(\$779)
PARKS & REC DISTRICT FUND						
	Fund Balance Available	183,565	156,207	27,358	156,207	(27,358)
	Other Financing Sources	349,000	9,493	339,507	20,000	(329,000)
	Interfund Transfers	1,093,989	1,080,916	13,073	1,429,916	335,927
	TOTAL PARKS & REC FUND	\$1,626,554	\$1,246,616	\$379,938	\$1,606,123	(\$20,431)
LIBRARY SERVICES FUND						
	Fund Balance Available	319,687	437,466	-117,779	437,466	117,779
	Property Taxes	181,500	5,233	176,267	210,000	28,500
	Intergovernmental Revenue	512,500	157	512,343	520,000	7,500
	Fines & Forfeitures	26,000	10,669	15,331	28,000	2,000
	Other Financing Sources	11,000	5,224	5,776	25,000	14,000
	Interfund Transfers	286,417	95,472	190,945	286,417	0
	TOTAL LIBRARY SRVCS FUND	\$1,337,104	\$654,222	\$782,882	\$1,606,883	\$169,779
PUBLIC SAFETY FUND						
	Fund Balance Available	682,445	827,051	-144,606	827,051	144,606
	Property Taxes	775,700	18,785	756,915	890,500	114,800
	Intergovernmental Revenue	103,750	31,384	72,366	103,750	0
	Licenses, Permits & Charges for Service	1,000	2,437	-1,437	5,000	4,000
	Other Financing Sources	15,000	14,384	616	30,000	15,000
	Interfund Transfers	2,069,938	689,979	1,379,959	2,069,938	0
	TOTAL PUBLIC SAFETY FUND	\$3,647,833	\$1,584,020	\$2,063,813	\$3,926,239	\$278,406

**REVENUE REPORT
WITH FYE PROJECTIONS**

WATER FUND						
Fund Balance Available	1,771,674	1,785,933	-14,259	1,785,933	14,259	
Licenses, Permits & Charges for Service	1,740,184	789,925	950,259	1,800,000	59,816	
Other Financing Sources	51,500	25,815	25,685	60,000	8,500	
TOTAL WATER FUND	\$3,563,358	\$2,601,673	\$961,685	\$3,645,933	\$82,576	
SEWER FUND						
Fund Balance Available	905,582	227,096	678,486	227,096	(678,486)	
Licenses, Permits & Charges for Service	2,143,000	699,145	1,443,855	2,200,000	57,000	
Other Financing Sources	16,000	18,177	-2,177	35,000	19,000	
Special Assessment Debt Payments	0	1,556	-1,556	5,000	5,000	
TOTAL SEWER FUND	\$3,064,582	\$945,974	\$2,118,608	\$2,487,096	(\$597,486)	
STORM SEWER FUND						
Fund Balance Available	484,383	613,859	-129,476	613,859	129,476	
Licenses, Permits & Charges for Service	648,815	222,087	426,728	675,000	26,185	
Other Financing Sources	12,000	9,021	2,979	25,000	13,000	
TOTAL STORM SEWER FUND	\$1,145,198	\$844,967	\$300,231	\$1,313,869	\$168,661	
PUBLIC SAFETY FACILITY DEBT SERVICE FUND						
Fund Balance Available	520,166	581,339	-61,173	581,339	61,173	
Property Taxes	460,603	13,671	446,932	500,000	39,397	
Other Financing Sources	15,000	9,246	5,754	30,000	15,000	
TOTAL PUBLIC SAFETY FAC DEBT SRV	\$995,769	\$604,256	\$391,513	\$1,111,339	\$116,570	
CAPITAL PROJECTS						
Fund Balance Available	152,255	132,337	19,918	132,337	(19,918)	
Other Financing Sources	0	2,037	-2,037	5,500	5,500	
TOTAL CAPITAL PROJECTS	\$152,255	\$134,374	\$17,881	\$137,837	(\$14,418)	
FLEET SERVICES						
Fund Balance Available	0	-6,724	6,724	-6,724	(6,724)	
Licenses, Permits & Charges for Service	363,595	0	363,595	375,000	11,405	
Other Financing Sources	500	-742	1,242	0	(500)	
Interfund Transfers	34,500	33,751	749	33,751	(749)	
TOTAL FLEET SERVICES	\$398,595	\$26,285	\$372,310	\$402,027	\$3,432	
FACILITIES MANAGEMENT						
Fund Balance Available	0	33,604	-33,604	33,604	33,604	
Licenses, Permits & Charges for Service	508,310	158,358	349,952	500,000	(8,310)	
Fines & Forfeitures	10,000	2,745	7,255	15,000	5,000	
Other Financing Sources	2,500	2,769	-269	0	(2,500)	
TOTAL FACILITIES MANAGEMENT	\$520,810	\$163,871	\$356,939	\$548,604	\$27,794	
ADMINISTRATIVE SERVICES						
Fund Balance Available	163,476	111,169	52,307	111,169	(52,307)	
Licenses, Permits & Charges for Service	2,342,911	748,967	1,593,944	2,242,911	(100,000)	
Other Financing Sources	1,000	719	281	1,500	500	
TOTAL ADMIN SERVICES FUND	\$2,507,387	\$860,856	\$1,646,531	\$2,355,580	(\$151,807)	
KNUTSON CEMETARY TRUST						
Fund Balance Available	39,714	39,957	-243	39,957	243	
Other Financing Sources	1,000	643	357	2,000	1,000	
TOTAL KNUTSON CEMETARY TRUST	\$40,714	\$40,600	\$114	\$41,957	\$1,243	
FORFEITURE TRUST						
Fund Balance Available	0	1,065	-1,065	1,065	1,065	
Fines & Forfeitures	5,000	267	4,733	750	(4,250)	
TOTAL FORFEITURE TRUST	\$5,000	\$1,332	\$3,668	\$1,815	(\$3,186)	
TOTALS	\$30,572,621	\$14,739,769	\$15,832,852	\$31,898,659	\$1,326,038	

**FUND BALANCE REPORT
WITH FYE PROJECTIONS**

<u>FUND</u>	<u>CATEGORY</u>	FY 1995-96 <u>budget</u>	YTD <u>10/31/96</u>	<u>balance</u>	PROJECTION <u>6/30/96</u>
GENERAL FUND					
	Total Revenues	8,811,649	3,055,940	5,755,709	9,815,924
	Total Expenditures	8,811,649	3,415,531	5,396,118	8,331,637
	TOTAL GENERAL FUND	\$0	(\$359,591)		\$1,484,287
CODE ENFORCEMENT ABATEMENT FUND					
	Total Revenues	62,000	62,452	-452	63,966
	Total Expenditures	62,000	8	61,992	5,000
	CODE ENFORCMNT ABATMNT	\$0	\$62,444		\$58,966
STATE GAS TAX/ST REPAIR FND					
	Total Revenues	1,510,124	867,046	643,078	1,727,888
	Total Expenditures	1,510,124	464,318	1,045,806	1,500,028
	TOTAL STATE GAS TAX FUND	\$0	\$402,727		\$227,860
BIKE PATH FUND					
	Total Revenues	39,493	70,451	-30,958	75,092
	Total Expenditures	39,493	1,052	38,441	3,000
	TOTAL BIKE PATH FUND	\$0	\$69,398		\$72,092
STORM SEWER SDC FUND					
	Total Revenues	79,411	72,795	6,616	85,186
	Total Expenditures	79,411	480	78,931	1,500
	TOTAL STORM SEWER SDC FND	\$0	\$72,315		\$83,686
WATER SDC FUND					
	Total Revenues	275,216	256,015	19,201	276,521
	Total Expenditures	275,216	1,091	274,125	3,200
	TOTAL WATER SDC FND	\$0	\$254,924		\$273,321
SEWER SDC FUND					
	Total Revenues	789,569	746,026	43,543	788,790
	Total Expenditures	789,569	2,731	786,838	8,000
	TOTAL SEWER SDC FUND	\$0	\$743,296		\$780,790
PARKS & REC DISTRICT FUND					
	Total Revenues	1,626,554	1,246,616	379,938	1,606,123
	Total Expenditures	1,626,554	319,493	1,307,061	1,778,614
	TOTAL PARKS & REC FUND	\$0	\$927,123		(\$172,491)
LIBRARY SERVICES FUND					
	Total Revenues	1,337,104	554,222	782,882	1,506,883
	Total Expenditures	1,337,104	344,232	992,872	1,106,865
	TOTAL LIBRARY SRVCS FUND	\$0	\$209,989		\$400,018
PUBLIC SAFETY FUND					
	Total Revenues	3,647,833	1,584,020	2,063,813	3,926,239
	Total Expenditures	3,647,833	930,714	2,717,119	3,185,189
	TOTAL PUBLIC SAFETY FUND	\$0	\$653,306		\$741,050
WATER FUND					
	Total Revenues	3,563,358	2,601,673	961,685	3,645,933
	Total Expenditures	3,563,358	526,411	3,036,947	2,374,908
	TOTAL WATER FUND	\$0	\$2,075,262		\$1,271,025

**FUND BALANCE REPORT
WITH FYE PROJECTIONS**

SEWER FUND				
Total Revenues	3,064,582	945,974	2,118,608	2,467,096
Total Expenditures	3,064,582	-605,263	3,669,845	2,549,000
TOTAL SEWER FUND	\$0	\$1,551,237		(\$81,904)
STORM SEWER FUND				
Total Revenues	1,145,198	844,967	300,231	1,313,859
Total Expenditures	1,145,198	103,997	1,041,201	821,116
TOTAL STORM SEWER FUND	\$0	\$740,971		\$492,743
PUBLIC SAFETY FACILITY DEBT SERVICE FUND				
Total Revenues	995,769	604,256	391,513	1,111,339
Total Expenditures	995,769	0	995,769	455,315
TOTAL PUBLIC SAFETY FAC DEBT SRV	\$0	\$604,256		\$656,024
CAPITAL PROJECTS				
Total Revenues	152,255	134,374	17,881	137,837
Total Expenditures	152,255	2,936	149,319	152,255
TOTAL CAPITAL PROJECTS	\$0	\$131,439		(\$14,418)
FLEET SERVICES				
Total Revenues	398,595	26,285	372,310	402,027
Total Expenditures	398,595	199,099	199,496	388,708
TOTAL FLEET SERVICES	\$0	(\$172,815)		\$13,319
FACILITIES MANAGEMENT				
Total Revenues	520,810	163,871	356,939	548,604
Total Expenditures	520,810	130,184	390,626	431,994
TOTAL FACILITIES MANAGEMENT	\$0	\$33,687		\$116,610
ADMINISTRATIVE SERVICES				
Total Revenues	2,507,387	860,856	1,646,531	2,355,580
Total Expenditures	2,507,387	756,990	1,750,397	2,378,785
TOTAL ADMIN SERVICES FUND	\$0	\$103,865		(\$23,205)
KNUTSON CEMETARY TRUST				
Total Revenues	40,714	40,600	114	41,957
Total Expenditures	40,714	0	40,714	0
TOTAL KNUTSON CEMETARY TRUST	\$0	\$40,600		\$41,957
FORFEITURE TRUST				
Total Revenues	5,000	1,332	3,668	1,815
Total Expenditures	5,000	0	5,000	0
TOTAL FORFEITURE TRUST	\$0	\$1,332		\$1,815
TOTALS	\$0	\$8,145,765	\$0	\$6,423,545

PLANNING COMMISSION MINUTES
TUESDAY, NOVEMBER 12, 1996

DRAFT

COMMISSIONERS PRESENT

Carolyn Tomei
Tim Havel
Terry LaRocque
Pat Lent
Michael Smith

COMMISSIONERS ABSENT

Bryan Cosgrove
Calvin Walter

STAFF PRESENT

Maggie Collins,
Com. Dev. Dir
Stacy Lawson,
Assist. Planner
Chris Eaton,
Planning Consultant
Jim Brink,
City Engineer
Shirley Richardson
Hearings Reporter

1.0 CALL TO ORDER

Chair Tomei called the meeting to order at 6:35 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA

3.1 Planning Commission Minutes -- October 22, 1996

Tim Havel moved to approve the minutes of the October 22, 1996, as corrected.
Terry LaRocque seconded. MOTION CARRIED 3-0 with one abstention. Pat Lent was not at that meeting.

4.0 PUBLIC COMMENT

Chair Tomei stated that she was asked to announce that Congressman Earl Bloomenhour is having a forum on Livable Communities on December 2, 1996, from 4:00 to 6:30 p.m. at the OIT Conference Center on Harmony Road. Anyone interested please call Christine Eaton, 231-2300.

There were no public comments.

5.0 PUBLIC HEARINGS

- 5.1 Applicant: Wayne Walters and Robin and Benjamin Tarr
Property Owner: Wayne Walters and Robin and Benjamin Tarr
Location: 5400 SE Logus Road
Proposal: Applicant is requesting approval of an 8-lot subdivision and lot size and setback variances (S-96-03/VR-96-07/VR-96-08).

Chair Tomei explained that Variance Request VR-96-08 for setbacks was granted at a previous meeting. This hearing is for Subdivision Request S-96-03 and Variance Request VR-96-07 to allow for a lot size variance.

Chair Tomei explained the hearing format. She then opened the public hearing on Subdivision Request, S-96-03, for a 8-lot subdivision and Variance Request, VR-96-07, for reduced lot sizes. She asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. **Chair Tomei** 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.

Chair Tomei stated that she was not at the last hearing on this Application, but she has read the minutes and all the materials that pertain to this hearing. She does not feel this will interfere with her ability to vote and be a part of the decision. **Michael Smith** stated that he too was not at the last hearing but has read the information and will be voting tonight.

STAFF REPORT

Stacy Lawson explained that this proposal is a request to approve an 8-lot subdivision. She handed to the Commissioners a recent revision to the Public Works Department's recommendations. This recommendation analyzes the submittal that came in last week from the Applicant.

At the last hearing, there was discussion on the proposal for an 8-lot subdivision located at 5400 Logus Road. The original proposal showed 8 lots and included a variance, which was approved, for reduced setbacks to the proposed street which would connect Logus Road and the Mullen Street right-of-way.

The Planning Commission, in reviewing this proposal found that there were concerns because of an additional variance which was required for the lot size of

the parcels in question. In the original proposal the lot sizes ranged from the 6,400, to 6,500, and 6,300 in size. The Commissioners were asked to make the findings submitted by the Applicant for the variance approval that would address the criteria requiring unusual circumstances of the property, not created by the Applicant, and that there was no other feasible alternative to the proposal.

The Commissioners raised concerns about the issue of other alternatives and asked that the Applicant re-evaluate alternatives in order to reduce the amount of variance requested in the lot sizes. Staff had originally recommended approval of the subdivision and lot area variance based on the finding that the properties are unusual in shape and size. Staff also found that it would be difficult to develop them in an orderly manner without a street, and that the Applicant proposed to dedicate an unusual amount of the property for public use.

The Applicant has responded with two additional drawings. Alternative One shows a proposal which is similar to the initial application; however, the lot sizes are increased by providing for the sidewalk and the curb and potentially, the utilities to be located by easement within each of the lots. This proposal will result in an overall lot size for lots 2, 3, and 4 of over 7,000 sq.ft. This would reduce the variance to lots 6, 7, and 8. Lots 6 and 7 would have an increased square footage of 6,888 sq.ft. and lot 8 increased square footage of 6,832 sq.ft.

Alternative Two proposes sidewalks on only one side of the street. In the drawing, the Applicant has chosen the western side of the property, eliminating sidewalks on the east side. The resulting square footage gain includes an increase for lots 2 and 3 to 6,724 sq.ft.; lot 4, 6,795 sq.ft.; lot 6 and 7 to 6,560 sq.ft.; and lot 8 to 6,549 sq.ft.

In both proposals, the lots sizes are over the 6,500 sq.ft. identified at the Planning Commission worksession in June with the Planning Commission as the Comprehensive Plan guideline for R-7 zoning.

In the density of these properties, because of the additional dedication, the City received a request for information on the overall density per acre with a range of number of lots. With five lots on the parcel, there are 2.6 dwelling units per acre; with six, there will be 3.1 dwelling units per acre; with seven lots, there would be 3.7 dwelling units per acre; and with 8 lots there would be 4.2 dwelling units per acre. These figures are gross average. Net figures come out to be 8 lots at 5.8; 7 lots, 5.1; 6 lots, 4.3; and 5 lots, 3.6.

She asked if the Commissioners had specific questions related to these alternative proposals. **Terry LaRocque** asked if there had been any consideration regarding

encouragement of certain housing designs consistent with the surrounding neighborhood? **Stacy Lawson** explained that at this time, housing design is not a criteria. In addition, the City cannot restrict the location of manufactured homes beyond what the Ordinance allows.

Stacy Lawson stated that Staff recommends approval of the original proposal. She then introduced Jim Brink, the new City Engineer with the Public Works Department.

Jim Brink reported that Public Works' positions concerning the proposed development in Public Work's second memo. Paragraph three restates the Public Works original proposal of a 39-foot wide right-of-way. This is the minimum standard in the Milwaukie Code for a residential development. It also addresses the additional five foot easement behind the right-of-way.

The next paragraph addresses Alternative One, which proposes a 24-foot wide right-of-way, curb to curb, with sidewalks on private easements. The next paragraph addresses Alternative Two, which is a 33-foot wide dedicated right-of-way which includes the 24-foot street, curb to curb, and an additional six-foot sidewalk on the west side.

The easement for the utilities is outside the right-of-way in all three alternatives. It would be placed outside the sidewalk. There is no difference in the options addressing utilities.

The difference in the three options is that the 24-foot width allows for two-way traffic and parking on one or both sides of the street. The six-foot area for the sidewalks includes a five-foot sidewalk and a one-foot area for the placement of signs. The signs do not extend into the street, but do extend into private property.

This results in an additional 12 feet to total 36 feet of right-of-way; leaving three feet allowed for curb (6" on both sides) and two feet for construction purposes behind the sidewalk.

Public Works has not required an easement for sidewalks on Alternative 2 because of the potential requirement for placing signs behind the sidewalk. These signs are the responsibility of the City for maintenance. Private sidewalks or easements for sidewalks on a private basis are the exception. There is only one such exception in the City. Public Works believes that in the proximity of a school, a private sidewalk is appropriate. It is appropriate to have sidewalks on both sides of the street. Alternative Two is not favored by Public Works because

the sidewalks are so close to the school, the road will be open to King Road and then traffic would be funneled directly to the school property.

Chair Tomei asked if any correspondence on this matter other than items included in the Staff Report and addendum material handed out had been received? **Stacy Lawson** reported that no additional information has been received.

APPLICANT PRESENTATION

Speaking: Vic Accomando, Representative of Applicant, V & M Consulting Engineers

Mr. Accomando stated that at last month's meeting they demonstrated to the Planning Commission that they were optimistic about developing a tax parcel that has been acquired by the Applicant and a portion of the tax lot next to the Applicant's property. The residents of the tax lot had come on board with them as co-applicants.

The Planning Commission felt there were some concerns at the last meeting that the Applicants had not addressed the lot density issue. The Applicant asked for a continuance to allow time to develop other alternatives. The Applicant approached the Tarrs to ask to purchase a portion or all of their lot; they were not in agreement to selling of any more of their property.

V&M, recognizing the 2040 Plan, realized that, although this is an R-7 area, through the variance process, they could approach the Planning Commission with the smaller density lots. The surrounding lots in the area are as low as 4,000 to 5,000 sq.ft. The dedication of public right-of-way is approximately 30% of the overall lot area. This is significant and the Applicant thought this would weigh heavily on the Commission's decision on the requested variances. The Applicant is planning to build stick-construction homes. He has existing floor plans he would utilize. He does not plan to build anything less than what is currently in the neighborhood now.

Mr. Accomando stated that what the Applicant is proposing is curb to curb, 24-foot, the right-of-way in back of the curb, and have the curbs in the right-of-way. There is a 25-foot right-of-way. By putting the sidewalks into an easement, it is no different than if they were in the right-of-way. The sidewalks will be built to City standards. There is an easement given to the City, wherein the City has full ability to access the area and maintain the sidewalk up to and including an easement wide enough to include the City signs. The Applicant is in support of the extension of Mullen Road and the street going through to King Road.

Mr. Accomando stated that their request fulfills infill requirements of the City. The homes will be sized consistent with each to lot size. He is confident that these homes will be an asset to the neighborhood.

QUESTIONS FROM THE COMMISSIONERS

Pat Lent stated that the Public Works Memo mentions the only other alternative to reduce the number of lots. She asked if the Applicant considered reducing the number of lots to 6 and 7, thus negating the need for a variance. **Mr. Accomando** explained that they considered this, but the Applicant wants to build a nice project.

Speaking: Wayne Walters, 2235 South Gravel Road, Oregon City

Mr. Walters stated that the piece of land is long and skinny. Right now the lots are a minimum 82 feet wide. If the lots were wider, because of a reduced number of lots, there would be huge sideyards. His homes will be 1,500-1,600 sq.ft. valued at \$160-170,000. There will be no manufactured homes.

QUESTIONS FROM THE COMMISSIONERS

Michael Smith asked if the building envelope on the plans is the building envelope or footprint proposed? **Mr. Walters** stated that this is; the building envelope identifying the setbacks.

TESTIMONY IN FAVOR OF THE APPLICATION

Speaking: John Casey, 11410 SE 9th Avenue, Portland

He handed out a copy of a letter from Ben and Robin Tarr regarding the purchase of the back side of their property at 5330 SE Logus Road. He read the letter into the record. The Tarrs do not want to sell any additional land.

Mr. Casey cited the Notice of Action Taken on an Application of June 11, 1996. This Application was filed by Alexander Garkusha for a four-lot subdivision with the R-7 zoning. "...formally approved this Application based upon findings included in the Staff Report." The second page lists the Conditions of Approval, "...lot configurations shall be as indicated on Exhibit 3 except for a minor variance showing widths of 66 feet in areas of 6,466 sq.ft. for lots 1-3." He pointed out the property on the map.

DRAFT

Mr. Casey stated that by approving this Subdivision request, it will be exactly what the people in this region have voted for. He read an excerpt from The Spring of 1996 Metro 2040 Framework Update regarding density. **Mr. Casey** also read to the Commissioners an excerpt from the October 25, 1996 Oregonian, on density and the Urban Growth Boundary. He then presented a map from Metro and pointed out what the zoning is proposed for this area. Metro has Milwaukie zoned at SF-RD, which is defined as single-family housing with minimum lot sizes usually ranging from 5,000-7,000 sq.ft., or 4-6 dwelling units per acre.

Mr. Casey thanked the Staff for being so helpful through this process.

QUESTIONS FROM THE COMMISSIONERS

Michael Smith asked if the lot sizes shown in Alternative Two included the eight feet that was to be acquired from the adjacent neighbor? **Mr. Casey** stated that Alternative Two does include the eight feet of property that was asked for and granted by the adjacent neighbor.

QUESTIONS OR COMMENT ABOUT THE APPLICATION -- None.

TESTIMONY IN OPPOSITION TO THE APPLICATION

Speaking: Jeff Marshall, 9901 SE 53rd, on Logus Road

Mr. Marshall stated that he lives diagonally across from the subject site. He stated that he comes before the Commission as Chairman of the Lewelling Land Use Committee. This subdivision has been before the Land Use Committee several times. It has been proposed to the neighborhood association and discussed at length. At a City Council meeting on September 5, 1996, a similar variance hearing was held. Councilman Donald Trotter stated, "The Comprehensive Plan is conceptual and lists goals and policies. When Zoning Ordinances and Subdivision Ordinances apply to property, the use of criteria to determine the land-use action is appropriate." **Mr. Marshall** went on to cite other quotes from the minutes.

On the books now is R-7 Zoning; 7,000 sq.ft. minimum lots. The 2040 Plan is not part of the criteria. 6,000 sq.ft. lots are not R-7. If a zone change is needed, it can be considered at a later date. The Comprehensive Plan is not part of the criteria; density is not an issue. Lot size is the issue. In order to grant a variance as per Section 702 of the Zoning Ordinance, all three criteria must be met. At the last hearing on this Application, staff stated that there is a viable alternative to Criteria B. He then read excerpts from the Staff Report and minutes of that meeting.

Mr. Marshall stated that Public Works has evaluated and found that the only other alternative is to reduce the number of lots. Part of the argument for granting this variance is a benefit to the area by creating 54th Street to improve circulation. 54th Street is a dead-end street and abuts Mullen, a street that has no current or future plans of ever being developed. Though not part of the criteria, this street will dump as many as 12 cars onto Logus Road, a narrow road with no sidewalk at the intersection of the entrance into Lewelling Grade School. This subdivision road will be of no help to Lewelling Grade School and will cause endangerment to children as they try to get to school. It will add wear and tear to our roads and who will pay for the maintenance and upkeep after the developer has taken the money and left the area? Who will answer to the children? This Subdivision Variance Request does not meet any of the criteria for a variance and must be denied.

QUESTIONS FROM THE COMMISSIONERS

Pat Lent stated that the traffic increase is part of the criteria and can be considered an adverse effect on upon the neighborhood.

Stacy Lawson stated that using the Public Works Department minimum 24-foot wide roadway, with 5-foot sidewalks on each side equaling 34 feet, one foot greater than the right-of-way proposed for Alternative Two, and taking a half foot off of each side, lots 2 and 3 would have 6,633 sq.ft. and lot 6 would have 6,509 sq.ft.

CLARIFICATION OF TESTIMONY

Terry LaRocque asked what the mechanism was by which the road standards can be varied. Stacy Lawson stated that in the Subdivision Ordinance, Exceptions and Variances, Chapter 17.44, "When necessary, the Planning Commission may authorize variances to standards within the Subdivision Ordinance following the variance criteria." This includes roads.

APPLICANT'S CLOSING COMMENTS

Speaking: Wayne Walters, 2235 South Gravel Road, Oregon City

Mr. Walters stated that he has been involved with this project for over a year. The street width has significantly grown since he has been involved with it. The Applicant has given five feet off of the back of the property next to Mullen Street. That in itself is more than enough to make the density go up. Thirty percent

DRAFT

(30%) of this property is going towards dedication. The average lot size is over 7,000 sq.ft. Livability does not change because the lot size is less than 7,000 sq.ft. There are two existing homes that take up 10-11,000 sq.ft. He thinks this is a sound plan.

QUESTIONS FROM COMMISSIONERS

Tim Havel asked for clarification of the building envelope. **Mr. Walters** stated that each lot shows side yard setbacks and front and back yard setbacks. Taking those out of the picture, that is the area left for a house footprint. **Tim Havel** asked if Mr. Walters was aware that in the Zoning Ordinance that the maximum building envelope coverage is 30%? **Mr. Walters** stated that the lots will be developed with 1,500-1,600 sq.ft. homes which meet the 30% lot coverage requirement.

DELIBERATION AMONG COMMISSIONERS

Chair Tomei closed the public testimony portion of the hearing and opened it to deliberations among the Commissioners.

Terry LaRocque stated that he does not see evidence of an Application for a variance to street standards, pursuant to Section 17.048 of the Zoning Ordinance. If this issue cannot be dealt with, there cannot be a decision on this Application. **Stacy Lawson** stated that while no application has been made to vary the street standards, Staff believes that the Commission could include that variance with the advertised variance for lot size because they are related. The findings will need to address the reduced street size as well.

Chair Tomei asked if the public would need to be notified of this variance also? **Maggie Collins** stated that the Commission could strictly interpret the Planning Commission's authority. A strict interpretation would result in a need for re-advertisement. A lesser interpretation could include findings for the variance to the lot sizes, as requested, and findings for the street standards as well.

Michael Smith asked for clarification on Public Works preference. **Jim Brink** stated that the 39-foot right-of-way is consistent with the current minimum addressed in the Subdivision Ordinance. Anything less than that is subject to a variance.

Pat Lent stated that the intent of the variance request is so that a developer can infill when it is possible. She does not believe the purpose of the variance request is to allow a developer to get as much as he can for his property. This site is not

so unusual that it cannot be developed on at all. There are other alternatives to developing this property. She is not convinced that the criteria is met, and after testimony tonight, she does feel there are adverse effects to the community by this proposed development.

Terry LaRocque stated that he is not convinced that all the possible options are being reviewed. He feels all the lots are substandard to the R-7 requirement. Inability to make arrangements for sale of property is not the same as a physical limitation the property might otherwise have. The Applicant should reconsider his position to see the Application go through. The argument to justify narrowing the public right-of-way is not valid.

Tim Havel stated that taking away public right-of-way was an option. These lots are deep and by nature, the amount of public right-of-way that needs to be dedicated is going to increase because of this. Putting that number of lots on this property is perplexing. He is not against infill, just the amount of lots going in.

Michael Smith stated that he felt it was reasonable to use private property for sidewalks. Public Works does not have a problem with that. The Comprehensive Plan does encourage in-fill development. As long as the Applicant sticks with 30% lot coverage required by the Zoning Code, he is in favor of the proposal indicated on Alternative One. Of the three plans submitted, Alternative One best fits the criteria for the Application.

Chair Tomei stated that she feels it meets the first criteria, it is very unusual. The properties in the vicinity that are restricted are because they are so long and narrow. The Applicant has the right to use his property. There are no feasible alternatives. A lot of the property is going to be used for street and sidewalk. This is something that Milwaukie needs. The area is there; it just means that it will be used for something other than a lawn. There are no adverse effects to the neighborhood.

Chair Tomei moved to approve Variance Request VR-96-07, with the findings and conditions as contained in the Staff Report of October 8, 1996. **Michael Smith** seconded. Motion Failed 2-3. The no votes were Tim Havel, Pat Lent, and Terry LaRocque.

Chair Tomei moved to deny the Subdivision Request, S-96-03. **Terry LaRocque** seconded. MOTION CARRIED 5-0.

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Tim Havel asked if this Application follows the Zoning Ordinance requirements for replacing vegetation on this bank? **Chris Eaton** stated that Ordinance just calls for native species within the buffer zone.

Michael Smith asked if there was any other correspondence received since the Staff Report? **Chris Eaton** stated that there were some phones calls from adjacent property owners inquiring about the type of action that was taking place. There were no written comments received.

APPLICANT PRESENTATION

Speaking: Shane Ottasen, Assistant District Manager, ODOT, 9200 SE Lawnfield, Clackamas

Mr. Ottasen stated that Plan B is the proposed mitigation. The reason for the difference between ODOT and CD Staff in the number of trees cut was because CD Staff counted some newly cut trees. Some of the trees were cut prior to this year (five or ten years ago) and this year ODOT cut the stumps from those removed trees. ODOT is not here to argue with the quantities; they have no problem with planting 21 trees instead of 10.

It is their proposal to remove/treat the stumps. ODOT proposes to leave the blackberries and ivy for water quality requirement and concerns about using spray to remove those invasive ground covers.

TESTIMONY IN FAVOR OF THE APPLICANT -- None.

QUESTIONS OR COMMENTS ON THE APPLICATION -- None.

TESTIMONY IN OPPOSITION TO THE APPLICATION

Speaking: Gary Michael, 11907 SE 19th, Milwaukie

Gary Michael handed out a document entitled ODOT Hearing at the Planning Commission meeting dated November 12, 1996, which included a letter and a drawing showing how the guardrail curves away from Kellogg Lake out toward the street as you approach the bridge. He stated that he is Chair of the Island Station Neighborhood Association, the closest neighborhood south of the tree cutting site. He stated that he is also a member of the Riverfront Planning Committee whose planning area includes the site and Kellogg Lake. He and other residents have served on a committee for over a year writing a new Tree Protection Ordinance for the City. He stated that he is also a member of the

Milwaukie Downtown Development Design Committee which is very interested in preserving trees and planting new trees in downtown. Tonight he is speaking only as an individual who is very concerned about the quality of our community and believes we must be constantly vigilant with regard to actions which degrade our environment and our quality of life.

Mr. Michael stated that he is the one who blew the whistle on the tree cutting. He is dishearted that one of the state agencies in violation of state mandated local regulations, comes in and cuts 30-40 trees in an area which is our south entrance to downtown. He wrote a letter to Bruce Warner, Manager of ODOT Region I, regarding this matter.

Mr. Michael stated that he has been concerned about the loss of trees, but how this could happen, and how over-zealous tree cutting can be prevented in other parts of the state, not just designated greenways, but all along the state highways.

He walked the length of the bank measuring all of the freshly cut stumps. In the information passed out is a list of these new stumps. He found 36; 30 of which ranged from 6 inches to 24 inches at the base. There are four multi-trunked trees which environmentally and esthetically are like individual trees. The cross sectional area of the new stumps totaled 3,529 square inches. This is the equivalent of 281 4-inch trees, 499 3-inch trees or 1,994 1-1/2 inch trees. This does not include the brush cut. Most of the vegetation was hauled off but some of the debris was left on the bank. There was a big crew and they had a lot of equipment out there for two days. The few Cedar tree they left were limbed up 15-20 feet, much higher than necessary.

Mr. Michael stated that he gave his tree stump calculations to Chris Eaton; he met with her at the site and showed her the most obvious stumps.

In his letter to ODOT he stated that more than "token" mitigation plan must be negotiated. He thought that City Staff would also take this position. What is proposed here tonight is the most pitiful mitigation plan he has ever heard. He does not agree with CD staff's recommendation condition to add on 11 more 1-1/2 trees. **Chris Eaton**, who wrote the Staff Report, and was the City's representative in meeting with ODOT, is not a City employee but works for W & H Pacific, a private engineering firm. The City pays her firm for the hours she spends helping Milwaukie. He stated that one of W & H Pacific's public client contracts as are ODOT contracts. Is this a conflict of interest situation? ODOT's Application is one paragraph and a few drawings. Why was their fee waived?

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ODOT has never acknowledged the extent of the destruction that they did. Their drawings of previous and existing conditions shows only 6 trees cut. He feels there are at least 30 6-inch or larger new stumps and probably another 10 from eight years ago, nor have they given one good reason for what they did. He feels that all of the safety issues could have been resolved by judicious trimming. Only one tree was really close to the guardrail. Many tree trunks cut were growing towards the Lake, away from the highway.

ODOT has admitted overzealousness and miscommunication, but it appears they have no intention of really mitigating the damage. If pedestrian and cyclists safety is an ODOT concern, they would have done something about the guardrail years ago. **Mr. Michael** thinks that the traffic is 60 miles per hour, plus at this site. Pedestrians walk on the shoulder next to the guardrail. At the north end, the rail curves out into the street choking down the pedestrian path to a narrow width. Pedestrians either walk within a few feet of whizzing trucks and cars or climb over the guardrail to seek more safety, walking in the dirt and mud, or getting into their cars and adding to the 40,000 cars a day that flood McLoughlin.

Just straightening out the last 50 feet of rail or cutting a gap in it would help, along with a little gravel where people walk in the dirt and Ivy. There are over a thousand people in the apartment complex near the Lake who could easily walk into downtown if it were more safe.

Trees help control wind, reduce erosion, and enhance water quality by absorbing and filtering storm water in roots before getting into waterways. They also reduce noise pollution and provide wildlife habitat. It has also been shown that trees increase the value of property and nearby properties.

The Greenway regulations were created to stop degradation of natural resources along our waterways. There has to be a very good reason to cut significant trees in the Greenway. Mistakes are not an acceptable reason. **Mr. Michael** stated that he has not seen or heard anything convincing that those trees had to be cut for pedestrian safety.

If a private developer applied for approval in the Greenway to cut 30 trees from 6-24 inches and limb up others as high as 20 feet, and replace them with 21 1-1/2-inch trees and some Willow and Spirea plants, would the Staff recommend approval? Would they have allowed all the cutting ODOT did had they asked for prior approval. In the worksession the Commission had with ODOT, several important issues were brought out, such as pedestrian safety brought out by the guardrail, off-site mitigation, and whether or not new small trees and other plantings will survive. None of these seemed to be addressed in this proposal.

Mr. Michael stated that some things are essential:

- Restore the tree and shrub bio-mass within a reasonable time period.
- Make a visual impact along the top of the bank with lots of trees which have fall colors similar to the Sweet Gums across McLoughlin. Ash trees have little fall color.
- Increase plant diversity with more varieties of native plants.
- Improve the pedestrian way near the bridge over Kellogg Creek.
- Guarantee that new plant materials will survive.

City Staff , "Attempt the plantings shown on proposal B with the attached conditions" is not good enough. A private developer would not get off the hook that easily. What the Commission decides on this issue establishes precedent for both public and private development.

Mr. Michael stated that he has other ideas for off-site mitigation, such as adding new Sequoia trees to fill in gaps created by old ODOT projects along McLoughlin, adding trees at 17th & McLoughlin Blvd. or around the Highway 224 ramps. Any new trees planted off-site or on-site should be at least three inches or four-inch caliper, not 1-1/2 inches. There needs to be time to determine what meaningful mitigation should be in a case like this. Many cities have formulas for calculating mitigation written into their Ordinances. Some simply charge the tree-cutting Applicant the value of the trees and then use the money to plant trees where ever in the City they think best.

Mr. Michael asked that the Commission require ODOT to do the responsible thing. They do not deserve special treatment. Included in this packet of information are pictures, tree cut calculations, as well as his original letter to Bruce Warner.

QUESTIONS FROM THE COMMISSIONERS

Terry LaRocque asked how the pedestrian right-of-way applies to the tree mitigation process? **Mr. Michael** stated that it applies not necessarily to tree mitigation but because ODOT has tried to justify this on the basis of safety considerations. If they want to do something to improve the safety, they should deal with the guardrail.

Pat Lent asked Mr. Michael if he is suggesting that the guardrail be a part of the mitigation process? **Mr. Michael** stated that something needs to be done there. At the worksession on this Application, an ODOT representative made a statement that they have applied for some federal money to run a sidewalk down in the

neighborhood of the apartments and also north from Mr. Sweetland's house. They have no way of knowing when this money would be available; possibly 3-5 years. We don't have that long to improve this dangerous situation. It needs to be dealt with, whether it is part of this or something else.

Speaking: Donald Hammang, 11104 SE Home Avenue, Milwaukie

Mr. Hammang presented to the Commissioners a paper titled "To Interested Parties In Response to This Conditional Use," dated November 12, 1996, done with Mart Hughes on their review of the mitigation plan and their opinion of the site. The only other issue is that after the series of cuttings, the site is now more the site in need of restoration than a tree cutting at this point. It is essentially an Ivy monoculture now. Riparian and Lake front habitat is so scarce in this community, that the Commission should review a more complex restoration plan than what was proposed by the Applicant.

As an attachment to the document, he has provided a cross section of the bank and proposed plants and/or attributes that might benefit the habitat of the bank, and accentuate the visual appeal of the bank from the opposite side of the river.

QUESTIONS FROM THE COMMISSIONERS

Pat Lent asked Mr. Hammang for his background for making these comments? **Mr. Hammang** stated that he is a geographer by training, steward for the Wetlands Conservancy at two sites here in Milwaukie, and is here tonight as a concerned citizen. The practices in this document are ones that he carries out in his stewardship with the Wetlands Conservancy.

Speaking: Mike Miller, 5923 SE Dewey Court, Milwaukie

Mr. Miller stated that he is a retired school director with Portland Public Schools. He was a director and teacher there for 27 years. He has served on the Milwaukie Visioning Committee. He has served on the Tree Ordinance Committee, President of the Riverfront Development Commission, and have been for years, a member of the Oregon Nursery Association.

Mr. Miller stated that he has reviewed the mitigation Proposal. He is very familiar with Oregon Ash, a fast-growing tree. He noted it has little color in the fall. A light yellow color with small leaves, which will not enhance the McLoughlin Blvd access to the City of Milwaukie. He has a problem with other items of mitigation. In his opinion, the Ivy and blackberries cannot be removed without damaging the quality of the Lake. The only way to do it would be with

chemicals and chemicals are not compatible with the Lake. Oregon Willow would do an adequate job of providing shade for the Lake and for wildlife in that area.

One of the goals of the Milwaukie Visioning Committee was to develop a tree-lined boulevard into the City, which would be identifiable to outsiders as well as the citizens of Milwaukie as they entered the City. He thinks a tree-lined area covering that 500 feet would be excellent, which would be compatible with the riverfront development at some point as a corridor to the City.

Mr. Miller stated that a proposal should be submitted to ODOT from this City which would correct this problem with plant materials which will enhance the area. We cannot put back what was already there. This problem should be mitigated now.

QUESTIONS FROM THE COMMISSIONERS

Terry LaRocque asked if the only way to get rid of the blackberries is with chemicals? **Mr. Miller** stated that the only way to remove blackberry effectively would be with chemicals because, he feels, the root systems are impossible to remove with the slope into the lake. If they are not all removed, the berries will come back. The Spirea, as proposed from ODOT, without removal of the blackberries and ivy, which only grows 48 feet in height, will totally over-run those plants within a very short period of time. He does not think this is an acceptable plan. Hand grubbing will not be effective to remove the root system. It cannot be done with the slope that exists without destroying the water quality.

Speaking: Mart Hughes, 3006 SE Washington Street, Milwaukie

Mr. Hughes stated that he is a biologist with an expertise in riparian and wetland systems and planned vegetation. He served on the Goal Five Task Force for the Comprehensive Plan some years ago. He has done work doing wetland restoration. He encouraged the Planning Commission to reject the present plan and have Staff and ODOT come up with a better mitigation and restoration plan.

We all recognize the extreme resource value of this site, in the Willamette Greenway and Natural Resource Overlay Zone. He noted that when McLoughlin Blvd. was put in to its present state, an unmitigated wetland fill was done. The City of Milwaukie has the opportunity to set right some of our past losses.

He is familiar with the site, having lived in Milwaukie over 20 years. He enjoyed the Hawthorne, although it is not native Hawthorne. He remember some large

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flowing trees on the site this spring. He is unhappy to see these trees go. This mitigation gives the City an opportunity to think native. Almost all of the Douglas Hawthorne trees have been cut. He submitted a list of potential native plantings.

The blackberries can be controlled effectively by shading and competing for soil moisture. Spirea is a very tough plant and it does compete with blackberries. It keeps the blackberries off the ground and from re-rooting. Red Elderberry plants are toxic to blackberries. It produces acids and effectively suppresses it. Willow also effectively suppresses blackberries. It is important to do a replacement where there is very good high density aerial coverage of a shrub layer. This layer should include Elderberry, Spirea, Willow, Hawthorne, Red Stem Dogwood, and native trees, Ash and Maple.

Mr. Hughes asked that the Planning Commission send this proposal back to ODOT and have them consider a mitigation plan that does Milwaukie proud. This is an important and key area in terms of the Milwaukie Visioning process. This is our front door. Lets not set a minimal standard, what we want to see done, but a high standard, let's make a statement. This mitigation enhances and contributes to the natural resources in the Willamette Greenway and along Kellogg Lake.

QUESTIONS FROM THE COMMISSIONERS

It was asked if the Willow and Spirea proposed by the Applicant competes with ivy? **Mr. Hughes** stated that as he mentioned, these plants may be able to compete with blackberry and ivy if planted densely. Ivy is a tough plant. Leaf litter does; there needs to be a good leaf litter structure in there. The site is a difficult site. Ivy and blackberry do not enhance water quality by filtering storm water runoff. They do not provide for wildlife habitat, except in some very marginal ways. Blackberries are good for keeping people out of an area. It usually takes about three years to successfully reclaim an area. It is not easy, but it can be done.

Chris Eaton asked for the numbers of "high density shrub plantings" needed for this area. Mr. Hughes stated that Red Elderberry will put on six feet a year with a canopy of about 3-6 feet radius. There should be an overlying structure, interspersed with ground cover shrubs such as Thimble Berry, Creeping Oregon Grape, tall Oregon Grape, and Native Blackberry. These lower-level shrubs in addition to some high shrubs, small trees, and large trees. Structural diversity is needed. Large trees should be on 15-25 foot centers, interplanted with medium shrubs on a half that radius, and then the lower shrubs should be 1-2 foot

plantings. There needs to be a lot of plants in now because you can't wait for the five to ten year growth period for the plants to fill out.

Speaking: Gordon Jones, 11895 SE Kehrli Drive, Milwaukie

Mr. Jones stated that his background is in real estate development and the sand and gravel industry. He is currently employed with TMT Development in Vancouver, Washington. Mr. Ottasen stated that he did not want to get into why they cut the trees and vegetation down. When you read the report there are a number of things that come out. One statement was the desire to improve drainage. You can't get better drainage than that slope, which is about a 1-1/2 to 1 slope. There were also concerns expressed about safety, both for pedestrian and motorists.

There may have been some reason to trim some vegetation back from the road that was encroaching into the right-of-way, but that is a weak statement. Buried in the Staff Report is a comment that ODOT submitted a letter from an adjacent business who supported the removal since it opened up the view of Kellogg Lake. This may be the reason for the tree removal. He has not seen the letter, nor does he know which business it is. It may be the business that sits on the corner as you are coming north; one of the ugliest structures he has seen; some sort of pawn shop. It would be ironic if the reason the trees were cut was to accommodate the business so they could have a better view from the passing motorists into that commercial site. The statement says that ODOT submitted a letter from that adjacent business in support to having tree removal since it opened up the view of Kellogg Lake.

In regards to the pedestrian safety issue, there is an opportunity to do an additional mitigation, to do a nice, aesthetically pleasing walkway along that area. It used to be that the State Highway systems built nice looking bridges and pathways. Instead, now they put up ugly metal guardrails, providing no access for pedestrians to get from point A to point B, and then going in and whacking out all the vegetation is not right.

Mr. Jones summarized that he hopes ODOT does what's right and build a real nice walkway across the roadway, maybe a masonry structure on the slope. This along with the restoration and vegetation, will make a nice looking area.

QUESTIONS FROM THE COMMISSIONERS -- None.

Speaking: Monroe Sweetland, 12006 SE McLoughlin Blvd.

Mr. Sweetland stated that he lives just south of the subject site. He lives in the Birkenmeier house. His lot extends to the Kellogg Lake Apartment lot. When the apartments were put in, Milwaukie required that the developer furnish sidewalks. There is an adequate sidewalk, still in good condition, that extends all along the apartment house area until you get near the gun store. Many people use this sidewalk; many more would use it if they could.

Mr. Sweetland stated that he has tried to clear off the blackberries. He had three conversations with the ODOT people, about the tree cutting. The response was that they cooperated with Milwaukie prior to cutting the trees, so he did not question it. Several of the trimming occurred at a point other than the area being discussed. There are about 1,000 people living on that side of the freeway and go back and forth every day at great risk. Maybe what ODOT has done will enable Milwaukie to focus on the attention that needs to be given to tree cutting. The foot traffic should be as important an issue as the tree cutting violation.

QUESTIONS FROM THE COMMISSIONERS -- None.

STAFF COMMENTS

Chris Eaton stated that the criteria in the Willamette Greenway section in the Code is not very specific about the level or type of restoration. There have been good ideas from the public. Staff's recommendation looked to that criteria and felt the proposal was adequate.

CLARIFICATION OF TESTIMONY -- None.

APPLICANT CLOSING COMMENTS -- None.

DELIBERATION AMONG THE COMMISSIONERS

Vice-Chair Smith closed the public testimony portion of the hearing and opened it up to discussion among the Commissioners. **Tim Havel** stated that even though there is a dangerous condition, the pedestrian walkway needs to be discussed at another time. It should be taken up separately. This hearing is to address riparian zone restoration, not pedestrian improvements.

Terry LaRocque stated that the issues here are vegetation and habitat. There is a scenic value and water quality value that has been lost. To restore it would be appropriate.

Pat Lent stated that she agrees that the mitigation issues are very important. She also agrees with the opponents that this mitigation plan is very slim. She feels it would be appropriate to ask ODOT to do a broader study of what has been done on this site.

Vice-Chair Smith stated that he feels there is too much special interest in the plans that were submitted. There is not enough input by other professional biologists and restoration individuals. Restoration takes time; not just planting a few hundred trees. There should be a variety of trees planted. Mitigation should consider choking out what is there and replacing it with more indigenous species.

Pat Lent stated that the aesthetic value is very important and part of the riverfront planning and part of the Gateway. **Vice-Chair Smith** stated he would like to see a condition of approval that the ODOT plan not be used and that a landscape architect take a look at the situation and recommend a plan that has a better sense of unity. ODOT's landscape architect is somewhat biased. Off-site mitigation at 17th and McLoughlin or farther up McLoughlin may be a part of mitigating this problem. He agrees that the safety issues do not necessarily tie into this Application.

Pat Lent suggested that the City look outside Chris Eaton for a consultant that cannot be viewed as biased. ODOT has said that they don't want to argue the why of this, but we need to know the why to keep this from happening in the future.

Maggie Collins stated that the Commission could continue the Application with instructions to review the testimony presented tonight and come back at another time with an alternative proposal.

Maggie Collins stated that she wanted to address the statement in regards to Chris' bias and that the Community Development Department has not done a proper job with this application. Through time, planning consultants have worked for the City during short staff times. These planners are professional planners who have service contracts and get their assignments directly from her. When she assigned this project to Chris, she was to work with ODOT as she would any other client. The Client is responsible for bringing in the proposal, once the alleged violation occurred. Chris Eaton was not assigned to go out and do a full-fledged landscape review and biological assessment. They talked several times about how to present the proposal in front of the Commissioners tonight. The fact that it was a disappointment to some of the members of the public because it is not a full-blown biological assessment is not the Milwaukie Staff's responsibility. The

Chair Tomei explained the hearing format. She then opened the public hearing on a Community Service Overlay, CSO-96-04 and NR-96-06, to improve the existing park facilities at Furnberg Park. She asked if there were any conflicts of interest or ex-parte contacts to declare. **Michael Smith** stated that his firm uses Walker Macy as a consultant, but he did not feel it would interfere with his ability to vote on this issue. There were no other ex-parte contact, or conflicts of interest to declare. **Chair Tomei** asked if there were any Commissioners who visited the site; two 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.

Chris Eaton reviewed the Staff Report with the Commissioners. She then showed slides of the subject site and surrounding neighborhood. Written comments were received back from the Public Works Department. They noted some additional information about the park but had no concerns. There were written concerns from North Clackamas Park Recreation District and a phone call from a neighboring property owner who expressed concerns about a grouping of 11 Cottonwood trees. Both parties requested a Director's Determination that would allow these trees to be removed prior to the Commission's decision and action on the land use issues, as a minor adjustment to the Community Service Overlay. The Director did make a determination on November 6, 1996, that this was an allowed use and considered it a minor adjustment to the Application. This request was granted with one condition; the trees will be planted in accordance with the proposed master plan on a 1 to 1 ratio within six months of their removal. The property owner was extremely concerned about the danger of the trees.

There are two actions before the Commission tonight; the Community Service Overlay and the Natural Resource Overlay. Staff recommends approval of both Applications.

Staff recommended three conditions for the Community Service Overlay:

- Bicycle parking will be provided.
- The cul-de-sac and right-of-way issue be resolved between the two governmental entities. At this point, the cul-de-sac has not been dedicated as public right-of-way. There are maintenance and street standard issues that need to be worked out.
- The turn radius issue raised by the Fire District be work out.

Public Works Department had no concerns about the Natural Resource Overlay. Staff recommends approval, finding it consistent with the Comprehensive Plan

and the Zoning Ordinance. There is one condition; "The Natural Resource area be staked prior to any grading."

QUESTIONS FROM THE COMMISSIONERS

Terry LaRocque asked if the determination made on the 11 Cottonwood trees included the stumps? **Chris Eaton** stated that as part of the Master Plan, the Applicant is proposing to remove almost all of the Cottonwoods in the park. It was this particular grouping of trees that raised a safety concern. She believes this determination was for complete removal, including the stumps.

Terry LaRocque asked if any other varieties of poplar would be put back in to replace the Cottonwoods? **Chris Eaton** pointed to the Natural Resource application for discussion of replacement plantings. The planting plan and the advised copy detailed the exact planting proposal.

Chair Tomei asked if there was a copy of the letter of the arborist's evaluation of the Cottonwood trees? **Chris Eaton** read the letter from James W. Sherwood, Certified Arborist, (#PN0252) into the record.

Terry LaRocque stated that Staff recommends staking as a condition in the Natural Resource Overlay; but in the Staff Report it mentions "...boundaries identified on the site." **Chris Eaton** stated that if the Commission desires, the condition can be reworded to "...boundaries staked on the site." to be more specific.

Chair Tomei asked if there had been any additional correspondence since the printing of the Staff Report other than the items included in the agenda materials. **Chris Eaton** stated there were no new items other than the Public Works comments, and public comments, and Director's determination mentioned above.

APPLICANT PRESENTATION

Speaking: Diane Campbell, North Clackamas Parks and Recreation District, 11022 SE 37th, Milwaukie

Ms. Campbell stated that since they gave a lengthy presentation on the 22nd of October, she is here tonight to answer questions. The Park District will comply with the conditions set forth for the Community Service Overlay and the Natural Resources Overview. Bicycle parking is provided, they are located where the parking spaces are next to the restroom. It will allow for six bicycles.

DRAFT

CITY OF MILWAUKIE PLANNING COMMISSION
MINUTES OF...November 12, 1996
Page 25

Ms. Campbell stated that the trunks of the Cottonwood trees will be ground. At this time, the Park District has not determined what the replacement trees will be, but they will be native trees.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN FAVOR OF THE APPLICATION -- None.

QUESTIONS OR COMMENTS ABOUT THE APPLICATION -- None.

TESTIMONY IN OPPOSITION OF THE APPLICATION -- None.

ADDITIONAL COMMENTS FROM STAFF -- None.

CLARIFICATION OF TESTIMONY

Michael Smith asked if this cul-de-sac meets the 50-foot turning radius. **Ms. Campbell** stated that she believes that it does. With this kind of request from the Fire District, the Applicant is asked to draw it out and show it to the Fire District to meet their concerns.

APPLICANT CLOSING REMARKS -- None.

DELIBERATION AMONG THE COMMISSIONERS

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

Michael Smith stated that he thinks it is a great plan and the conditions are appropriate.

Michael Smith moved to approve Community Service Overlay, CSO-96-04, with the findings and condition as identified in the Staff Report. **Chair Tomei** seconded. MOTION CARRIED 5-0.

Michael Smith moved to approve Natural Resource Overlay , NR-96-02, for Furnberg Park with the findings in the Staff Report and Condition One as amended tonight. Tim Havel seconded. MOTION CARRIED 5-0.

6.0 WORKSESSIONS

6.1 Lake Road Area Multi-Modal Report

Susan Heiser, new Senior Planner, was scheduled to give this report. She is ill tonight. **Maggie Collins** stated that Staff will reschedule this for another meeting.

7.0 DISCUSSION ITEMS

Tim Havel asked Staff about putting together design criteria for higher density housing. **Maggie Collins** stated that the Housing Working Group for the Regional Center Master Plan is having its first meeting tomorrow night. Once the objectives are laid out, one of their desires is to deal with designs. She recommends that those interested go to these meetings, so that efforts are not duplicated. Creation of a Design Review Board is another issue.

8.0 OLD BUSINESS

8.1 Light Rail Study Update -- No Report

8.2 2040 Study Update

Maggie Collins reported that the Regional Urban Growth Management Plan was scheduled for adoption on Thursday, November 14th, but this may not be done until December 21, 1996. Staff will keep the Commission up to date.

9.0 OTHER BUSINESS/UPDATES

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

9.2 **Town Center Area Task Force Report.**

Michael Smith reported that there was a meeting two weeks ago and another meeting is planned for November 14, 1996. The last meeting was spent reviewing the work of the Urban Design Committee.

9.3 **Community Development Report**

Maggie Collins reported that one of two senior planners; Susan Heiser has come on board.

Chair Tomei announced that Calvin Walter may be resigning in January. She will not be available for the month of January. This would leave two open spaces for that month. **Maggie Collins** stated that City Hall is advertising for an

additional Commissioner. Calvin Walter may want to take a leave of absence and then continue his tenure on the Commission.

Chair Tomei ask for an update on the Tree Ordinance. **Maggie Collins** stated that a report and recommendations from the City Council Worksession is scheduled for November 26, 1996.

- 10.0 Next Meeting -- November 26, 1996
- 10.1 REGIONAL CENTER STEERING COMMITTEE (Riverfront)
- 10.2 PLANNING COMMISSION MEETING
- 10.3 Fee Schedule Review Worksession
- 10.4 Lake Road Area Multi-Modal Plan
- 10.5 Urban Forestry Program Report
- 10.6 Planning Commission Work Plan
- 10.7 Community Development Department Report

Tim Havel moved to adjourn the meeting of November 12, 1996. **Michael Smith** seconded. MOTION PASSED UNANIMOUSLY. The meeting was adjourned at approximately 10:15 p.m.

Carolyn Tomei, Chair

Shirley Richardson, Hearings Reporter

PLANNING COMMISSION MINUTES
TUESDAY, NOVEMBER 12, 1996

DRAFT

COMMISSIONERS PRESENT

Carolyn Tomei
Tim Havel
Terry LaRocque
Pat Lent
Michael Smith

COMMISSIONERS ABSENT

Bryan Cosgrove
Calvin Walter

STAFF PRESENT

Maggie Collins,
Com. Dev. Dir
Stacy Lawson,
Assist. Planner
Chris Eaton,
Planning Consultant
Jim Brink,
City Engineer
Shirley Richardson
Hearings Reporter

1.0 CALL TO ORDER

Chair Tomei called the meeting to order at 6:35 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA

3.1 Planning Commission Minutes -- October 22, 1996

Tim Havel moved to approve the minutes of the October 22, 1996, as corrected. **Terry LaRocque** seconded. MOTION CARRIED 3-0 with one abstention. Pat Lent was not at that meeting.

4.0 PUBLIC COMMENT

Chair Tomei stated that she was asked to announce that Congressman Earl Blumenhour is having a forum on Livable Communities on December 2, 1996, from 4:00 to 6:30 p.m. at the OIT Conference Center on Harmony Road. Anyone interested please call Christine Eaton, 231-2300.

There were no public comments.

5.0 PUBLIC HEARINGS

- 5.1 Applicant: Wayne Walters and Robin and Benjamin Tarr
Property Owner: Wayne Walters and Robin and Benjamin Tarr
Location: 5400 SE Logus Road
Proposal: Applicant is requesting approval of an 8-lot subdivision and lot size and setback variances (S-96-03/VR-96-07/VR-96-08).

Chair Tomei explained that Variance Request VR-96-08 for setbacks was granted at a previous meeting. This hearing is for Subdivision Request S-96-03 and Variance Request VR-96-07 to allow for a lot size variance.

Chair Tomei explained the hearing format. She then opened the public hearing on Subdivision Request, S-96-03, for a 8-lot subdivision and Variance Request, VR-96-07, for reduced lot sizes. She asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. **Chair Tomei** 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.

Chair Tomei stated that she was not at the last hearing on this Application, but she has read the minutes and all the materials that pertain to this hearing. She does not feel this will interfere with her ability to vote and be a part of the decision. **Michael Smith** stated that he too was not at the last hearing but has read the information and will be voting tonight.

STAFF REPORT

Stacy Lawson explained that this proposal is a request to approve an 8-lot subdivision. She handed to the Commissioners a recent revision to the Public Works Department's recommendations. This recommendation analyzes the submittal that came in last week from the Applicant.

At the last hearing, there was discussion on the proposal for an 8-lot subdivision located at 5400 Logus Road. The original proposal showed 8 lots and included a variance, which was approved, for reduced setbacks to the proposed street which would connect Logus Road and the Mullen Street right-of-way.

The Planning Commission, in reviewing this proposal found that there were concerns because of an additional variance which was required for the lot size of

the parcels in question. In the original proposal the lot sizes ranged from the 6,400, to 6,500, and 6,300 in size. The Commissioners were asked to make the findings submitted by the Applicant for the variance approval that would address the criteria requiring unusual circumstances of the property, not created by the Applicant, and that there was no other feasible alternative to the proposal.

The Commissioners raised concerns about the issue of other alternatives and asked that the Applicant re-evaluate alternatives in order to reduce the amount of variance requested in the lot sizes. Staff had originally recommended approval of the subdivision and lot area variance based on the finding that the properties are unusual in shape and size. Staff also found that it would be difficult to develop them in an orderly manner without a street, and that the Applicant proposed to dedicate an unusual amount of the property for public use.

The Applicant has responded with two additional drawings. Alternative One shows a proposal which is similar to the initial application; however, the lot sizes are increased by providing for the sidewalk and the curb and potentially, the utilities to be located by easement within each of the lots. This proposal will result in an overall lot size for lots 2, 3, and 4 of over 7,000 sq.ft. This would reduce the variance to lots 6, 7, and 8. Lots 6 and 7 would have an increased square footage of 6,888 sq.ft. and lot 8 increased square footage of 6,832 sq.ft.

Alternative Two proposes sidewalks on only one side of the street. In the drawing, the Applicant has chosen the western side of the property, eliminating sidewalks on the east side. The resulting square footage gain includes an increase for lots 2 and 3 to 6,724 sq.ft.; lot 4, 6,795 sq.ft.; lot 6 and 7 to 6,560 sq.ft.; and lot 8 to 6,549 sq.ft.

In both proposals, the lots sizes are over the 6,500 sq.ft. identified at the Planning Commission worksession in June with the Planning Commission as the Comprehensive Plan guideline for R-7 zoning.

In the density of these properties, because of the additional dedication, the City received a request for information on the overall density per acre with a range of number of lots. With five lots on the parcel, there are 2.6 dwelling units per acre; with six, there will be 3.1 dwelling units per acre; with seven lots, there would be 3.7 dwelling units per acre; and with 8 lots there would be 4.2 dwelling units per acre. These figures are gross average. Net figures come out to be 8 lots at 5.8; 7 lots, 5.1; 6 lots, 4.3; and 5 lots, 3.6.

She asked if the Commissioners had specific questions related to these alternative proposals. **Terry LaRocque** asked if there had been any consideration regarding

encouragement of certain housing designs consistent with the surrounding neighborhood? **Stacy Lawson** explained that at this time, housing design is not a criteria. In addition, the City cannot restrict the location of manufactured homes beyond what the Ordinance allows.

Stacy Lawson stated that Staff recommends approval of the original proposal. She then introduced Jim Brink, the new City Engineer with the Public Works Department.

Jim Brink reported that Public Works' positions concerning the proposed development in Public Work's second memo. Paragraph three restates the Public Works original proposal of a 39-foot wide right-of-way. This is the minimum standard in the Milwaukie Code for a residential development. It also addresses the additional five foot easement behind the right-of-way.

The next paragraph addresses Alternative One, which proposes a 24-foot wide right-of-way, curb to curb, with sidewalks on private easements. The next paragraph addresses Alternative Two, which is a 33-foot wide dedicated right-of-way which includes the 24-foot street, curb to curb, and an additional six-foot sidewalk on the west side.

The easement for the utilities is outside the right-of-way in all three alternatives. It would be placed outside the sidewalk. There is no difference in the options addressing utilities.

The difference in the three options is that the 24-foot width allows for two-way traffic and parking on one or both sides of the street. The six-foot area for the sidewalks includes a five-foot sidewalk and a one-foot area for the placement of signs. The signs do not extend into the street, but do extend into private property.

This results in an additional 12 feet to total 36 feet of right-of-way; leaving three feet allowed for curb (6" on both sides) and two feet for construction purposes behind the sidewalk.

Public Works has not required an easement for sidewalks on Alternative 2 because of the potential requirement for placing signs behind the sidewalk. These signs are the responsibility of the City for maintenance. Private sidewalks or easements for sidewalks on a private basis are the exception. There is only one such exception in the City. Public Works believes that in the proximity of a school, a private sidewalk is appropriate. It is appropriate to have sidewalks on both sides of the street. Alternative Two is not favored by Public Works because

the sidewalks are so close to the school, the road will be open to King Road and then traffic would be funneled directly to the school property.

Chair Tomei asked if any correspondence on this matter other than items included in the Staff Report and addendum material handed out had been received? **Stacy Lawson** reported that no additional information has been received.

APPLICANT PRESENTATION

Speaking: Vic Accomando, Representative of Applicant, V & M Consulting Engineers

Mr. Accomando stated that at last month's meeting they demonstrated to the Planning Commission that they were optimistic about developing a tax parcel that has been acquired by the Applicant and a portion of the tax lot next to the Applicant's property. The residents of the tax lot had come on board with them as co-applicants.

The Planning Commission felt there were some concerns at the last meeting that the Applicants had not addressed the lot density issue. The Applicant asked for a continuance to allow time to develop other alternatives. The Applicant approached the Tarrs to ask to purchase a portion or all of their lot; they were not in agreement to selling of any more of their property.

V&M, recognizing the 2040 Plan, realized that, although this is an R-7 area, through the variance process, they could approach the Planning Commission with the smaller density lots. The surrounding lots in the area are as low as 4,000 to 5,000 sq.ft. The dedication of public right-of-way is approximately 30% of the overall lot area. This is significant and the Applicant thought this would weigh heavily on the Commission's decision on the requested variances. The Applicant is planning to build stick-construction homes. He has existing floor plans he would utilize. He does not plan to build anything less than what is currently in the neighborhood now.

Mr. Accomando stated that what the Applicant is proposing is curb to curb, 24-feet, the right-of-way in back of the curb, and have the curbs in the right-of-way. There is a 25-foot right-of-way. By putting the sidewalks into an easement, it is no different than if they were in the right-of-way. The sidewalks will be built to City standards. There is an easement given to the City, wherein the City has full ability to access the area and maintain the sidewalk up to and including an easement wide enough to include the City signs. The Applicant is in support of the extension of Mullen Road and the street going through to King Road.

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Mr. Accomando stated that their request fulfills infill requirements of the City. The homes will be sized consistent with each to lot size. He is confident that these homes will be an asset to the neighborhood.

QUESTIONS FROM THE COMMISSIONERS

Pat Lent stated that the Public Works Memo mentions the only other alternative to reduce the number of lots. She asked if the Applicant considered reducing the number of lots to 6 and 7, thus negating the need for a variance. **Mr. Accomando** explained that they considered this, but the Applicant wants to build a nice project.

Speaking: Wayne Walters, 2235 South Gravel Road, Oregon City

Mr. Walters stated that the piece of land is long and skinny. Right now the lots are a minimum 82 feet wide. If the lots were wider, because of a reduced number of lots, there would be huge sideyards. His homes will be 1,500-1,600 sq.ft. valued at \$160-170,000. There will be no manufactured homes.

QUESTIONS FROM THE COMMISSIONERS

Michael Smith asked if the building envelope on the plans is the building envelope or footprint proposed? Mr. Walters stated that this is; the building envelope identifying the setbacks.

TESTIMONY IN FAVOR OF THE APPLICATION

Speaking: John Casey, 11410 SE 9th Avenue, Portland

He handed out a copy of a letter from Ben and Robin Tarr regarding the purchase of the back side of their property at 5330 SE Logus Road. He read the letter into the record. The Tarrs do not want to sell any additional land.

Mr. Casey cited the Notice of Action Taken on an Application of June 11, 1996. This Application was filed by Alexander Garkusha for a four-lot subdivision with the R-7 zoning. "...formally approved this Application based upon findings included in the Staff Report." The second page lists the Conditions of Approval, "...lot configurations shall be as indicated on Exhibit 3 except for a minor variance showing widths of 66 feet in areas of 6,466 sq.ft. for lots 1-3." He pointed out the property on the map.

DRAFT

Mr. Casey stated that by approving this Subdivision request, it will be exactly what the people in this region have voted for. He read an excerpt from The Spring of 1996 Metro 2040 Framework Update regarding density. **Mr. Casey** also read to the Commissioners an excerpt from the October 25, 1996 Oregonian, on density and the Urban Growth Boundary. He then presented a map from Metro and pointed out what the zoning is proposed for this area. Metro has Milwaukie zoned at SF-RD, which is defined as single-family housing with minimum lot sizes usually ranging from 5,000-7,000 sq.ft., or 4-6 dwelling units per acre.

Mr. Casey thanked the Staff for being so helpful through this process.

QUESTIONS FROM THE COMMISSIONERS

Michael Smith asked if the lot sizes shown in Alternative Two included the eight feet that was to be acquired from the adjacent neighbor? **Mr. Casey** stated that Alternative Two does include the eight feet of property that was asked for and granted by the adjacent neighbor.

QUESTIONS OR COMMENT ABOUT THE APPLICATION -- None.

TESTIMONY IN OPPOSITION TO THE APPLICATION

Speaking: Jeff Marshall, 9901 SE 53rd, on Logus Road

Mr. Marshall stated that he lives diagonally across from the subject site. He stated that he comes before the Commission as Chairman of the Lewelling Land Use Committee. This subdivision has been before the Land Use Committee several times. It has been proposed to the neighborhood association and discussed at length. At a City Council meeting on September 5, 1996, a similar variance hearing was held. Councilman Donald Trotter stated, "The Comprehensive Plan is conceptual and lists goals and policies. When Zoning Ordinances and Subdivision Ordinances apply to property, the use of criteria to determine the land-use action is appropriate." **Mr. Marshall** went on to cite other quotes from the minutes.

On the books now is R-7 Zoning; 7,000 sq.ft. minimum lots. The 2040 Plan is not part of the criteria. 6,000 sq.ft. lots are not R-7. If a zone change is needed, it can be considered at a later date. The Comprehensive Plan is not part of the criteria; density is not an issue. Lot size is the issue. In order to grant a variance as per Section 702 of the Zoning Ordinance, all three criteria must be met. At the last hearing on this Application, staff stated that there is a viable alternative to Criteria B. He then read excerpts from the Staff Report and minutes of that meeting.

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Mr. Marshall stated that Public Works has evaluated and found that the only other alternative is to reduce the number of lots. Part of the argument for granting this variance is a benefit to the area by creating 54th Street to improve circulation. 54th Street is a dead-end street and abuts Mullen, a street that has no current or future plans of ever being developed. Though not part of the criteria, this street will dump as many as 12 cars onto Logus Road, a narrow road with no sidewalk at the intersection of the entrance into Lewelling Grade School. This subdivision road will be of no help to Lewelling Grade School and will cause endangerment to children as they try to get to school. It will add wear and tear to our roads and who will pay for the maintenance and upkeep after the developer has taken the money and left the area? Who will answer to the children? This Subdivision Variance Request does not meet any of the criteria for a variance and must be denied.

QUESTIONS FROM THE COMMISSIONERS

Pat Lent stated that the traffic increase is part of the criteria and can be considered an adverse effect on upon the neighborhood.

Stacy Lawson stated that using the Public Works Department minimum 24-foot wide roadway, with 5-foot sidewalks on each side equaling 34 feet, one foot greater than the right-of-way proposed for Alternative Two, and taking a half foot off of each side, lots 2 and 3 would have 6,633 sq.ft. and lot 6 would have 6,509 sq.ft.

CLARIFICATION OF TESTIMONY

Terry LaRocque asked what the mechanism was by which the road standards can be varied. Stacy Lawson stated that in the Subdivision Ordinance, Exceptions and Variances, Chapter 17.44, "When necessary, the Planning Commission may authorize variances to standards within the Subdivision Ordinance following the variance criteria." This includes roads.

APPLICANT'S CLOSING COMMENTS

Speaking: Wayne Walters, 2235 South Gravel Road, Oregon City

Mr. Walters stated that he has been involved with this project for over a year. The street width has significantly grown since he has been involved with it. The Applicant has given five feet off of the back of the property next to Mullen Street. That in itself is more than enough to make the density go up. Thirty percent

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(30%) of this property is going towards dedication. The average lot size is over 7,000 sq.ft. Livability does not change because the lot size is less than 7,000 sq.ft. There are two existing homes that take up 10-11,000 sq.ft. He thinks this is a sound plan.

QUESTIONS FROM COMMISSIONERS

Tim Havel asked for clarification of the building envelope. **Mr. Walters** stated that each lot shows side yard setbacks and front and back yard setbacks. Taking those out of the picture, that is the area left for a house footprint. **Tim Havel** asked if Mr. Walters was aware that in the Zoning Ordinance that the maximum building envelope coverage is 30%? **Mr. Walters** stated that the lots will be developed with 1,500-1,600 sq.ft. homes which meet the 30% lot coverage requirement.

DELIBERATION AMONG COMMISSIONERS

Chair Tomei closed the public testimony portion of the hearing and opened it to deliberations among the Commissioners.

Terry LaRocque stated that he does not see evidence of an Application for a variance to street standards, pursuant to Section 17.048 of the Zoning Ordinance. If this issue cannot be dealt with, there cannot be a decision on this Application. **Stacy Lawson** stated that while no application has been made to vary the street standards, Staff believes that the Commission could include that variance with the advertised variance for lot size because they are related. The findings will need to address the reduced street size as well.

Chair Tomei asked if the public would need to be notified of this variance also? **Maggie Collins** stated that the Commission could strictly interpret the Planning Commission's authority. A strict interpretation would result in a need for re-advertisement. A lesser interpretation could include findings for the variance to the lot sizes, as requested, and findings for the street standards as well.

Michael Smith asked for clarification on Public Works preference. **Jim Brink** stated that the 39-foot right-of-way is consistent with the current minimum addressed in the Subdivision Ordinance. Anything less than that is subject to a variance.

Pat Lent stated that the intent of the variance request is so that a developer can infill when it is possible. She does not believe the purpose of the variance request is to allow a developer to get as much as he can for his property. This site is not

so unusual that it cannot be developed on at all. There are other alternatives to developing this property. She is not convinced that the criteria is met, and after testimony tonight, she does feel there are adverse effects to the community by this proposed development.

Terry LaRocque stated that he is not convinced that all the possible options are being reviewed. He feels all the lots are substandard to the R-7 requirement. Inability to make arrangements for sale of property is not the same as a physical limitation the property might otherwise have. The Applicant should reconsider his position to see the Application go through. The argument to justify narrowing the public right-of-way is not valid.

Tim Havel stated that taking away public right-of-way was an option. These lots are deep and by nature, the amount of public right-of-way that needs to be dedicated is going to increase because of this. Putting that number of lots on this property is perplexing. He is not against infill, just the amount of lots going in.

Michael Smith stated that he felt it was reasonable to use private property for sidewalks. Public Works does not have a problem with that. The Comprehensive Plan does encourage in-fill development. As long as the Applicant sticks with 30% lot coverage required by the Zoning Code, he is in favor of the proposal indicated on Alternative One. Of the three plans submitted, Alternative One best fits the criteria for the Application.

Chair Tomei stated that she feels it meets the first criteria, it is very unusual. The properties in the vicinity that are restricted are because they are so long and narrow. The Applicant has the right to use his property. There are no feasible alternatives. A lot of the property is going to be used for street and sidewalk. This is something that Milwaukie needs. The area is there; it just means that it will be used for something other than a lawn. There are no adverse effects to the neighborhood.

Chair Tomei moved to approve Variance Request VR-96-07, with the findings and conditions as contained in the Staff Report of October 8, 1996. **Michael Smith** seconded. Motion Failed 2-3. The no votes were Tim Havel, Pat Lent, and Terry LaRocque.

Chair Tomei moved to deny the Subdivision Request, S-96-03. **Terry LaRocque** seconded. MOTION CARRIED 5-0.

- 5.3 Applicant: Oregon Department of Transportation (ODOT)
 Property Owner: Oregon Department of Transportation
 Location: Right-of-Way along 99E (McLoughlin Blvd.) in Milwaukie
 Proposai: Conditional Use for Willamette Greenway tree mitigation
 (CU-96-01)

Chair Tomei explained that she would be stepping down and turning the meeting over to Michael Smith, Vice-Chair, in order to avoid the appearance of bias. **Michael Smith** opened the public hearing on Conditional Use, CU-96-01, for Willamette Greenway tree mitigation. He then explained the hearing format. He asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. **Michael Smith** asked if there were any Commissioners who visited the site; four hands were raised. None of the Commissioners who raised their hands noticed anything different from what is stated in the Staff Report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

STAFF REPORT

Chris Eaton showed slides of the proposed development and surrounding area. She then handed out referral responses that she has received since the Staff Report was delivered. The Public Works Department supports the Conditional Use approval because it improves drainage and site visibility along Highway 99E for safety of motorists and pedestrians.

At the October 22, 1996, Planning Commission worksession time was spent going through the proposal with the Applicant. The Staff Report recommends approval of the proposed Plan "B" Conditional Use permit with two conditions. **Chris Eaton** did not speak directly with the ODOT landscape architect, Carl Edgecomb, but he left a voice mail message that in his opinion, the Spirea and Willow would not survive unless ivy and blackberries were removed. He did not specifically recommend a particular clearance area, he just noted that the plants would not survive if they were planted in the ivy and blackberries.

QUESTIONS OF STAFF

Terry LaRocque asked what are the caliper of the trees being replaced? **Chris Eaton** stated that they will be 1-1/2 inches.

Pat Lent asked what kind of foliage the Oregon Ash tree has? **Chris Eaton** stated that they have small golden foliage.

DRAFT

CITY OF MILWAUKIE PLANNING COMMISSION
MINUTES OF...November 12, 1996
Page 12

Tim Havel asked if this Application follows the Zoning Ordinance requirements for replacing vegetation on this bank? **Chris Eaton** stated that Ordinance just calls for native species within the buffer zone.

Michael Smith asked if there was any other correspondence received since the Staff Report? **Chris Eaton** stated that there were some phone calls from adjacent property owners inquiring about the type of action that was taking place. There were no written comments received.

APPLICANT PRESENTATION

Speaking: Shane Ottasen, Assistant District Manager, ODOT, 9200 SE Lawnfield,
Clackamas

Mr. Ottasen stated that Plan B is the proposed mitigation. The reason for the difference between ODOT and CD Staff in the number of trees cut was because CD Staff counted some newly cut trees. Some of the trees were cut prior to this year (five or ten years ago) and this year ODOT cut the stumps from those removed trees. ODOT is not here to argue with the quantities; they have no problem with planting 21 trees instead of 10.

It is their proposal to remove/treat the stumps. ODOT proposes to leave the blackberries and ivy for water quality requirement and concerns about using spray to remove those invasive ground covers.

TESTIMONY IN FAVOR OF THE APPLICANT -- None.

QUESTIONS OR COMMENTS ON THE APPLICATION -- None.

TESTIMONY IN OPPOSITION TO THE APPLICATION

Speaking: Gary Michael, 11907 SE 19th, Milwaukie

Gary Michael handed out a document entitled ODOT Hearing at the Planning Commission meeting dated November 12, 1996, which included a letter and a drawing showing how the guardrail curves away from Kellogg Lake out toward the street as you approach the bridge. He stated that he is Chair of the Island Station Neighborhood Association, the closest neighborhood south of the tree cutting site. He stated that he is also a member of the Riverfront Planning Committee whose planning area includes the site and Kellogg Lake. He and other residents have served on a committee for over a year writing a new Tree Protection Ordinance for the City. He stated that he is also a member of the

Milwaukie Downtown Development Design Committee which is very interested in preserving trees and planting new trees in downtown. Tonight he is speaking only as an individual who is very concerned about the quality of our community and believes we must be constantly vigilant with regard to actions which degrade our environment and our quality of life.

Mr. Michael stated that he is the one who blew the whistle on the tree cutting. He is dishearted that one of the state agencies in violation of state mandated local regulations, comes in and cuts 30-40 trees in an area which is our south entrance to downtown. He wrote a letter to Bruce Warner, Manager of ODOT Region I, regarding this matter.

Mr. Michael stated that he has been concerned about the loss of trees, but how this could happen, and how over-zealous tree cutting can be prevented in other parts of the state, not just designated greenways, but all along the state highways.

He walked the length of the bank measuring all of the freshly cut stumps. In the information passed out is a list of these new stumps. He found 36; 30 of which ranged from 6 inches to 24 inches at the base. There are four multi-trunked trees which environmentally and esthetically are like individual trees. The cross sectional area of the new stumps totaled 3,529 square inches. This is the equivalent of 281 4-inch trees, 499 3-inch trees or 1,994 1-1/2 inch trees. This does not include the brush cut. Most of the vegetation was hauled off but some of the debris was left on the bank. There was a big crew and they had a lot of equipment out there for two days. The few Cedar tree they left were limbed up 15-20 feet, much higher than necessary.

Mr. Michael stated that he gave his tree stump calculations to Chris Eaton; he met with her at the site and showed her the most obvious stumps.

In his letter to ODOT he stated that more than "token" mitigation plan must be negotiated. He thought that City Staff would also take this position. What is proposed here tonight is the most pitiful mitigation plan he has ever heard. He does not agree with CD staff's recommendation condition to add on 11 more 1-1/2 trees. **Chris Eaton**, who wrote the Staff Report, and was the City's representative in meeting with ODOT, is not a City employee but works for W & H Pacific, a private engineering firm. The City pays her firm for the hours she spends helping Milwaukie. He stated that one of W & H Pacific's public client contracts as are ODOT contracts. Is this a conflict of interest situation? ODOT's Application is one paragraph and a few drawings. Why was their fee waived?

DRAFT

ODOT has never acknowledged the extent of the destruction that they did. Their drawings of previous and existing conditions shows only 6 trees cut. He feels there are at least 30 6-inch or larger new stumps and probably another 10 from eight years ago, nor have they given one good reason for what they did. He feels that all of the safety issues could have been resolved by judicious trimming. Only one tree was really close to the guardrail. Many tree trunks cut were growing towards the Lake, away from the highway.

ODOT has admitted overzealousness and miscommunication, but it appears they have no intention of really mitigating the damage. If pedestrian and cyclists safety is an ODOT concern, they would have done something about the guardrail years ago. **Mr. Michael** thinks that the traffic is 60 miles per hour, plus at this site. Pedestrians walk on the shoulder next to the guardrail. At the north end, the rail curves out into the street choking down the pedestrian path to a narrow width. Pedestrians either walk within a few feet of whizzing trucks and cars or climb over the guardrail to seek more safety, walking in the dirt and mud, or getting into their cars and adding to the 40,000 cars a day that flood McLoughlin.

Just straightening out the last 50 feet of rail or cutting a gap in it would help, along with a little gravel where people walk in the dirt and Ivy. There are over a thousand people in the apartment complex near the Lake who could easily walk into downtown if it were more safe.

Trees help control wind, reduce erosion, and enhance water quality by absorbing and filtering storm water in roots before getting into waterways. They also reduce noise pollution and provide wildlife habitat. It has also been shown that trees increase the value of property and nearby properties.

The Greenway regulations were created to stop degradation of natural resources along our waterways. There has to be a very good reason to cut significant trees in the Greenway. Mistakes are not an acceptable reason. **Mr. Michael** stated that he has not seen or heard anything convincing that those trees had to be cut for pedestrian safety.

If a private developer applied for approval in the Greenway to cut 30 trees from 6-24 inches and limb up others as high as 20 feet, and replace them with 21 1-1/2-inch trees and some Willow and Spirea plants, would the Staff recommend approval? Would they have allowed all the cutting ODOT did had they asked for prior approval. In the worksession the Commission had with ODOT, several important issues were brought out, such as pedestrian safety brought out by the guardrail, off-site mitigation, and whether or not new small trees and other plantings will survive. None of these seemed to be addressed in this proposal.

Mr. Michael stated that some things are essential:

- Restore the tree and shrub bio-mass within a reasonable time period.
- Make a visual impact along the top of the bank with lots of trees which have fall colors similar to the Sweet Gums across McLoughlin. Ash trees have little fall color.
- Increase plant diversity with more varieties of native plants.
- Improve the pedestrian way near the bridge over Kellogg Creek.
- Guarantee that new plant materials will survive.

City Staff , "Attempt the plantings shown on proposal B with the attached conditions" is not good enough. A private developer would not get off the hook that easily. What the Commission decides on this issue establishes precedent for both public and private development.

Mr. Michael stated that he has other ideas for off-site mitigation, such as adding new Sequoia trees to fill in gaps created by old ODOT projects along McLoughlin, adding trees at 17th & McLoughlin Blvd. or around the Highway 224 ramps. Any new trees planted off-site or on-site should be at least three inches or four-inch caliper, not 1-1/2 inches. There needs to be time to determine what meaningful mitigation should be in a case like this. Many cities have formulas for calculating mitigation written into their Ordinances. Some simply charge the tree-cutting Applicant the value of the trees and then use the money to plant trees where ever in the City they think best.

Mr. Michael asked that the Commission require ODOT to do the responsible thing. They do not deserve special treatment. Included in this packet of information are pictures, tree cut calculations, as well as his original letter to Bruce Warner.

QUESTIONS FROM THE COMMISSIONERS

Terry LaRocque asked how the pedestrian right-of-way applies to the tree mitigation process? **Mr. Michael** stated that it applies not necessarily to tree mitigation but because ODOT has tried to justify this on the basis of safety considerations. If they want to do something to improve the safety, they should deal with the guardrail.

Pat Lent asked Mr. Michael if he is suggesting that the guardrail be a part of the mitigation process? **Mr. Michael** stated that something needs to be done there. At the worksession on this Application, an ODOT representative made a statement that they have applied for some federal money to run a sidewalk down in the

DRAFT

CITY OF MILWAUKIE PLANNING COMMISSION
MINUTES OF...November 12, 1996
Page 16

neighborhood of the apartments and also north from Mr. Sweetland's house. They have no way of knowing when this money would be available; possibly 3-5 years. We don't have that long to improve this dangerous situation. It needs to be dealt with, whether it is part of this or something else.

Speaking: Donald Hammang, 11104 SE Home Avenue, Milwaukie

Mr. Hammang presented to the Commissioners a paper titled "To Interested Parties In Response to This Conditional Use," dated November 12, 1996, done with Mart Hughes on their review of the mitigation plan and their opinion of the site. The only other issue is that after the series of cuttings, the site is now more the site in need of restoration than a tree cutting at this point. It is essentially an Ivy monoculture now. Riparian and Lake front habitat is so scarce in this community, that the Commission should review a more complex restoration plan than what was proposed by the Applicant.

As an attachment to the document, he has provided a cross section of the bank and proposed plants and/or attributes that might benefit the habitat of the bank, and accentuate the visual appeal of the bank from the opposite side of the river.

QUESTIONS FROM THE COMMISSIONERS

Pat Lent asked Mr. Hammang for his background for making these comments? **Mr. Hammang** stated that he is a geographer by training, steward for the Wetlands Conservancy at two sites here in Milwaukie, and is here tonight as a concerned citizen. The practices in this document are ones that he carries out in his stewardship with the Wetlands Conservancy.

Speaking: Mike Miller, 5923 SE Dewey Court, Milwaukie

Mr. Miller stated that he is a retired school director with Portland Public Schools. He was a director and teacher there for 27 years. He has served on the Milwaukie Visioning Committee. He has served on the Tree Ordinance Committee, President of the Riverfront Development Commission, and have been for years, a member of the Oregon Nursery Association.

Mr. Miller stated that he has reviewed the mitigation Proposal. He is very familiar with Oregon Ash, a fast-growing tree. He noted it has little color in the fall. A light yellow color with small leaves, which will not enhance the McLoughlin Blvd access to the City of Milwaukie. He has a problem with other items of mitigation. In his opinion, the Ivy and blackberries cannot be removed without damaging the quality of the Lake. The only way to do it would be with

chemicals and chemicals are not compatible with the Lake. Oregon Willow would do an adequate job of providing shade for the Lake and for wildlife in that area.

One of the goals of the Milwaukie Visioning Committee was to develop a tree-lined boulevard into the City, which would be identifiable to outsiders as well as the citizens of Milwaukie as they entered the City. He thinks a tree-lined area covering that 500 feet would be excellent, which would be compatible with the riverfront development at some point as a corridor to the City.

Mr. Miller stated that a proposal should be submitted to ODOT from this City which would correct this problem with plant materials which will enhance the area. We cannot put back what was already there. This problem should be mitigated now.

QUESTIONS FROM THE COMMISSIONERS

Terry LaRocque asked if the only way to get rid of the blackberries is with chemicals? **Mr. Miller** stated that the only way to remove blackberry effectively would be with chemicals because, he feels, the root systems are impossible to remove with the slope into the lake. If they are not all removed, the berries will come back. The Spirea, as proposed from ODOT, without removal of the blackberries and ivy, which only grows 48 feet in height, will totally over-run those plants within a very short period of time. He does not think this is an acceptable plan. Hand grubbing will not be effective to remove the root system. It cannot be done with the slope that exists without destroying the water quality.

Speaking: Mart Hughes, 3006 SE Washington Street, Milwaukie

Mr. Hughes stated that he is a biologist with an expertise in riparian and wetland systems and planned vegetation. He served on the Goal Five Task Force for the Comprehensive Plan some years ago. He has done work doing wetland restoration. He encouraged the Planning Commission to reject the present plan and have Staff and ODOT come up with a better mitigation and restoration plan.

We all recognize the extreme resource value of this site, in the Willamette Greenway and Natural Resource Overlay Zone. He noted that when McLoughlin Blvd. was put in to its present state, an unmitigated wetland fill was done. The City of Milwaukie has the opportunity to set right some of our past losses.

He is familiar with the site, having lived in Milwaukie over 20 years. He enjoyed the Hawthorne, although it is not native Hawthorne. He remember some large

DRAFT

flowing trees on the site this spring. He is unhappy to see these trees go. This mitigation gives the City an opportunity to think native. Almost all of the Douglas Hawthorne trees have been cut. He submitted a list of potential native plantings.

The blackberries can be controlled effectively by shading and competing for soil moisture. Spirea is a very tough plant and it does compete with blackberries. It keeps the blackberries off the ground and from re-rooting. Red Elderberry plants are toxic to blackberries. It produces acids and effectively suppresses it. Willow also effectively suppresses blackberries. It is important to do a replacement where there is very good high density aerial coverage of a shrub layer. This layer should include Elderberry, Spirea, Willow, Hawthorne, Red Stem Dogwood, and native trees, Ash and Maple.

Mr. Hughes asked that the Planning Commission send this proposal back to ODOT and have them consider a mitigation plan that does Milwaukie proud. This is an important and key area in terms of the Milwaukie Visioning process. This is our front door. Lets not set a minimal standard, what we want to see done, but a high standard, let's make a statement. This mitigation enhances and contributes to the natural resources in the Willamette Greenway and along Kellogg Lake.

QUESTIONS FROM THE COMMISSIONERS

It was asked if the Willow and Spirea proposed by the Applicant competes with ivy? **Mr. Hughes** stated that as he mentioned, these plants may be able to compete with blackberry and ivy if planted densely. Ivy is a tough plant. Leaf litter does; there needs to be a good leaf litter structure in there. The site is a difficult site. Ivy and blackberry do not enhance water quality by filtering storm water runoff. They do not provide for wildlife habitat, except in some very marginal ways. Blackberries are good for keeping people out of an area. It usually takes about three years to successfully reclaim an area. It is not easy, but it can be done.

Chris Eaton asked for the numbers of "high density shrub plantings" needed for this area. **Mr. Hughes** stated that Red Elderberry will put on six feet a year with a canopy of about 3-6 feet radius. There should be an overlying structure, interspersed with ground cover shrubs such as Thimble Berry, Creeping Oregon Grape, tall Oregon Grape, and Native Blackberry. These lower-level shrubs in addition to some high shrubs, small trees, and large trees. Structural diversity is needed. Large trees should be on 15-25 foot centers, interplanted with medium shrubs on a half that radius, and then the lower shrubs should be 1-2 foot

plantings. There needs to be a lot of plants in now because you can't wait for the five to ten year growth period for the plants to fill out.

Speaking: Gordon Jones, 11895 SE Kehrli Drive, Milwaukie

Mr. Jones stated that his background is in real estate development and the sand and gravel industry. He is currently employed with TMT Development in Vancouver, Washington. Mr. Ottasen stated that he did not want to get into why they cut the trees and vegetation down. When you read the report there are a number of things that come out. One statement was the desire to improve drainage. You can't get better drainage than that slope, which is about a 1-1/2 to 1 slope. There were also concerns expressed about safety, both for pedestrian and motorists.

There may have been some reason to trim some vegetation back from the road that was encroaching into the right-of-way, but that is a weak statement. Buried in the Staff Report is a comment that ODOT submitted a letter from an adjacent business who supported the removal since it opened up the view of Kellogg Lake. This may be the reason for the tree removal. He has not seen the letter, nor does he know which business it is. It may be the business that sits on the corner as you are coming north; one of the ugliest structures he has seen; some sort of pawn shop. It would be ironic if the reason the trees were cut was to accommodate the business so they could have a better view from the passing motorists into that commercial site. The statement says that ODOT submitted a letter from that adjacent business in support to having tree removal since it opened up the view of Kellogg Lake.

In regards to the pedestrian safety issue, there is an opportunity to do an additional mitigation, to do a nice, aesthetically pleasing walkway along that area. It used to be that the State Highway systems built nice looking bridges and pathways. Instead, now they put up ugly metal guardrails, providing no access for pedestrians to get from point A to point B, and then going in and whacking out all the vegetation is not right.

Mr. Jones summarized that he hopes ODOT does what's right and build a real nice walkway across the roadway, maybe a masonry structure on the slope. This along with the restoration and vegetation, will make a nice looking area.

QUESTIONS FROM THE COMMISSIONERS -- None.

Speaking: Monroe Sweetland, 12006 SE McLoughlin Blvd.

DRAFT

CITY OF MILWAUKIE PLANNING COMMISSION
MINUTES OF...November 12, 1996
Page 20

Mr. Sweetland stated that he lives just south of the subject site. He lives in the Birkenmeier house. His lot extends to the Kellogg Lake Apartment lot. When the apartments were put in, Milwaukie required that the developer furnish sidewalks. There is an adequate sidewalk, still in good condition, that extends all along the apartment house area until you get near the gun store. Many people use this sidewalk; many more would use it if they could.

Mr. Sweetland stated that he has tried to clear off the blackberries. He had three conversations with the ODOT people, about the tree cutting. The response was that they cooperated with Milwaukie prior to cutting the trees, so he did not question it. Several of the trimming occurred at a point other than the area being discussed. There are about 1,000 people living on that side of the freeway and go back and forth every day at great risk. Maybe what ODOT has done will enable Milwaukie to focus on the attention that needs to be given to tree cutting. The foot traffic should be as important an issue as the tree cutting violation.

QUESTIONS FROM THE COMMISSIONERS -- None.

STAFF COMMENTS

Chris Eaton stated that the criteria in the Willamette Greenway section in the Code is not very specific about the level or type of restoration. There have been good ideas from the public. Staff's recommendation looked to that criteria and felt the proposal was adequate.

CLARIFICATION OF TESTIMONY -- None.

APPLICANT CLOSING COMMENTS -- None.

DELIBERATION AMONG THE COMMISSIONERS

Vice-Chair Smith closed the public testimony portion of the hearing and opened it up to discussion among the Commissioners. **Tim Havel** stated that even though there is a dangerous condition, the pedestrian walkway needs to be discussed at another time. It should be taken up separately. This hearing is to address riparian zone restoration, not pedestrian improvements.

Terry LaRocque stated that the issues here are vegetation and habitat. There is a scenic value and water quality value that has been lost. To restore it would be appropriate.

Pat Lent stated that she agrees that the mitigation issues are very important. She also agrees with the opponents that this mitigation plan is very slim. She feels it would be appropriate to ask ODOT to do a broader study of what has been done on this site.

Vice-Chair Smith stated that he feels there is too much special interest in the plans that were submitted. There is not enough input by other professional biologists and restoration individuals. Restoration takes time; not just planting a few hundred trees. There should be a variety of trees planted. Mitigation should consider choking out what is there and replacing it with more indiginous species.

Pat Lent stated that the aesthetic value is very important and part of the riverfront planning and part of the Gateway. **Vice-Chair Smith** stated he would like to see a condition of approval that the ODOT plan not be used and that a landscape architect take a look at the situation and recommend a plan that has a better sense of unity. ODOT's landscape architect is somewhat biased. Off-site mitigation at 17th and McLoughlin or farther up McLoughlin may be a part of mitigating this problem. He agrees that the safety issues do not necessarily tie into this Application.

Pat Lent suggested that the City look outside Chris Eaton for a consultant that cannot be viewed as biased. ODOT has said that they don't want to argue the why of this, but we need to know the why to keep this from happening in the future.

Maggie Collins stated that the Commission could continue the Application with instructions to review the testimony presented tonight and come back at another time with an alternative proposal.

Maggie Collins stated that she wanted to address the statement in regards to Chris' bias and that the Community Development Department has not done a proper job with this application. Through time, planning consultants have worked for the City during short staff times. These planners are professional planners who have service contracts and get their assignments directly from her. When she assigned this project to Chris, she was to work with ODOT as she would any other client. The Client is responsible for bringing in the proposal, once the alleged violation occurred. Chris Eaton was not assigned to go out and do a full-fledged landscape review and biological assessment. They talked several times about how to present the proposal in front of the Commissioners tonight. The fact that it was a disappointment to some of the members of the public because it is not a full-blown biological assessment is not the Milwaukie Staff's responsibility. The

Chair Tomei explained the hearing format. She then opened the public hearing on a Community Service Overlay, CSO-96-04 and NR-96-06, to improve the existing park facilities at Furnberg Park. She asked if there were any conflicts of interest or ex-parte contacts to declare. **Michael Smith** stated that his firm uses Walker Macy as a consultant, but he did not feel it would interfere with his ability to vote on this issue. There were no other ex-parte contact, or conflicts of interest to declare. **Chair Tomei** asked if there were any Commissioners who visited the site; two 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.

Chris Eaton reviewed the Staff Report with the Commissioners. She then showed slides of the subject site and surrounding neighborhood. Written comments were received back from the Public Works Department. They noted some additional information about the park but had no concerns. There were written concerns from North Clackamas Park Recreation District and a phone call from a neighboring property owner who expressed concerns about a grouping of 11 Cottonwood trees. Both parties requested a Director's Determination that would allow these trees to be removed prior to the Commission's decision and action on the land use issues, as a minor adjustment to the Community Service Overlay. The Director did make a determination on November 6, 1996, that this was an allowed use and considered it a minor adjustment to the Application. This request was granted with one condition; the trees will be planted in accordance with the proposed master plan on a 1 to 1 ratio within six months of their removal. The property owner was extremely concerned about the danger of the trees.

There are two actions before the Commission tonight; the Community Service Overlay and the Natural Resource Overlay. Staff recommends approval of both Applications.

Staff recommended three conditions for the Community Service Overlay:

- Bicycle parking will be provided.
- The cul-de-sac and right-of-way issue be resolved between the two governmental entities. At this point, the cul-de-sac has not been dedicated as public right-of-way. There are maintenance and street standard issues that need to be worked out.
- The turn radius issue raised by the Fire District be work out.

Public Works Department had no concerns about the Natural Resource Overlay. Staff recommends approval, finding it consistent with the Comprehensive Plan

and the Zoning Ordinance. There is one condition; "The Natural Resource area be staked prior to any grading."

QUESTIONS FROM THE COMMISSIONERS

Terry LaRocque asked if the determination made on the 11 Cottonwood trees included the stumps? **Chris Eaton** stated that as part of the Master Plan, the Applicant is proposing to remove almost all of the Cottonwoods in the park. It was this particular grouping of trees that raised a safety concern. She believes this determination was for complete removal, including the stumps.

Terry LaRocque asked if any other varieties of poplar would be put back in to replace the Cottonwoods? **Chris Eaton** pointed to the Natural Resource application for discussion of replacement plantings. The planting plan and the advised copy detailed the exact planting proposal.

Chair Tomei asked if there was a copy of the letter of the arborist's evaluation of the Cottonwood trees? **Chris Eaton** read the letter from James W. Sherwood, Certified Arborist, (#PN0252) into the record.

Terry LaRocque stated that Staff recommends staking as a condition in the Natural Resource Overlay; but in the Staff Report it mentions "...boundaries identified on the site." **Chris Eaton** stated that if the Commission desires, the condition can be reworded to "...boundaries staked on the site." to be more specific.

Chair Tomei asked if there had been any additional correspondence since the printing of the Staff Report other than the items included in the agenda materials. **Chris Eaton** stated there were no new items other than the Public Works comments, and public comments, and Director's determination mentioned above.

APPLICANT PRESENTATION

Speaking: Diane Campbell, North Clackamas Parks and Recreation District, 11022 SE 37th, Milwaukie

Ms. Campbell stated that since they gave a lengthy presentation on the 22nd of October, she is here tonight to answer questions. The Park District will comply with the conditions set forth for the Community Service Overlay and the Natural Resources Overview. Bicycle parking is provided, they are located where the parking spaces are next to the restroom. It will allow for six bicycles.

Ms. Campbell stated that the trunks of the Cottonwood trees will be ground. At this time, the Park District has not determined what the replacement trees will be, but they will be native trees.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN FAVOR OF THE APPLICATION -- None.

QUESTIONS OR COMMENTS ABOUT THE APPLICATION -- None.

TESTIMONY IN OPPOSITION OF THE APPLICATION -- None.

ADDITIONAL COMMENTS FROM STAFF -- None.

CLARIFICATION OF TESTIMONY

Michael Smith asked if this cul-de-sac meets the 50-foot turning radius. **Ms. Campbell** stated that she believes that it does. With this kind of request from the Fire District, the Applicant is asked to draw it out and show it to the Fire District to meet their concerns.

APPLICANT CLOSING REMARKS -- None.

DELIBERATION AMONG THE COMMISSIONERS

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

Michael Smith stated that he thinks it is a great plan and the conditions are appropriate.

Michael Smith moved to approve Community Service Overlay, CSO-96-04, with the findings and condition as identified in the Staff Report. **Chair Tomei** seconded. MOTION CARRIED 5-0.

Michael Smith moved to approve Natural Resource Overlay , NR-96-02, for Furnberg Park with the findings in the Staff Report and Condition One as amended tonight. Tim Havel seconded. MOTION CARRIED 5-0.

6.0 WORKSESSIONS

6.1 Lake Road Area Multi-Modal Report

Susan Heiser, new Senior Planner, was scheduled to give this report. She is ill tonight. **Maggie Collins** stated that Staff will reschedule this for another meeting.

7.0 DISCUSSION ITEMS

Tim Havel asked Staff about putting together design criteria for higher density housing. **Maggie Collins** stated that the Housing Working Group for the Regional Center Master Plan is having its first meeting tomorrow night. Once the objectives are laid out, one of their desires is to deal with designs. She recommends that those interested go to these meetings, so that efforts are not duplicated. Creation of a Design Review Board is another issue.

8.0 OLD BUSINESS

8.1 Light Rail Study Update -- No Report

8.2 2040 Study Update

Maggie Collins reported that the Regional Urban Growth Management Plan was scheduled for adoption on Thursday, November 14th, but this may not be done until December 21, 1996. Staff will keep the Commission up to date.

9.0 OTHER BUSINESS/UPDATES

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

9.2 **Town Center Area Task Force Report.**

Michael Smith reported that there was a meeting two weeks ago and another meeting is planned for November 14, 1996. The last meeting was spent reviewing the work of the Urban Design Committee.

9.3 **Community Development Report**

Maggie Collins reported that one of two senior planners; Susan Heiser has come on board.

Chair Tomei announced that Calvin Walter may be resigning in January. She will not be available for the month of January. This would leave two open spaces for that month. **Maggie Collins** stated that City Hall is advertising for an

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additional Commissioner. Calvin Walter may want to take a leave of absence and then continue his tenure on the Commission.

Chair Tomei ask for an update on the Tree Ordinance. **Maggie Collins** stated that a report and recommendations from the City Council Worksession is scheduled for November 26, 1996.

- 10.0 Next Meeting -- November 26, 1996
- 10.1 REGIONAL CENTER STEERING COMMITTEE (Riverfront)
- 10.2 PLANNING COMMISSION MEETING
- 10.3 Fee Schedule Review Worksession
- 10.4 Lake Road Area Multi-Modal Plan
- 10.5 Urban Forestry Program Report
- 10.6 Planning Commission Work Plan
- 10.7 Community Development Department Report

Tim Havel moved to adjourn the meeting of November 12, 1996. **Michael Smith** seconded. MOTION PASSED UNANIMOUSLY. The meeting was adjourned at approximately 10:15 p.m.

Carolyn Tomei, Chair

Shirley Richardson, Hearings Reporter