

**MILWAUKIE CITY COUNCIL
REGULAR SESSION
APRIL 20, 1999**

The one thousand eight hundred and thirteenth meeting of the Milwaukie City Council was called to order by Mayor Tomei at 6:00 p.m. in the Public Safety Building Community Meeting Room. The following Councilors were present:

Rob Kappa
Mary King

Larry Lancaster
Jeff Marshall

Also present:

Dan Bartlett,
City Manager
Tim Ramis,
City Attorney

Martha Bennett,
Assistant City Manager
Charlene Richards,
Assistant City Manager

Mayor Tomei acknowledged a shooting tragedy at Columbine High School in Littleton, Colorado, and asked that those present observe a moment of silence.

Fr. Richard Toll, St. John's Episcopal; **Dr. Ron Naso**, North Clackamas School District #12; and **Sylvia Milne**, Milwaukie Together! addressed the community in its time of loss and confusion. They stressed the importance of meeting the needs of all youth.

Mayor Tomei challenged the community and schools to help all its children because there was no such thing as a throwaway child.

Councilor Lancaster urged all parents to spend time with their children every day.

Councilor King said, as a retired educator, she understood that children take a lot of energy, but it is something that must happen. All children, whether they follow the norm or deviate from it, must be cared for, and taxpayers cannot afford to do otherwise.

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Oregon Downtown Development Association (ODDA) Achievement Award

Teresa Bresaw, Lake Road Neighborhood Chair, received this award for her outstanding community efforts at fundraising, tree planting, and neighborhood involvement.

Milwaukie Downtown Development Association (MDDA) Quarterly Report

Dodie Linder, MDDA Director, provided information on the organization's activities for January through March 1999. In response to the Council's earlier request, she provided a breakdown of her activities.

Highlights for the quarter were: EID process in January; MDDA Annual Report, lobbying for Livability Initiative, and project prioritization in February; and riverfront/downtown redevelopment participation, tourism grant preparation, and Niche Committee development in March. She introduced intern Angela Southwick, a Clackamas Community College student and Lewelling Neighborhood resident, who would be helping the MDDA with special projects, including updating the Downtown Business Directory.

Bernard added the next 25 downtown trees would be planted this week.

Councilor Lancaster asked about Christmas lighting, and **Linder** responded that the MDDA would coordinate the holiday lighting program this year.

Councilor Kappa appreciated the new budget format.

CONSENT AGENDA

It was moved by **Councilor King** and seconded by **Councilor Kappa** to adopt the consent agenda that consisted of:

1. City Council Minutes of April 5 & 6, 1999;
2. 30th Avenue Sanitary Sewer Repair Project (SE-99-1); and
3. OLCC Application for The Country Basket, 5687 SE International Way.

Motion passed unanimously.

AUDIENCE PARTICIPATION

None.

INFORMATION

Councilor Kappa and **Councilor King** reported on the League of Oregon Cities Legislative Conference they attended earlier that day. They discussed transportation funding and the proposed gas tax; HB 2050 regarding business tax breaks; and the bill establishing a building review board. **Councilor Kappa** expressed his concern with what seemed to be Salem's efforts to reduce local control.

Councilor King suggested the City Council write a letter strongly supporting HB 3588, after school program funding.

ADJOURN

It was moved by Councilor Marshall second Councilor King to adjourn the meeting. Motion passed unanimously.

The meeting was adjourned at 6:45 p.m.

Sharon Van Horn Park and Recreation Board, provided information on the proposed Oregon City skateboard park. **Richards** said Milwaukie had agreed to share certain costs with the cities of Gladstone and Oregon City.

After the regular session adjourned, the Mayor and Council conducted interviews with the following applicants for vacant positions on the City appointed advisory boards: David Aschenbrenner, Edie Kerbaugh, Pat Healy, Mart Hughes, Anna O'Guinn, Charles Bird, Doug Ouderkirk, and Ken Roberts.

Pat DuVal

Pat DuVal, Recorder

**CITY OF MILWAUKIE
CITY COUNCIL AGENDA
APRIL 20, 1999**

MILWAUKIE PUBLIC SAFETY BUILDING

Community Meeting Room
3200 SE Harrison Street

1813TH MEETING

REGULAR SESSION - 6:00 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 April 5 & 6, 1999**
- B. 30th Avenue Sanitary Sewer Repair Project (SE-99-1)**
- C. OLCC Application for The Country Basket, 5687 SE International Way**

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.)*

None

VII. INFORMATION

- A. Board and Commission Minutes
 - 1. Citizen's Utility Advisory Board, March 3, 1999
 - 2. Planning Commission, March 15, 1999
 - 3. Traffic Safety and Transportation Board, March 23, 1999
- B. Dispatch Proposal
- C. MPAC Information

VIII. ADJOURNMENT

WORK SESSION - 6:30 p.m.

Board and Commission Interviews

EXECUTIVE SESSION

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

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

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

**CITY OF MILWAUKIE
CITY COUNCIL WORK SESSION
APRIL 5, 1999**

The work session began at 5:30 p.m. in the Public Safety Building Community Meeting Room.

Present: Mayor Tomei and Councilors Kappa, King, Lancaster, and Marshall.

Staff present: City Manager Bartlett; Assistant City Managers Bennett and Richards; Public Works Director Brink; City Attorney Coleman; and Consultant Peg Caliendo.

Information Sharing

1. Councilor King

- *Community Links* publication on community solutions and neighborhoods involvement;
- She has been encouraging citizens to leave questions and concerns on Council voice mail, so she reminded others to check their voice mail regularly;
- Johnson Creek Watershed Committee meeting next week; and
- Festival Daze talent show.

2. Councilor Kappa

- He asked if there was anything Council wanted addressed on the upcoming Regional Water Purveyors meeting agenda. He agreed to provide the rest of the Council with a one-page synopsis of the group's activities.
- Recommended that Metropolitan Policy Advisory Committee's (MPAC) improve community involvement and form better partnerships with cities to by establishing a subcommittee made up of local planning commission members.

3. Councilor Marshall

- Attended the Riverfront Board meeting with Crandall in which the groundwork was laid and recent history of the previous committee was discussed. The Board is a very dynamic group, and the Council needs to be conscious of not holding it back. He generally had a positive feeling about the meeting.
- The North Clackamas Parks and Recreation District (NCPRD) is beginning its budget meetings. The District is behind in what it would like to have, and there is a move to increase user fees to make up for some of the budgetary gaps.

III. A. 2

4. **Councilor Lancaster**

- He asked if the Milwaukie City Council was going to consider the resolution presented by Metro Councilor Atherton regarding repeal of ORS 197.296. He understood the resolution supported moving the issue from committee to the floor. He understood the issue was mandating that land be set aside without discussing how infrastructure would be funded.

Bartlett had checked with the City of Lake Oswego and found the Council had neither formally considered the resolution nor had a presentation.

Councilor Kappa said Atherton's resolution had to do with the 20-year land supply for residential, not commercial or industrial land.

The group discussed getting more information from both sides including the Homebuilders' Association that was opposed the Atherton's proposal.

Bartlett indicated the amendment has to do with Metro's Urban Growth Boundary (UGB) and is more of an issue for outlying cities such as Happy Valley, Oregon City, and Lake Oswego.

Councilor Lancaster said the other big issue was pressure to densify with the artificially imposed boundary. The resolution Atherton asked Council to consider only supported bringing the bill back on the floor.

Bartlett said he would have pro and con information ready for the next work session.

- He asked what the determination had been on Richard Cayo's letter offering to loan his planes to start an aircraft museum. Council had recommended Cayo contact the Riverfront Board.
 - Discussed information as a strategic asset.
5. The group discussed who would attend the League of Oregon Cities Legislative Conference on April 20, 1999.
6. The group agreed to hold the executive session initially scheduled for 6:00 p.m. on April 6, 1999, after this work session.

Joint Policy Advisory Committee on Transportation (JPACT) **Representative Karl Rohde**

Rohde, JPACT representative and Lake Oswego Councilor, outlined of his position on transportation issues. The purpose of his meeting with the Milwaukie City Council was to have a broad-ranging conversation about transportation and how it relates to the City.

His discussion points were:

- Commuter rail
- Boulevards
- Transit service
- Maintenance and modernization needs
- Annexation
- Funding
- Peak hour level of service
- Bicycle and pedestrian connections

Rohde indicated that commuter rail was gaining regional interest due to the failure of South/North light rail. The proposed service would begin in McMinnville and potentially continue through Milwaukie to Portland's Union Station.

Councilor Kappa said his wife uses light rail on a daily basis and advocates its use. He felt it was important to look not only at commuter rail, but also other modes of transportation and consider peak hour levels of service.

Rohde discussed European rail systems, safety issues, and temporal displacement of freight and commuter uses. It would be conceivable that commuter rail could carry light freight such as mail.

Councilor Marshall believed that the region needed to look at a multimodal package of transportation options that included road infrastructure and light and commuter rail instead of forcing voters to make a decision on one issue.

Rohde said road investments have to do with issues of modernization and maintenance. He felt a lot could be accomplished by improving safety and flow through intersections. In the area of peak hour levels, there is an opinion in the region that roads should not be designed to accommodate rush hours only to remain virtually empty the rest of the time.

Councilor Marshall commented that he saw traffic increases during all times of the day. The region needs light rail, but one mode should not be sold as the panacea.

Mayor Tomei felt strongly that land should not be paved to add more traffic lanes and further encourage the use of cars.

Councilor Lancaster said the issue is balancing the modes. People are led by their pocketbooks, and there are options that have not been pursued. One option might be for employers to stagger work hours to relieve peak hour volumes. He also wanted to see an end to the Tri-Met monopoly.

III. A. 4

Councilor King felt particular attention paid to neighborhood impacts and livability before more concrete is poured. She suggested developing a disincentive for through traffic using neighborhood streets.

Mayor Tomei urged Rohde to press for a boulevard treatment on McLoughlin Boulevard.

Councilor Kappa felt Metro and JPACT needed to increase contact with neighborhoods and Community Planning Organizations (CPO) to find a commonality.

M. Bennett pointed out that two projects, McLoughlin Boulevard treatment and Johnson Creek Boulevard reconstruction between 36th and 45th Avenues, were on the 150% cut list. She felt reasonably solid with McLoughlin Boulevard remaining on the list. Staff had prepared a letter to JPACT for the Mayor's signature addressing the petition Hatlelid and Cayo recently submitted to the City of Milwaukie and Metro opposing the Johnson Creek Boulevard Project Phase 3 improvements. The Mayor's letter detailed the importance of these improvements.

Staff has been contacting those who signed the petition to answer questions and to determine if the signers were adequately informed. Staff believes the design is neighborhood friendly and protects livability by keeping the travel and bike lanes narrow and installing sidewalks on only one side of the street. The narrow lanes will serve as a traffic calming device, and the residents will benefit by having bike lanes and sidewalks.

Brink discussed the history of the project beginning with Phase 1 in 1996 and Phase 2 which is currently underway. Phase 3 is street improvements from 36th Avenue to the bridge which will complete the entire project that began about ten years ago.

In speaking with 22 of the 42 property owners signing the petition, staff noted one of the most frequently made comments was that the road should have been built in the gulch. **Brink** reminded property owners that this was the final phase of a project that was begun ten years ago.

Other residents did not see the need for bike lanes because no one uses Johnson Creek Boulevard now. New bike lanes would provide a safe connection to the Springwater Corridor. The few cyclists using the current bike lane does not necessarily indicate a lack of interest.

Councilor Marshall commented the bike lanes were likely needed for funding purposes.

M. Bennett agreed the project would be less attractive and fundable without the sidewalk and bike lanes, and **Bartlett** added JPACT would not recommend funding.

Brink said property owners were also concerned with noise and fence replacement, but these are code and engineering issues that can be addressed.

Brink indicated the property impacts on a map. Some property owners, mostly on the south side of the street, will be asked to sell up to 21 feet of their property. The road needs to be moved from the cliff on the north side because of stability issues. After the gulch area, a four-foot right-of-way will be purchased for sidewalks. The primary issues were the slope and taking advantage of the existing pavement. He pointed out to the property owners that the tires would still be the same distance away because of the bike lane and sidewalk.

Brink added that people were supportive of improved drainage, sidewalk, and bike lane. It was his understanding that property owners would be interested if they felt they would be fairly compensated. Residents also want to be sure their landscaping and fences are replaced. He discussed right-of-way purchase for future sidewalks.

The group discussed traffic signals, and **Brink** indicated the only signal would likely be at 32nd Avenue.

Other issues included parking and traffic management. The only parking alternatives people will have are the driveway or the nearest side street. Narrow streets and bike lanes are two types of passive calming devices that will likely slow traffic on Johnson Creek Blvd. Staff recommended building the street as designed and then determine if additional traffic calming devices are needed.

Councilor Kappa asked if anything could be done to facilitate people backing out of their driveways. **Brink** responded that the bike lane and sidewalk provided some measure of safety. He believed that, with the existing restraints, the project designers had made the best choices.

Councilor Marshall asked if people understood landscaping would be replaced by the project.

Bartlett said those with special landscaping will have it replaced in kind, and the property owners will have the opportunity to tell the project how much they believe it will cost.

Councilor Marshall related this to Councilor King's comments about livability and putting things back the same or better than they were found.

III. A. 6

Bartlett discussed the earlier SE Corridor Study. The decision not to put the road in the gully was probably a good one based on current environmental concerns. He discussed taking over County roads that have been brought up to urban standards.

It was consensus to authorize the Mayor to sign the letter to John Kvistad, Joint Policy Advisory Committee on Transportation Chair, supporting the Johnson Creek Boulevard Phase 3 Project.

Rohde discussed project funding priorities.

Councilor Marshall was in favor a major transportation funding package that would address multimodal needs. He did not feel annexation was a major issue at this time.

Bartlett added that the City worked with the County to develop a Transportation System Plan (TSP) that took Milwaukie's full service area into consideration.

Rohde was interested in a tax-based system that would take into account the number of miles driven.

Communications -- Introduction and Review

Caliendo facilitated the discussion, and the each Councilor expressed his/her opinion of the 1999 Draft Communication Agreement. The group began discussing the bulleted list and made some minor revisions. The first two items were recommended to be changed to read:

- I will respect other members of the team; and
- I will participate fully with the group discussions and decisions.

The group discussed agreement and the role of the person on the losing side of a Council vote. **Councilor Kappa** had a philosophical disagreement with fully accepting a group decision and felt it might affect his rights of free speech. He felt the group could work as a team despite disagreements and differences of opinion.

Mayor Tomei felt it was important to accept the collective decision-making process of the group. She did not expect a dissenting vote to undermine or otherwise criticize a decision.

Councilor King did not see a problem with participating in working within those group decisions.

Councilor Marshall suggested that Council may agree not to work as a team and consciously decide to operate that way. He personally did not feel he had the right to undermine the group decision and felt he should act as part of a team.

Councilor Kappa pointed out that previous Council decisions have made a profound difference on the community. He had worked politically on flaglots, for example, to change things.

Councilor Lancaster was concerned about giving up his free speech and felt that trust and honesty would keep things from going too far.

Coleman suggested that Councilors could agree among themselves to not actively oppose and to speak to a disagreement only if asked. Allow members to express themselves without actively opposing the group decision.

Councilor Kappa felt that was hypocritical.

Councilor Lancaster re-qualified his position. If Council operates with good open communication between its members and the community, then he could agree to not actively oppose a decision made by the majority. To publicly oppose a decision would only cause damage. He inferred there would be no active opposition.

Councilor Marshall interpreted the draft statement to mean that a decision would be accepted, that the individual would not try to circumvent the group's decision, and the individual as part of the group would move forward.

Councilor Kappa said taking part in the Council process should not take away from his freedom of speech.

The group discussed the difference between going to the community to gather information versus actively opposing a decision.

Council Rules

Bartlett suggested the Council review the Troutdale Municipal Code for possible revisions to Milwaukie's ordinance.

Riverfront Board

Councilor Marshall was disappointed in the turn out and felt a letter or postcard should have gone to each resident or a blanket invitation published. People told him they thought it was "just another riverfront meeting."

III. A. 8

Councilor kappa said some people did not believe it was sufficiently publicized.

Councilor King felt there should have been notice in the City newsletter, and **Bartlett** responded there was not enough time because the location was not known.

Councilor Marshall urged marketing the project early on. He suggested asking each Neighborhood District Association (NDA) to give up part of its monthly column so extra space could be given to riverfront project coverage. He recommended spending money on a marketing campaign.

Councilor Lancaster said it was also up to each Councilor to communicate with residents.

It was agreed the Council would hold a subsequent Teambuilding and Communication work session on April 15, 1999, at 5:30 p.m., location to be announced.

Bartlett announced a City Council executive session in the Public Safety Building Library pursuant to ORS 192.660 (1) (f) and (h) to consider records that are exempt by law from public inspection and to consult with legal counsel.

The meeting adjourned at 9:15 p.m.

Pat DuVal, Recorder

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
APRIL 6, 1999**

The one thousand eight hundred and twelfth meeting of the Milwaukie City Council was called to order by Mayor Tomei at 7:00 p.m. in the Public Safety Building Community Meeting Room. The following Councilors were present:

Rob Kappa
Mary King

Larry Lancaster
Jeff Marshall

Also present:

Dan Bartlett,
City Manager

Randy Bruegman,
Fire Chief

Jim Coleman,
City Attorney

John Gessner,
Associate Planner

Charlene Richards,
Assistant City Manager

CONSENT AGENDA

It was moved by Councilor Kappa and seconded by Councilor Marshall to adopt the Consent Agenda that consisted of:

1. City Council minutes of March 10, 15, 16, & 20, 1999;
2. OLCC Application for River Road House, 11921 SE 22nd Avenue, change of ownership and greater privilege;
3. Resolution No. 16-1999: A Resolution of the City Council of the City of Milwaukie, Oregon, Accepting the Oregon State Police and the Department of Transportation Traffic Safety Division Grant; and
4. Resolution No. 17-1999: A Resolution of the City of Milwaukie, Oregon, Accepting Traffic Safety Section (TSS) Grant.

Motion passed unanimously.

AUDIENCE PARTICIPATION

Kimberly Newman, 14362 SE Glen Oak, Milwaukie, announced the Royal Newman Dedicated Blood Drive scheduled for Saturday, April 17 at the Oak Grove United Methodist Church, 14700 SE Rupert. Her son, Royal, is a cancer patient in Doernbecher Children's Hospital who has been given the gift of life through the generosity of donors.

Sharon Phillips, 11028 SE 28th Avenue, who received a bone marrow transplant ten years ago, offered her support to Newman and encouraged people to become donors.

III. A. 10

PUBLIC HEARING

Planning Commission Recommendation of Functional Plan Compliance Amendments (CPA-98-05, ZA-98-02) and Elective Zoning Amendments (ZA-98-03)

Mayor Tomei re-opened the public hearing at 7:15 p.m. This hearing was continued from March 16, 1999.

Gessner discussed the organization of the staff report and briefly reviewed Council's direction from the March 15, 1999, work session.

Zoning Amendment Application ZA-98-03 Home Occupation and Temporary Structures

Gessner explained these were elective text amendments relating to home occupations and temporary structures. The temporary structure regulations simplify the process and make it easier for individuals to get on-site residency in the case of emergencies or a pending building permit application. The home occupation applications expand on the administrative process and specify and expand upon the criteria that must be met in order to protect neighborhoods from potential negative impacts.

Councilor King referred to staff report page V.77 and asked Gessner to clarify section E. -- *Delete provision that requires all non-conformities to be brought into compliance within one year.*

Gessner said the intent was to regulate existing non-conforming home occupations through enforcement rather than requiring conformance with new regulations.

Public Comment: None.

It was moved by Councilor Kappa and seconded by Councilor King to read the ordinance amending Ordinance No. 1712, the Zoning Ordinance, by adopting certain text amendments relating to home occupations and temporary structures for the first time by title only. Motion passed unanimously. The ordinance was read for the first time by title only.

It was moved by Councilor Kappa and seconded by Councilor King to read the ordinance amending Ordinance No. 1712, the Zoning Ordinance, by adopting certain text amendments relating to home occupations and temporary structures for the second time by title only. Motion passed unanimously. The ordinance was read for the second time by title only.

It was moved by Councilor Kappa and seconded by Councilor King to adopt the ordinance amending Ordinance No. 1712, the Zoning Ordinance, by adopting certain text amendments relating to home occupations and temporary structures. Motion passed unanimously.

ORDINANCE NO. 1852:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NUMBER 1712, THE ZONING ORDINANCE, BY ADOPTING CERTAIN TEXT AMENDMENTS RELATING TO HOME OCCUPATIONS AND TEMPORARY STRUCTURES (ZA-98-03).

Comprehensive Plan Amendment Application CPA-98-05-C Functional Plan Title 8 Amendments

Gessner explained the purpose of this ordinance was to adopt a requirement that future amendments to the Comprehensive Plan be consistent with the Metro Urban Growth Management Functional Plan.

Public Comment: None.

It was moved by Councilor Kappa and seconded by Councilor King to read the ordinance adopting certain text amendments to Milwaukie Comprehensive Plan Chapter 2 related to Metro Urban Growth Management Functional Plan Title 8 Compliance for the first time by title only. Motion passed unanimously. The ordinance was read for the first time by title only.

It was moved by Councilor Kappa and seconded by Councilor King to read the ordinance adopting certain text amendments to Milwaukie Comprehensive Plan Chapter 2 related to Metro Urban Growth Management Functional Plan Title 8 Compliance for the second time by title only. Motion passed unanimously. The ordinance was read for the second time by title only.

It was moved by Councilor Kappa and seconded by Councilor King to adopt the ordinance adopting certain text amendments to Milwaukie Comprehensive Plan Chapter 2 related to Metro Urban Growth Management Functional Plan Title 8 Compliance. Motion passed 4 - 0 - 1 with the following vote: Mayor Tomei, Councilor Kappa, Councilor King, and Councilor Lancaster aye; no nays; Councilor Marshall abstained.

ORDINANCE NO. 1853:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE CITY OF MILWAUKIE COMPREHENSIVE PLAN BY ADOPTING CERTAIN TEXT AMENDMENTS RELATED TO METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN TITLE 8 COMPLIANCE (CPA-98-05-C).

Zoning Ordinance Amendment Application ZA-98-02-B Functional Plan Title 6 Amendments ZA-98-02-B

Gessner said these amendments related to the Milwaukie Subdivision Ordinance by adopting new regulations requiring bicycle and pedestrian connections in new subdivisions.

Councilor Lancaster referred to staff report page V.69. He recommended changing the word "feasible" to "practicable" in new section 17.28.070 -- Pedestrian and bicycle connections to read "*Bicycle and pedestrian routes shall be provided to permit, where practicable, direct connection from the subdivision to the following:*" He had discussed the impact of changing these words with City Attorney Ramis because he felt "feasible" was too subjective. "Practicable" could have a substantive impact on an application.

The group discussed the various interpretations of the two words and tabled the ordinance until Bartlett looked up the definitions in a dictionary.

Zoning Ordinance Amendment Application ZA-98-02-A Functional Plan Titles 1, 2, 6, & 8

Gessner said this section had to do with new regulations concerning Title 1 -- Housing, new type of accessory dwelling units and minimum density requirements for mixed-use development and subdivisions; Title 2 -- Parking, new parking zones and revised standards, revised process for granting parking reductions; Title 6 -- Connectivity, new requirements for pedestrian and bicycle connections in mixed-use development; and Title 8 -- Compliance, new criteria for zoning and subdivision amendment review that requires evaluation of consistency with the Functional Plan.

Council had directed that: the maximum size of Type 1 accessory dwelling units be increased to 600 square feet; provide for a 20% multifamily parking discount; provide parking discounts for sites that have carpool and/or vanpool parking near the main entrance; and delete proposed parking reduction for single family dwellings. The final item regarding the parking reduction was included in the staff report as a notation, and a time extension request would be prepared for Metro.

Councilor King noted there was reference to exterior lighting not encroaching beyond the property line for Type 1 dwelling units and asked if that was implied for Type 2.

Gessner said a Type 2 dwelling unit is subject to a Planning Commission decision under a condition use review. That type of requirement could be considered in the upcoming fall amendments to add clarity and assurances.

Mayor Tomei added that the Type 2 approval was much more stringent and goes before the Planning Commission while the Type 1 approval is a staff process.

Councilor King felt it was important to be conscious of noise and light when living close together.

Councilor Marshall referred to staff report page V.5 and expressed serious concern with the 5% reduction of land area for future schools, parks, and churches based upon patterns of existing development. He did not feel that was adequate and had understood that staff would return with an acceptable alternative for Council consideration.

Gessner said that was a Title 1 amendment under a separate ordinance. The ordinance he introduced had to do with zoning changes.

Councilor Marshall was concerned about the amendment impacting gross buildable lands or altering the manner in which the zoning ordinance is implemented.

Gessner said the only Title 1 changes to the Zoning Ordinance established 80% minimum densities. The Zoning Ordinance does not in any way implement the figures used in calculating the buildable land or determining infill development potential. The calculation in the Comprehensive Plan results in future development potential on vacant land and infill and does not correspond to any implementing measure in the Zoning Ordinance. By either adopting or rejecting the Title 1 Comprehensive Plan amendments, the City Council does not in any way alter the way in which the Zoning Ordinance is implemented.

Councilor Kappa understood the Comprehensive Plan set up the framework of where the City wants to go.

Gessner said neither the Subdivision nor the Zoning Ordinances are affected by the Title 1 changes to the Comprehensive Plan. These changes affect the background information which is updated by adoption of the method used to calculate buildable lands and infill potential in all areas outside the Regional Center.

Councilor Kappa felt there was incompatibility between the Comprehensive Plan and its implementation.

III. A. 14

Bartlett explained that the City does not zone park land. It is treated as a community service overlay (CSO) on an underlying zone. Parks are not zoned through the zoning ordinance.

Councilor Marshall said his point was that the Council was poised to approve Comprehensive Plan ordinances that will set up a certain expectation in the community. The 5% reduction of land for parks, school, and churches, in his opinion, was inadequate and sets up false expectations. He understood that parks were not implemented directly through the Zoning Ordinance. He added he was referring to the Comprehensive Plan portion of Title 1.

Councilor Lancaster asked if there was a reason the numbers could not be compatible in both the amending ordinances.

Coleman said the ranges in the Comprehensive Plan residential designations do not change with these amendments.

Gessner added there was a slight change that lowered residential densities.

Coleman said the allowed density does not change. He understood Marshall's issue was with a supporting document and calculations, and he further understood there were no significant changes to what people could do on the ground. This action is an updating of a study. Marshall's concerns seem to be that some of the assumptions that underlie that study may be misleading. These ordinances do not change zone density ranges.

Public Comment: None.

Gessner said Title 6 amendments also relate to connectivity.

Coleman read the definitions of the words "feasible" and "practicable" from Webster's Ninth New Collegiate Dictionary. If the word(s) were deleted entirely as King suggested earlier, it would become a mandatory requirement and could not be altered without a variance. The standard would be absolute and would have to be met unless there were some conditions under which a variance would be allowed.

Councilor Kappa wanted to be sure the amendments adopted would set direction on implementation.

Councilor King suggested removing the words "where feasible" altogether. She felt this more adequately addressed Council and Neighborhood District Association (NDA) connectivity goals.

Councilor Lancaster agreed and felt it fit better with the direction the Council wants to take with the subdivision ordinance. Applicants can go through the variance process to determine if there is an acceptable reason for deviating from the standards.

Mayor Tomei felt deleting those words made the requirement too onerous and difficult. The Planning Commission should be responsible when it considers the application.

Councilor Lancaster felt the more rigorous requirement would help preserve neighborhoods and make certain types of development more difficult. He felt using the word "feasible" allowed too much subjectivity.

Councilor King saw this as a way to "raise the bar" for developers and was not onerous if it adhered to Council goals and enhanced livability. She did not feel the Planning Commission needed to go through the extra work if the contractor knew the requirement was there.

Mayor Tomei asked Gessner to outline the variance process.

Gessner responded the variance application fee was about \$1,500 and involves a public hearing process and City Council appeal process. The applicant would request the variance along with the subdivision application. The improved connection would likely involve an easement or dedicated land and could impact site development.

Councilor Kappa believed the variance would be a criteria upon which the development could be judged. There could be a change in the Planning Commission philosophy. He saw it as the developer making a better product for the community by providing connectivity.

Councilor Marshall said it all depended upon where Council wanted the burden placed -- on the community and the Planning Commission or the developer.

It was consensus that Section 17.28.070 -- Pedestrian and bicycle connections would read: "*Bicycle and pedestrian routes shall be provided to permit direct connection from the subdivision to the following:*"

Coleman said the same change would be made in the subdivision ordinance.

It was moved by Councilor Kappa and seconded by Councilor Marshall to read the ordinance amending Ordinance No. 1712 by adopting certain text amendments related to Metro Urban Growth Management Functional Plan Compliance: Titles 1, 2, 6, and 8 for the first time by title only with the amendments as discussed. Motion passed unanimously. The ordinance was read for the first time by title only.

III. A. 16

It was moved by Councilor Kappa and seconded by Councilor Lancaster to read the ordinance amending Ordinance No. 1712 by adopting certain text amendments related to Metro Urban Growth Management Functional Plan Compliance: Titles 1, 2, 6, and 8 for the second time by title only with the amendments as discussed. Motion passed unanimously. The ordinance was read for the second time by title only.

It was moved by Councilor Kappa and seconded by Councilor King to adopt the ordinance amending Ordinance No. 1712 by adopting certain text amendments related to Metro Urban Growth Management Functional Plan Compliance: Titles 1, 2, 6, and 8 with the amendments as discussed. Motion passed unanimously.

ORDINANCE NO. 1854:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NUMBER 1712, THE ZONING ORDINANCE, BY ADOPTING CERTAIN TEXT AMENDMENTS RELATED TO METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN COMPLIANCE: TITLE 1, TITLE 2, TITLE 6, AND TITLE 8 (ZA-98-02-A).

Zoning Ordinance Amendment Application ZA-98-02-B Functional Plan Title 6 Amendments ZA-98-02-B

It was moved by Councilor King and seconded by Councilor Marshall to read the ordinance adopting text amendments to the Milwaukie Subdivision Ordinance requiring new subdivisions to provide bicycle and pedestrian connections and deleting the words "where feasible" in Section 17.28.070 and relating to Metro Urban Growth Management Functional Plan Title 6 Compliance for the first time by title only. Motion passed unanimously. The ordinance was read for the first time by title only.

It was moved by Councilor King and seconded by Councilor Kappa to read the ordinance adopting text amendments to the Milwaukie Subdivision Ordinance requiring new subdivisions to provide bicycle and pedestrian connections and deleting the words "where feasible" in Section 17.28.070 and relating to Metro Urban Growth Management Functional Plan Title 6 Compliance for the second time by title only. Motion passed unanimously. The ordinance was read for the second time by title only.

It was moved by Councilor King and seconded by Councilor Kappa to adopt the ordinance adopting text amendments to the Milwaukie Subdivision Ordinance requiring new subdivisions to provide bicycle and pedestrian connections and deleting the words "where feasible" in Section 17.28.070 and relating to Metro Urban Growth Management Functional Plan Title 6 Compliance. Motion passed unanimously.

ORDINANCE 1855:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE 1440, THE SUBDIVISION ORDINANCE, BY ADOPTING CERTAIN TEXT AMENDMENTS RELATED TO METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN TITLE 6 COMPLIANCE (ZA-98-02-B).

Comprehensive Plan Amendment Application CPA-98-05-B Functional Plan Title 4 Amendments

Gessner said this amendment was proposed to strengthen Comprehensive Plan policies and protect manufacturing and industrial land resources and high employment uses from loss to "big box" development. These amendments would not prevent the City from adopting performance criteria at a later date. If the Council adopted criteria that would potentially permit large scale retail, then careful review should be done to assure there was no conflicting language.

Bartlett said Community Development was close to hiring a Planning Director and suggested Council delay work on these criteria until the fall amendments were prepared.

The group discussed the possibility of a desirable "big box" retail that the City might want and what types of performance standards could be required. They agreed the issue could be addressed in the fall.

Public Comment: **Mark Whitlow**, 1211 SW Fifth Avenue, Portland 97204, spoke on behalf of the Mill End Store. He noted the map on staff report page 46 should not be titled Metro Title IV Lands. He also asked for clarification of Comprehensive Plan Map 7 -- Land Use.

Gessner said the map is referenced in the ordinance, and he believed the Metro reference should be removed. Map 7 is the land use designation map which identifies residential zones by density and industrial zones. This is pertinent because both the manufacturing and business industrial zones are identified as industrial lands.

Whitlow said if he understood correctly, the limitation on large scale retail development was appropriate those lands on the Title 4 Map, not Map 7.

Gessner said that was correct.

It was moved by Councilor Kappa and seconded by Councilor Marshall to read the ordinance adopting text amendments to the Milwaukie Zoning Ordinance restricting retail development in employment and industrial lands as shown on Milwaukie Title 4 Lands Map with the corrections noted and adopting provisions to protect non-conforming uses in these mapped areas for the first time by title only. Motion passed unanimously. The ordinance was read for the first time by title only.

It was moved by Councilor Kappa and seconded by Councilor King to read the ordinance adopting text amendments to the Milwaukie Zoning Ordinance restricting retail development in employment and industrial lands as shown on Milwaukie Title 4 Lands Map with the corrections noted and adopting provisions to protect non-conforming uses in these mapped areas for the second time by title only. Motion passed unanimously. The ordinance was read for the second time by title only.

It was moved by Councilor Kappa and seconded by Councilor King to adopt the ordinance adopting text amendments to the Milwaukie Zoning Ordinance restricting retail development in employment and industrial lands as shown on Milwaukie Title 4 Lands Map with the corrections noted and adopting provisions to protect non-conforming uses in these mapped areas. Motion passed unanimously.

ORDINANCE NO. 1856:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE CITY OF MILWAUKIE COMPREHENSIVE PLAN BY ADOPTING CERTAIN TEXT AMENDMENTS TO THE COMPREHENSIVE PLAN AND ADOPTING THE MILWAUKIE TITLE 4 LANDS MAP AS AN ANCILLARY MAP, AS RELATED TO METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN TITLE 4 COMPLIANCE (CPA-98-05-B).

Consideration and adoption of Zoning Ordinance Amendments "Big Box" Restriction in Mapped Areas Only -- ZA-98-02-C

Gessner reviewed the two options regarding "big box" development. One would apply only to the mapped Title 4 areas, and the other would apply to the entire M-Zone. Option 2 contains a provision that would protect any pre-existing retail use from the non-conforming restrictions under certain circumstances such as reconstruction and damage.

The suggestions that Whitlow provided at the March 15, 1999, work session were considered and used to modify some of the language in the amendments. The language allows lawful, pre-existing uses that suffer damage or destruction due to some natural force to more than 50% of the structure may be restored or reconstructed within three years from the date of the loss. The Planning Commission would still review any willful changes of use or structures.

Correspondence: **Gessner** provided a copy of a letter from Whitlow dated March 22, 1999, suggesting a 20% minimum expansion right to non-conforming uses.

Mayor Tomei asked for clarification, if Option 2 were adopted, then staff would draft performance standards for Council consideration.

Gessner said that was correct.

Mayor Tomei said Option 1 was the minimum of Title 4, and Option 2 would expand it to all of the manufacturing zone, and **Gessner** responded that was correct.

Councilor Marshall understood that performance standards could be adopted at a later date for either option.

Bartlett added performance standards could also be adopted for Option 1.

Gessner said the pre-existing use protections are built into Option 1 in the event there was an oversight.

Public Comment: **Mark Whitlow**, 1211 SW Fifth, Portland 97204. **Whitlow** and his client supported Option 1 because it does not include Mill End Store property. If the Council did adopt Option 2 and spread the prohibition against large-scale retail, he would ask for additional pre-existing and development language. The reason for this request was consistent with what the City Council stated it wished to do which is to protect the few existing developments and uses and not make them non-conforming. Non-conformity can negatively impact lendability and marketability. To protect a business, the Council needs to also consider protecting its right to expand. He proposed language that would allow minimum expansion rights for pre-existing uses and developments not to exceed 20%, and to permit greater expansions only through a conditional use application. For standards, he suggested those in Section 600 relating to high impact commercial uses. He proposed a staged entitlement to allow use and development to grow with the business. Based on the vote on the prior ordinance regarding policy language, this was consistent with Option 1 and the Title 4 Map.

Howard Dietrich, Mill End Store Property Manager, 9701 SE McLoughlin Boulevard, Milwaukie 97222. He discussed redevelopment of the property at 8300 SE McLoughlin Boulevard and the need to expand the second floor of the Milwaukie structure by 10,000 square feet for inventory and fixture storage. In the event of a flood such as the one in 1996, the business would be able to move its inventory and fixtures to the second floor.

His second issue was to correct the record which stated the Mill End Store was not a "lawful use." Since that time, discussions confirmed that the business had the right and had obtained the right prior to purchasing and modifying the real property for the Mill End Store's particular use. There were no illegal or non-conforming actions.

Councilor Kappa asked how adoption of Option 2 would impact the rest of the M-Zone.

Gessner said staff was aware of only two businesses, Thomason and the Mill End Store, that would be affected.

Councilor King asked if staff recommended adopting Option 1.

Gessner said this was a Council policy decision.

Bartlett added Whitlow's suggestion that Option 1 was consistent with the map adopted in the Comprehensive Plan amendments was appropriate.

Councilor King said she was not comfortable adopting expansion rights without a better understanding of long-term implications.

Councilor Kappa asked if performance standards were recommended with either option.

Gessner said Option 1 meets Metro requirements, and performance standards would be consistent with Title 4.

It was moved by Councilor King and seconded by Councilor Kappa to read the ordinance amending Ordinance Number 1712, the Zoning Ordinance, and adopting certain text amendments related to Metro Urban Growth Management Functional Plan Title 4 Compliance -- Option 1 for the first time by title only. Motion passed unanimously. The ordinance was read for the first time by title only.

It was moved by Councilor King and seconded by Councilor Marshall to read the ordinance amending Ordinance Number 1712, the Zoning Ordinance, and adopting certain text amendments related to Metro Urban Growth Management Functional Plan Title 4 Compliance -- Option 1 for the second time by title only. Motion passed unanimously. The ordinance was read for the second time by title only.

It was moved by Councilor Kappa and seconded by Councilor Marshall to adopt the ordinance amending Ordinance Number 1712, the Zoning Ordinance, and adopting certain text amendments related to Metro Urban Growth Management Functional Plan Title 4 Compliance -- Option 1. Motion passed unanimously.

ORDINANCE NO. 1857:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NUMBER 1712, THE ZONING ORDINANCE, BY ADOPTING CERTAIN TEXT AMENDMENTS RELATED TO METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN TITLE 4 COMPLIANCE (ZA-98-02-C, OPTION 1).

Comprehensive Plan Amendment Application CPA-98-05-A Functional Plan Title 1 Amendments

Councilor Marshall reiterated his previous statements that the 5% reduction for schools, parks, and churches was too little and sets up unrealistic expectations of how this community can and will perform in the future.

Gessner said the resolution of that issue rests with the City Council. He described the method used that resulted in determinations of future development potential. Within that method were certain reductions based on the Metro model for development calculations. The staff report defined the method, and staff will provide the technical support based on Council direction.

Councilor Kappa asked Marshall what he felt was appropriate and would Table 2 -- *Estimate of Dwelling Unit Capacity on Vacant Lands by Zone* and Policy #1 change.

Councilor Marshall saw it as having the potential of changing some of the columns in Table 2.

Councilor Kappa referred to staff report page V.15 and asked if Objective #2, Policy 1 criteria would change.

Gessner said it was his understanding that the planned densities as shown in Objective #2, Policy 1, were based on existing development patterns. He did not believe these numbers would necessarily change. It could ultimately change the number of units available on vacant land outside the Regional Center. The combination of development on vacant land, infill development, and redevelopment in the mixed-use zone puts the City at 90%, substantial compliance, of the 2016 target. There is a possibility that Milwaukie may have to request an exception if it drops below the 90% compliance.

Councilor Marshall appreciated Gessner's comments regarding the need for a Council policy decision.

Mayor Tomei referred to staff report page 5 that stated: "The proposed amendments do not commit vacant lands to residential use nor do they prevent vacant lands from being developed as parks or other community uses." She believed the City Council had a commitment to more park land, so it seemed nothing in the amendment precluded the City from developing as many parks as possible.

Councilor Marshall did not wish to delay the process, and felt this was something that needed to be on the record. There are so many variable. Once something is in the Comprehensive Plan, a certain set of criteria and expectations are established. It was his opinion that these figures were erroneous based on standards. Milwaukie does not have any land left that should not be park land, and that should not be ignored.

Bartlett said this issue was one of Council policy. There are risks to delaying substantial compliance much longer. Tinkering with this area shifts densities from the neighborhoods to the Regional or Town Center planning area. Metro has made it clear it will not play with the allocations. He felt the best option as a City was to meet the compliance date as closely as possible, and, in the fall, look at the other issues as they come out of the master and comprehensive planning efforts undertaken by Milwaukie.

Councilor Kappa felt the concerns expressed could be addressed in other ways and better standards could be developed.

Councilor Marshall said he felt extremely frustrated that Metro says cities will take this burden, which is basically an unfunded mandate. It does not allow the City to develop its community the way it really wants.

Councilor Lancaster said Milwaukie has been generally cooperative with Metro. The City has, however, challenged the numbers and methodologies and should continue to do so. He felt the City Council should continue to push the envelope of what is really substantial compliance. This does not commit the City in such a way that appropriate changes cannot be made to preserve livability and challenge erroneous assumptions and calculations.

Public Comment: None.

It was moved by Councilor Marshall and seconded by Councilor Kappa to read the ordinance amending the Comprehensive Plan by adopting certain text amendments related to Metro Urban Growth Management Functional Plan Title 1 Compliance for the first time by title only. Motion passed unanimously. The ordinance was read for the first time by title only.

It was moved by Councilor Marshall and seconded by Councilor King to read the ordinance amending the Comprehensive Plan by adopting certain text amendments related to Metro Urban Growth Management Functional Plan Title 1 Compliance for the second time by title only. Motion passed unanimously. The ordinance was read for the second time by title only.

It was moved by Councilor Kappa and seconded by Councilor King to adopt the ordinance amending the Comprehensive Plan by adopting certain text amendments related to Metro Urban Growth Management Functional Plan Title 1 Compliance. Motion passed unanimously.

ORDINANCE NO. 1858:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE CITY OF MILWAUKIE COMPREHENSIVE PLAN BY ADOPTING CERTAIN TEXT AMENDMENTS RELATED TO METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN TITLE 1 COMPLIANCE (CPA-98-05-A).

OTHER BUSINESS

Station Relocation

Bruegman presented the staff report in which the City Council was requested to consider the status of City Hall Fire Station 54. He provided a statistical analysis of the incidents over the past six months that indicated no significant negative impact on Milwaukie residents. He discussed apparatus arrival times at a recent fire in downtown Milwaukie. He recommended the City Council approve permanent relocation of Station 54, and with that approval, he would move forward with the rebuild plans for Lake Road Station 27

Councilor Lancaster asked the minimum standards for apparatus arrival time. He also asked ambulance response times.

Bruegman responded the strategic benchmark plan is a paramedic-staffed unit at the site in four minutes. He noted these were statistical averages. The District does not track ambulance arrival times.

Councilor Kappa asked when the timing began, and **Bruegman** responded it begins from the time the units are dispatched.

Councilor Marshall noted there was a previous discussion of substantial insurance savings and asked if this action would impact the insurance rating.

Bruegman said the restructure is still under ISO review, but he did not foresee a rate decrease to property owners.

Councilor Kappa asked for clarification of the proposal and where **Bruegman** recommended maintaining Engine 54 while Station 27 was being rebuilt.

III. A. 24

Bruegman said his preference would be to use part of the Lake Road station or look for a temporary station to avoid staff disruption.

Ed Zumwalt, Historic Milwaukie Neighborhood District Association (NDA) co-chair, 10888 SE 29th Avenue. The NDA wished to express its concern that this was taking place too quickly since the City was poised to redevelop its downtown area. The fire station could be a real benefit and attraction by retaining the historical flavor of the community.

It was moved by Councilor King and seconded by Councilor Marshall to approve the relocation of the City Hall station to the Lake Road facility.

Mayor Tomei believed this was a prudent action although she would miss the engine and firefighters downtown. She discussed the debriefing on the downtown fire which indicated the community was actually getting better service than before.

Councilor Lancaster said NDA input was very important to get an understanding of what the station means to the vicinity on several levels.

Motion passed unanimously.

Corrections to Building Permit Fees -- Resolution

Bartlett presented the staff report in which the City Council was requested to adopt a resolution correcting several errors to the building permit fees and addition of fees for new types of land use applications.

It was moved by Councilor Kappa and seconded by Councilor Marshall to adopt the resolution. Motion passed unanimously.

RESOLUTION NO. 18-1999:

A RESOLUTION OF THE CITY OF MILWAUKIE, OREGON, SETTING FEES FOR BUILDING PERMIT AND INSPECTION SERVICES; ESTABLISHING FEES FOR NEW TYPES OF LAND USE APPLICATIONS; AND CLASSIFYING THE FEES IMPOSED BY THIS RESOLUTION AS NOT SUBJECT TO ARTICLE XI, SECTION 11B OF THE OREGON CONSTITUTION.

North Clackamas Planning Consortium Agreement

Bartlett presented the staff report in which the City Council was requested to authorize the Mayor and City Manager to conclude negotiations with other governmental parties on the Consortium intergovernmental agreement. The citizen group met five times during the past year and developed a draft ORS 190 agreement by establishing a

planning consortium. He asked to move this ahead based on the citizen group recommendation and City Attorney modifications.

Councilor Kappa had concerns about the unincorporated area.

Councilor King wanted language included that addressed a high level of environmental stewardship.

It was moved by Councilor King and seconded by Councilor Marshall to authorize the Mayor and City Manager to conclude negotiations with the other governmental parties on the consortium intergovernmental agreement. Motion passed unanimously.

Water Authority Formation

Bartlett presented the staff report in which the City Council was requested to authorize the City Manager and City Attorney to oppose formation of a water authority comprised of Damascus and Mt. Scott Water Districts with the City of Happy Valley. The proposed action would be in opposition to existing City of Milwaukie policy.

It was moved by Councilor Kappa and seconded by Councilor King to authorize the City Manager and City Attorney to oppose formation of a water authority comprised of Damascus and Mt. Scott Water Districts with the City of Happy Valley. Motion passed unanimously.

Councilor Kappa suggested a summary in the City newsletter explaining Milwaukie's opposition to the water authority formation.

Arbor Month

Mayor Tomei announced Arbor Month and urged moving forward on the Tree Ordinance.

Bartlett said staff would be able to reallocate its time because Council adopted the initial Functional Plan Compliance amendments.

The group agreed to have a work session to discuss Marshall's suggestion to amend the ordinance establishing to the Park and Recreation Board. The purpose would be to make the group a commission so it could expand its duties to include tree permits.

III. A. 26

Subdivision Ordinance

Councilor Kappa had suggested that the Planning Commission make a list of concerns with the Subdivision Ordinance.

Bartlett said staff would find out which concerns were of the highest priority and discussed the upcoming periodic review.

Cell Phone and Pager Use

The Council agreed that cell phones and pagers were very distracting when they go off during meetings and directed staff to note on the agenda that cell phones and pagers must either be shut off or set on silent mode.

JPACT Information

The group discussed correspondence from Andy Cotugno that Karl Rohde provided at the previous night's work session regarding transportation project funding.

Information

Councilor King announced a Milwaukie High School Fund Raiser.

ADJOURNMENT

It was moved by Councilor Kappa and second by Councilor Marshall to adjourn the meeting. Motion passed unanimously.

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

Pat DuVal, Recorder



MEMORANDUM

April 9, 1999

TO: Mayor and City Council

FROM: Ali Safayi, Associate Engineer

THROUGH: Dan Bartlett, City Manager *Dan Bartlett*
 Martha Bennett, Assistant City Manager, CD
 Jim Brink, Public Works Director *JTB*

RE: 30th Avenue Sanitary Sewer Repair Project (SE-99-1)

ACTION REQUESTED:

Council accept project and authorize release of retainage.

BACKGROUND:

This project was awarded to Les Brown Excavating, Inc. on February 2, 1999 for the bid price of \$24,000.00. The work was performed to alleviate the problem with sewerage backup in the sewer line in 30th Avenue between Van Water and Roswell Street by replacing a portion of the line, eliminating a manhole and constructing a new one.

DISCUSSION:


The project is complete to include all punch list items to the satisfaction of the Project Manager.

The final project cost was \$24,000.00

Staff is requesting City Council accept the project with a project completion date of April 20, 1999 and authorize staff to release retainage.

The contractor will be informed of the formal project completion date and the one-year warranty period.



To: Mayor Tomei and Milwaukie City Council
Through: Dan Bartlett, City Manager
From: Brent W. Collier, Chief of Police 
Date: April 7, 1999
Subject: O.L.C.C. Application – The Country Basket/5687 S.E. International Way, Suite E

Action Requested:

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from The Country Basket – 5687 S.E. International Way, Suite E.

Background:

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

DRAFT 3/18/99

Citizen's Utility Advisory Board
6:00 pm
March 3, 1999
Johnson Creek Facility Conference Room

I CALL TO ORDER

Chair Fletcher called the meeting to order at 6:08 pm. Present were:

Alan Fletcher, Chair
Carl Jacob

Bob Hatz, Vice-Chair
Dennis Vanderpool

Absent:

Lou Casale (excused)
Betty Chandler(excused)
Liam McGill

Staff present:

Jim Brink, Public Works Director
Jan Gehlen, Finance Director
Connie Ware, Staff Assistant

II APPROVAL OF MINUTES

The minutes were approved unanimously.

III DISCUSSION

A. Discussion of New Financial Software

The members introduced themselves and new Finance Director Jan Gehlen was introduced to the board. Jan gave a brief overview of the capabilities of the new financial software, which is currently being installed and will be on-line for general use about July 1st. Seven billing categories are available, and nine different rates can be used in each of the seven categories, providing 63 types of rates. There was discussion about equity and special circumstance such as "snowbirds" (residents who routinely spend a portion of the year living elsewhere). Fletcher gave the boardmembers some background information on the CUAB's ongoing recommendation that block rates be initiated for the sewer and water utilities.

Brink noted that Milwaukie resident Duane Peterson, who works with City of Portland, had hoped to attend this meeting. Mr. Peterson has some insight into

VII. A. 1-2

Portland's experience with implementing block rates; Brink noted that Portland experienced a 7.5% drop in revenues once block rates were implemented while also suffering a 12.5% increase in costs the same year. According to Brink, it took several years for the change to "level out" enough for the budgeting process to produce realistic figures. Because of that experience, Portland has several items to suggest that could benefit Milwaukie prior to undertaking block rates, including the use of a consultant, taking more time for study rather than "jumping into" a drastic change in billing without calculating several different scenarios.

Discussion followed about Milwaukie's specific population and customer base. Brink noted that Milwaukie is about 60% residential and 40% commercial/industrial. When Portland went to block rates they noticed a lot more conservation on the part of the residents, who realized that less water use equals a lower sewer rate.

There was discussion about a rate structure change, which would have to be scheduled for FY2000/2001 in order to allow time for budgeting a study, hiring a consultant, doing the study and then getting the information to the managers for properly budgeting for the fiscal year in which it would be implemented. There was also discussion about the current rates and particularly the sewer rates, which are on a five-year rate increase schedule that was approved three years ago by Council. Brink noted that the sewer revenues being realized are very close to the consultant's projections, increasing confidence in such projections. There followed some discussion about the cost of the last rate study.

Also discussed were the Milwaukie residents that are currently using the Portland Lents Interceptor sewer line, which include 3 or 4 large customers such as Precision Cast Parts who pay the Milwaukie sewer rate although Milwaukie must reimburse Portland at Portland's rate. That situation results in a deficit of around \$80,000 per year in Milwaukie's sewer budget. Jacob asked the physical cost of changing the direction of flow - Brink said it would be substantial, and in some cases prohibitive - therefore, some will remain connected to the Lents Interceptor regardless.

III INFORMATION SHARING

Jacob noted that Operation Listen has been set up by the Clackamas County commissioners to open up discussion about transportation issues. The phone number is 722-6326, fax number 650-3793, and the internet address is: <http://www.co.clackamas.or.us/dtd/>

Fletcher announced that he and Bob Hatz as CUAB Chair and Vice-Chair had met with Council on February 10th to discuss goals and visions; the meeting had gone well.

Hatz said that the Linwood Neighborhood Association had asked him to bring up safety issues with Monroe Street at 60th Avenue (hump in the street/vision clearance); what is the schedule to fix it? Brink said that it is in the Capital

Improvement Program (CIP) for FY2002; but with a 1 million dollar + cost to reconstruct and no funds available at this time to do the work. A bond measure is under consideration, combined with the Railroad Avenue and Lake Road reconstructions. The City has also applied for regional transportation funds for Lake Road.

Hatz also noted that the Monroe Street/Linwood Avenue intersection is unsafe and the neighborhood association believes it needs a 4-way STOP. Brink stated that the intersection is multi-jurisdictional, and due to the classification of both Linwood and Monroe a 4-way STOP is unlikely to be installed. He did note that he had not been aware of any accidents since the recent installation of a streetlight on the NW corner of that intersection.

Vanderpool asked whether there had been any "feedback" on the portable NO TRUCK signs that had been placed on Monroe near 37th facing eastbound traffic. Vanderpool pointed out that they did make a difference in truck traffic near his home while in place. Brink noted that City staff would evaluate pre-and post-placement data to determine if there was quantitative data to support the placement of a NO THRU TRUCK sign on Monroe Street between 37th Avenue and 42nd Avenue. If data supported such a sign, then staff would forward this recommendation to the City Manager. Brink also noted that the subsequent placement of temporary "NO THRU TRUCK" signs in the City would require a traffic regulation per the City's traffic regulation process and policy. Further discussion ensued about the signs.

Jacob asked about the electric vehicle request to City Council; Brink explained that one will be purchased for use by the code enforcement person in the downtown area.

Vanderpool asked about a rumor he had heard that Home Avenue was reclassified from a collector to a neighborhood route; Brink said that had happened roughly two years ago. Speed bumps were discussed; Brink noted that the TSTB would soon complete their review of the Neighborhood Traffic Management Program (NTMP).

VI ADJOURN

The next meeting date was determined to be April 7th.

The meeting was adjourned at 7:26 pm.

DRAFT 4/1/99

Traffic Safety Commission
March 15, 1999
7:00 pm
Johnson Creek Conference Room

I CALL TO ORDER

Chair Stone called the meeting to order at 7:12 pm. Present were:

Susan Stone, Chair
Gene Covey

David Aschenbrenner, Vice-Chair
Jim Schierholz
Julie Wisner

Absent:

Ron Grasley (excused)

Staff present:

Jim Brink, Public Works Director
Rob Shelton, Traffic Engineer
Connie Ware, Staff Assistant

Citizens Present:

Linda Hatlelid
8617 SE 36th Avenue, Milwaukie

II CONSENT AGENDA

Chair Stone called for any additions, corrections or deletions to the draft minutes for February 1999. None were noted by the other members, but Stone had several comments. On page 2 paragraph 1, the sentence that states "Wisner objected to staff using time to generate interest in speed bumps" should actually read "Wisner objected to staff using time to generate interest in speed bumps from Stanley to Willow". On page 2 paragraph 3, the sentence that states "Shelton explained how the NTMP program is currently run to clarify how some of the policies are implemented" should read "Shelton explained how the NTMP program is implemented". On page 2 paragraph 4 ninth line, the sentence that ends "...carry over to the fund beginning balance rather than to a particular project or line item", add Street before "fund". On page 3 Item C, third paragraph, the paragraph should end after "...and high schools do not", with the addition of a note that the current program is elementary schools only.

With those corrections, Stone called for a motion to approve the February 8th minutes; Wisner MOVED and Aschenbrenner SECONDED. Motion approved.

III DISCUSSION

- A. Linda Hatlelid, 8617 SE 36th Avenue, was present to discuss the Johnson Creek Blvd. Street Improvement Project. She began by noting that Johnson Creek Blvd. is lacking a centerline from 36th to 42nd. She also commented that while west-bound JCB has four 25mph signs, east-bound has only two in the same section.

Hatlelid asked who was the parent agency for the Johnson Creek Blvd. street improvement project - Brink replied that Milwaukie and Clackamas County are the owner of 75% of the project, while City of Portland owns 25%. Brink gave a brief overview on the project for the TSTB members. Phase III will be for sidewalk on the south side of JCB, curb installed on both sides of the street, and 5' wide bike lanes running on both sides of the street. Phase III is an ISTEA 90% grant, which requires just 10% matching local funds. The project has three phases; Ph.I was street reconstruction from 32nd to 36th; Ph.II is storm drainage construction from 36th Avenue to Johnson Creek; and Ph. III is street reconstruction from 36th Avenue to the bridge crossing Johnson Creek just south of Harney Street. The original Ph.II included both the storm improvements and street reconstruction from 36th Avenue to 45th Avenue. Currently, a new Ph.II is estimated to cost \$800,000 for storm improvements from 36th to the Springwater stormline, which will include a storm water quality facility to treat the water before discharge to Johnson Creek. Some funds for right-of-way purchase have also been approved in Ph.II, of which Milwaukie will pick up 75% and Portland 25%, based on area of benefit.

Brink then gave some information on the new Phase III, which is the street surface improvement. Two 11 foot travel lanes, two 5' bike lanes, one 6' sidewalk on the south side, and curb only on the north side is what is currently being planned; if additional right-of-way on the north side can be purchased, another sidewalk may be added at a future date. Brink explained that Federal funding requires bike lanes on both sides of the street. Discussion ensued about resident support; a follow-up meeting will be held with the Ardenwald Neighborhood District Association.

Hatlelid stated that the neighbors and neighborhood association, as well as the Johnson Creek Blvd. residents, do not approve of the plans as explained by Brink. She said residents had wanted improvements of the Springwater Corridor for use by vehicles rather than as trail (referring to the SE Corridor Study), and residents preferred parking on the street, which she pointed out was eliminated from the plan at this point. Hatlelid read from some material gathered over the years, noting that residents object to the current traffic volume and speeds. She read some information on the history of the project

and traffic count information she has collected, and tied that information into the anticipated conditions following the completion of Phase I and II, emphasizing that the neighbors do not support the project as currently outlined. She has the signatures of 249 Ardenwald residents who support Phase III only if it stays within the existing right-of-way.

Brink addressed Hatlelid's comments, noting that projects typically do change during the planning stages. Previous Councils have approved the project as described, but the construction plans have yet to be designed pending resident approval. Vigorous discussion ensued regarding how to gain resident approval. Wisner stated that citizens do not trust the City and need concrete plans to believe that their concerns are being addressed. Stone asked Brink why the 1991 design (which used only the 40' R/O/W) would not meet the current minimum requirements. Brink explained how the current design will enhance safety for both pedestrians and bike users, noting that if the City submits a minimum design it is likely to lose the potential funding. Without an enhanced design the project will not score highly enough to be funded- without the funding, nothing will be done - traffic remains the same, and safety is not improved.

Stone pointed out that the accident record show no pedestrian/vehicular or bike/vehicular accidents, so perhaps safety is not a problem. However, moving the right-of-way closer to resident's front doors will affect livability. Further discussion highlighted the fact that pedestrians and bicyclists don't actually use JCB due to its' condition, which discourages such use. Hatlelid stated that people drive in the current bike lane (from 32nd Avenue to 36th Avenue), and vehicles are wearing off the delineating paint line. She feels that a 5' bike lane will encourage speeding and improper use by vehicles.

B. Letters of Support for:

2. Johnson Creek Blvd. Improvement Project Phase III.

Brink noted that the letter of support for JCB Improvement Ph.III could be worded to note approval of the project with the exception of the expanded R/O/W if not required for engineering/safety reasons. Stone read a draft letter that had been drawn up by Brink for Stone's signature. Stone asked for member comments; Schierholz stated that if 40' R/O/W is used, he thinks residents will want the bike lanes and sidewalks eventually. Hatlelid asked how removing the shoulder and replacing it with sidewalk and curb improves safety; she pointed out that currently drivers can back out of their driveway onto the shoulder into a parallel position with traffic before merging with the traffic flow. She feels that once the curbs and bike lanes are in place drivers will need to back into traffic.

VII. A. 2-4

Aschenbrenner asked if residents feel JCB needs to be improved; Hatlelid stated that she feels that residents are in favor of the waterline improvements, but are leery of the street improvements. Aschenbrenner emphasized that the letter of support is intended to get the money to improve the street, whatever proposed design is offered. Brink said that the Metro Livable Streets 2000 criteria are what is being used to determine a desirable design. Aschenbrenner asked if omitting specifics from the letter of support will detract from the possibility of obtaining funds; Brink emphasized that it would be less competitive. There was much discussion about the details of the letter. Brink urged that the letter be positive and not dwell on objections or dissent. Stone stated that she is uncomfortable supporting something that the residents do not support - if a letter is sent she would want to add that the residents want the design to fit into the existing right-of-way.

The group wanted to know if Brink could support the project with a 40' R/O/W design. Brink replied that if the option was to fix the street or give up the money, he could support a 40' R/O/W design, as long as it was a "feasible engineering solution" and that there were no engineering or safety issues that dictated the need for additional space. The group worked on rewriting the draft letter.

Stone asked how soon the other letters of support are needed. Brink replied that they are competing for Metro funds in different categories, so they are all needed at the same time.

C. Complete Review of Neighborhood Traffic Management Program Policy

Stone suggested a work session on March 29th to continue this item.

V. ADJOURNMENT

The next meeting date was determined to be April 12th.

Meeting was adjourned at 9:52 pm.

/cjw

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
WEDNESDAY, MARCH 23, 1999

DRAFT
VII. A. 3-1

COMMISSIONERS PRESENT

Donald Hammang, Vice-Chair
Judith Borden
Barbara Cartmill
Tracy Cook
Howard Steward

COMMISSIONERS ABSENT

Mike Miller

STAFF PRESENT

Martha Bennett
Asst City Manager
John Gessner,
Associate Planner,
Janet Wright,
Assistant Planner
Gary Firestone,
City Attorney
Shirley Richardson,
Hearings Reporter

1.0 CALL TO ORDER

The meeting was called to order at 6:30 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 INFORMATION ITEMS -- City Council Minutes, February 16, 1999.

4.0 PLANNING COMMISSION MINUTES -- March 9, 1999

Tracy Cook moved to approve the minutes of March 9, 1999, as presented.

Judith Borden seconded. MOTION CARRIED 5-0.

Ayes: Borden, Cartmill, Cook, Hammang, Steward; Nays: None.

5.0 PUBLIC COMMENTS -- None.

6.0 PUBLIC HEARINGS

- 6.1 Applicant: Grant and Beverly Fulmore
Property Owner: Same
Location: 5840 SE King Road
Proposal: Create three flag lots which are more than two lots in depth from a public street.

VII. A. 3-2

CITY OF MILWAUKIE PLANNING COMMISSION
Minutes of March 23, 1999
Page 2

File Number: MLP-98-08/VR-98-10
NDA: Linwood

Vice-Chair Hammang opened the public hearing on File Number MLP-98-08, an action to allow a three-lot minor land partition. The criteria to be addressed are found in the Partitioning Section 17.32010-Partitioning, of the City Subdivision Ordinance and Section 300-R-7 Residential Zone, of the Milwaukie Zoning Ordinance.

Vice-Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare. **Tracy Cook** explained that she was the Chair of the Linwood Neighborhood Association. She did not feel this would prevent her from voting on this Application. There were no other conflicts of interest or ex-parte contacts declared. **Vice-Chair Hammang** asked if any member of the Planning Commission visited the site; three hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated 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

John Gessner asked that the Commission continue the Application for Grant and Beverly Fulmore until April 13, 1999. He reported that when this hearing is held, it will not include the variance request. The variance was required because the application contains flag lots more than two lots deep, by the Subdivision regulations. A dedication for a public right-of-way and construction of a public road was negotiated. This eliminates the need for the variance. There will be one flag lot in the partition that will not invoke requirements for the variance.

Tracy Cook moved to continue the hearing for File Numbers MLP-98-08 and VR-98-10 until April 13, 1999. **Judith Borden** seconded. MOTION CARRIED 5-0.

7.0 Report from Gwen Harvey on Status of the Recruitment for a Planning Director

Martha Bennett introduced Gwen Harvey, a consultant hired to help with the recruitment of a Planning Director. **Gwen Harvey** reported that she has been working with the City since January in an effort to prepare an ideal profile for the candidates of the Planning Director position. After a national search and extensive

DRAFT

CITY OF MILWAUKIE PLANNING COMMISSION
Minutes of March 23, 1999
Page 3

outreach, 25 submittals were received. Six semi-finalists have been chosen and will be undergoing an assessment center process. In addition, there will be background checks and discussions with people who know and have worked with these candidates to assess the strength of these individuals.

Some of the base-line qualification for the position of Planning Director are:

- A skilled professional who enjoys the detail and process of land use planning and the ethic and importance of teamwork, collaboration, and consistability.
- Someone who exhibits active listening, fairness, and impartiality in a public debate. Clear and creditable participation in numerous planning organizations in a regional and statewide level, as they will be representing the City.
- Someone who has some very strong process tools to help interpret community interest, address organizational change, and be able to maximize and promote the overall quality development of the subordinate staff.
- Being computer literate; knowledge and understanding of GIS applications, extensive knowledge of zoning administration, and land use regulations in Oregon.
- Extensive knowledge of planning programs and processes, and the ability to be able to learn and apply the relevant laws, ordinances, and department rules.
- Is diplomatic, objective, and can maintain professional composure under adverse conditions (public forums).
- Ability to be able to communicate well in terms of written staff reports, public presentations, and be able to establish effective working relationships (inside the City organization as well as peers and counterparts within the planning community).
- At least 7 years experience in municipal planning.

Ms. Harvey asked the Commission for input on criteria they are looking for in the new Planning Director.

Discussion followed on the six semi-finalists. **Ms. Harvey** explained that reference evaluations are being done one each candidate. Out of the six, four are from the metropolitan area and two are from out of the state. All of the candidates have master's degrees.

CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of March 23, 1999

Page 4

Discussion followed on the orientation of the candidate in terms of society, scale of community they come from, and on what plans they have for this community. The Planning Commission had the following suggestions:

- The ongoing development of the downtown area and waterfront will require a Director that possesses a sensitivity to the leadership and community desires for the City.
- The new Director should be able to take on the goals and objectives of the City as a whole, rather than following their own vision of how they want to direct planning.
- The Director should be sensitive to the small-town residential community qualities in Milwaukie.
- Leadership qualities: to be able to inform and lead people from point A to point B while allowing citizens to air their questions and opinions.
- Understand the community; be sensitive to residents in the area and their specific views and input.

8.0 DISCUSSION ITEMS

Tracy Cook requested a revised list of planning goals and asked when the Commission would be addressing these issues. **Martha Bennett** stated that a copy of the revised goals will be sent to all the commissions for review and discussion at the April 27, 1999, meeting. After the Planning Director is hired, the list will come back before the Commission for review and discussion of a work plan scope.

Howard Steward noted that he read an article in Sunday's paper about Atlanta and how it has grown uncontrollably. There was also a story about the San Fernando Valley and how parts are being closed. He remembers when the San Fernando Valley was orange and lemon groves and when Sherman Oaks it was in its natural state. He explained that these areas are representative of life stages of communities. When he thinks back about these areas and the stages they have gone through, he feels it is a challenge to Milwaukie to go through these stages and be able to find better solutions than these communities.

Gary Firestone noted that all of the Commissioners should have received a Financial Information Disclosure Request by the Government Standards and Practices Commission. He noted that if there were any questions or comments, they could be answered in open session, now; or he is available to answer them after the meeting on an individual or small-group basis.

DRAFT

9.0 OLD BUSINESS

Gary Firestone noted that in Executive Session at the last meeting, there were discussions because of impending litigation. The possibility of that litigation is gone. He asked if there were still questions on individual liability and indemnity.

The Commission members can be sued only as members of a Planning Commission, not in an individual capacity for anything done under the umbrella of a Planning Commissioner. If any complaint, public or civil process is filed against a Commissioner and you believe it is work related, the City is obliged to defend that action.

There are only two situations where the City is not obligated to defend a Commission member: (1) if you do not cooperate with the investigation, and (2) if the action in question is totally outside the responsibilities of a Planning Commissioner. The City is statutorily required to defend any other actions.

10.0 OTHER BUSINESS/UPDATES

10.1 Historic Resources Commission Report. -- None.

10.2 Community Development Department Report.

Martha Bennett announced that the kick-off meeting for the Downtown Riverfront Planning effort will be held March 31, 1999, at the Milwaukie High School Commons starting at 6:30 p.m.

11.0 NEXT MEETING -- April 13, 1999

11.1 Grant and Beverly Fulmore (MLP-98-08)

Barbara Cartmill moved to adjourn the meeting of March 23, 1999. **Judith Borden** seconded. MOTION PASSED UNANIMOUSLY. The meeting adjourned at 7:09 p.m.

Donald Hammang, Vice-Chair

Shirley Richardson, Hearings Reporter



VII. B. 1

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

April 13, 1999

To: Mayor and City Council
From: Dan Bartlett, City Manager *[Signature]*
Re: Dispatch Proposal

Action Requested

I am sending the attached materials so that you know the current status of discussions about dispatch.

Background

The Fire Oversight Committee met on April 5, 1999, and discussed the status of awarding a contract under the Request for Proposal produced by Milwaukie and Clackamas Fire District #1. We agreed to work on a long-term consolidated proposal one more month. The attached letter and draft intergovernmental agreement was provided to Steve Rhodes, County Administrator.

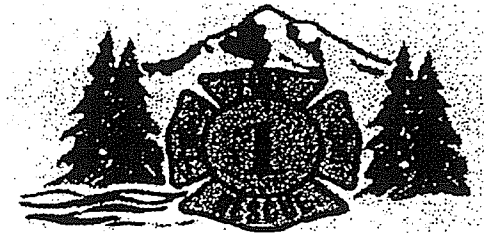
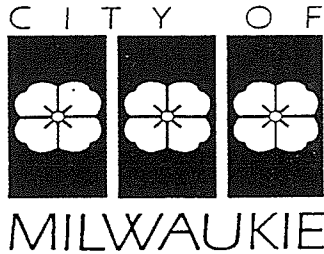
He agreed to review this proposed agreement based on a successful Washington State consolidated Dispatch Center (Valley Com) and advise us if we could move in this direction. C-COM has previously indicated that their first priority was enhancing their radio systems to 800 MHz. We have asked them for a firm timeline to consider an intergovernmental agreement.

On April 9, 1999, Randy Bruegman and myself met with an interview panel for the Clackamas Central Communications Director (C-COM). It will be several months before a hire can be made for a C-COM Director.

The Fire Oversight Committee will review this matter again on May 3, 1999. At that meeting they will make a recommendations on an appropriate course of action for Milwaukie and Clackamas County Fire District #1.

cc: File – cm2215/hd

VII. B. 2



April 8, 1999

Stephen A. Rhodes
County Administrator
906 Main Street
Oregon City, Oregon 97405-1819

Dear Steve:

We have received your April 2, 1999, letter. We are pleased to hear that C-COM is planning to move toward an 800 MHz system. As you know, we have thought that this was the appropriate technical solution for a number of years.

We are hosting a meeting on April 26, 1999, at 9:00 AM with Joe Blaschka, Jr., from Ad-Com Engineering Co at the Milwaukie Public Safety Building. He will explain to all those attending the information in his, High Level Issues Report, 800 MHz Radio. We would ask you to attend this meeting. We have discussed this with our elected officials and do not want to build dual systems in Clackamas County. We also do not want to piece-meal 800 MHz system development. At this point, we would like to better understand the pros and cons of each of the systems proposed in the Request for Proposals.

We are not sure that simple modifications to the C-COM member charter are adequate to meet our concerns about accountability and service delivery. We would like to have additional discussions about the extent that you and the members are willing to modify the agreement. From our prior discussion, we understand that you have a copy of the Valley Com materials. We are currently structuring our ORS 190 agreement along the Valley Com model. We believe that there needs to be two separate User Committees: Fire User Committee and Police User Committee.

We are planning a trip to visit Valley Com. If you or your staff are interested in this trip, please let us know. The Fire District has a 15-passenger van. We would drive up and take a look at how their Center handles the unique aspects of police and fire dispatch.

We also feel that there needs to be a definite timeline for development of an independent ORS 190 Agency. As you know prior discussions have taken a long time. We believe

that this is not necessary. We would like you to reconsider a limited duration problem solving retreat. Stakeholders would meet for a limited time and define an agreement that would meet their concerns. If this session were not productive, each agency could then go their separate ways.

As we discuss this issue, I am sure that you recognize that we have a critical path. If we are going to develop an 800 MHz system that will be operational by July 1, 2000, we need to start before July 1, 1999. If we are going to move cooperatively, we need to ask for a waiver of the member charter withdrawal notification deadline. This deadline could precipitate a decision by Clackamas County Fire District #1 to give notice to withdraw from C-COM, if progress is not being made toward a coordinated system.

Another issue we would like to address is utilization of the Milwaukie Dispatch Center Consoles. These are less than one-year old. We have invested in an upgrade and do not want to see this investment wasted. These could be moved to another facility or could be used as a backup system.

Our Oversight Committee has delayed an award of the Dispatch RFP until May. They will meet again on May 3, 1999, to determine if we have made progress toward resolving the issues listed above. We would hope that we could report to them at that time that:

- we have agreement on the best 800 MHz Back-Bone;
- that we would have separate user committees;
- that we would have a timeline for a 190 Agreement;
- that the July 1 deadline would be waived;
- and that the disposition of the Milwaukie consoles would be determined.


In your April 2, 1999, letter you note that the Board has discussed this matter in three study sessions. Could you send us the minutes of the March 16, 23 and 30 study sessions so that we might understand this issue better?

We would like to discuss these issues, soon. We will be contacting you to schedule a meeting. Perhaps this can be set at the April 9, 1999, interviews.

Sincerely,



Dan Bartlett
City Manager



Randy R. Bruegman
Fire Chief

VII. B. 4

DRAFT – 4-6-99

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made and entered into pursuant to ORS 190.010, and by and among the City of Milwaukie and Clackamas County Fire District #1, _____, _____, and _____ (herein "Partners").

WITNESSETH

WHEREAS, Clackamas County Fire District #1 conducted Request For Proposal process for dispatch services and the City of Milwaukie submitted a proposal; and

WHEREAS, a proposal review committee recommended that the Partners negotiate an agreement based on the City of Milwaukie's Dispatch Services Proposal dated February 5, 1999; and

WHEREAS, the partners desire to establish a joint dispatch center; and

WHEREAS, the establishment of such center will provide improved police, fire and medical aid service communications within the boundaries of the consolidated service area at a minimum cost to the participating local governments, together with such other governmental units as may hereafter contract with the undersigned for communications services; and

WHEREAS, the establishment and maintenance of such center will be of substantial benefit to the citizens of the undersigned jurisdictions and the public in general;

NOW THEREFORE, the undersigned hereby agree and covenant as follows:

TERMS AND CONDITIONS

1. The partners hereby create an intergovernmental authority as provided by ORS 190.003; and known as the Communications Center.

2. POWERS AND AUTHORITY

The Communications Center's governing body is vested with all powers, rights, and duties necessary for performance of functions necessary for the coordinated and efficient delivery of dispatch services including expenditure of appropriated funds and retaining of personnel.

3. GOVERNING BODY

- a. The Communications Center shall be governed by a Policy Board (herein "Board") consisting of one elected representative from each original participating jurisdiction.
- b. The Policy Board shall be responsible for the establishment of employment terms and conditions, including compensation, of a Communications Center Director; approval of all agreements; and adoption of Communications Center's annual operating budget.
- c. All meetings of the Policy Board shall be held in accordance with Oregon Public Meeting Laws, ORS 192.610 *et seq.* A majority of the members of the Policy Board shall constitute a quorum for purposes of deliberation and decision of the Policy Board. Each initial participating jurisdiction's representative shall have one vote. All decisions of the Policy Board, unless otherwise provided herein, shall require a majority vote of the quorum.
- d. The Policy Board, at its first organizational meeting, or as soon thereafter as it reasonably may be done, shall adopt bylaws governing its procedures and including, at a minimum: 1) time and place of regular meetings; 2) method and manner of calling special meetings; 3) method, term, and manner of election of Policy Board

VII. B. 6

officers; and 4) procedures for executing documents on behalf of the Communications Center.

- e. The Policy Board, at its first organizational meeting, shall elect a chairman. The chairman shall preside over all Policy Board meetings. The Communications Center Director or designee shall act as clerk of the Policy Board and be responsible for providing notices of meetings and keeping of minutes as required by Oregon Public Meetings Laws.
- f. The Policy Board may delegate authority to the Administration Board.

4. ADMINISTRATION BOARD

- a. There is hereby established a Communications Center Administration Board consisting of one person from each contracting agency.
- b. The Administration Board shall: 1) make personnel rules and compensation recommendations to the Policy Board; 2) hire and supervise the Communications Center Director consistent with the Policy Board's employment terms and conditions, including compensation; 3) review and approve the Communications Center's annual operating budget; 4) approve large expenditures; 5) recommend policy changes to the Policy Board.
- c. A majority of the members of the Administration Board attending a duly held meeting shall constitute a quorum for the purpose of deliberation and decision.

5. COMMUNICATIONS CENTER DIRECTOR

- a. The Administration Board shall select and appoint a Communications Center Director consistent with the employment terms and conditions, including compensation, approved by the Policy Board;
- b. The Communications Center Director shall be the chief operational and administrative officer of the Communications Center and be responsible for: 1) Communications Center administration, personnel, purchasing, and budget functions; 2) identification, prioritization and coordination of Communications Center operations, including, but not limited to, expenditure of money as consistent with the Communications Center budget; 3) retaining personal services necessary to Communications Center operation; 4) entering into application agreements and obligations on behalf of Communications Center; 5) hiring, training, discipline, and/or discharge of all subordinate Communications Center personnel; 6) attend and provide executive staffing of Policy Board and Administration Board meetings; and 7) preparing and presenting the Communications Center annual budget.

6. COMMUNICATIONS CENTER FUNDING

It is intended for the Communications Center to be self-sufficient in its operation.

- a. Costs of operating and maintaining the Communications Center are to be borne from grants and operating shares provided by the Communications Center Partners. These monies shall be for the sole and exclusive use of the Communications Center operation and administration, subject only to review during adoption of the

VII. B. 8

Communications Center's annual budget and any necessary supplemental budgets adopted following Local Budget Law.

- b. Any excess of operating revenues over expenditures in any fiscal year shall be applied to the next year's budget prior to costs being allocated to partners.
- c. Any excess in capital reserve funds or accounts shall be held for future equipment replacement and shall not be used to off-set operating costs.
- d. The Communications Center will negotiate the type and quantity of service to be provided and the amount of compensation to be paid by each Partner each year. If the Communications Center fails to negotiate an agreement, compensation for the next fiscal year shall be the amount paid for the prior fiscal year, plus an increase equal to the most recent Consumer Price Index (CPI). *[OR, The allocation of prorated financial participation among Partners shall be the percentage of dispatched calls attributed to each jurisdiction compared to the total dispatched calls. The percentages shall be applied to the current approved budget less revenue from outside sources and beginning balances.]*
- e. Such agreement shall be contingent upon final budget approval of each Partner.

7. CONTRACTS AND SUPPORT SERVICES

The Communications Center will provide system services required by this Agreement. An annual operating plan and agreement, referenced in Section 8 (a), will be executed between the Communications Center and each partner for the use of space for the

Communications Center operations, and for staff and auxiliary services including but not limited to records, payroll, accounting, purchasing and data processing.

8. ANNUAL OPERATING PLAN

The Communications Center Director shall actively and continuously consider and evaluate all means and opportunities toward the enhancement of operational effectiveness of emergency services so as to provide maximum and ultimate benefits to the members of the general public.

- a. The Communications Center Director shall prepare a five-year Strategic Operating Plan defining the service levels and efficiencies to be achieved. This Plan shall be reviewed and adopted by the Policy and Administration Boards.
- b. The Communications Center Director shall prepare an Annual Operating Plan defining service goals and objectives and the annual operating and capital reserve budgets. This Plan shall be reviewed and adopted by the Policy and Administration Boards.
- c. The Communications Center Director shall hire such staff as necessary to provide expected service levels. A staffing plan shall be a component of the annual operating plan adopted by the Communications Center Board.
- d. If a partner commits staffing for the Communications Center, such staffing shall be in accordance with policies and procedures to be established by the Administration Board. Contributed staff shall be under the exclusive control and direction of the Communications Center Director or designee while assigned to the Communications Center. This assignment will be documented in

VII. B. 10

writing by a duty assignment executed by the partner and the Communications Center.

9. LOCAL CONTROL AND INTERCONNECT

Each Partner shall retain the responsibility and authority for its operational departments, and for such equipment and services as are required at its place of operation to interconnect to the Communications Center's operations. Interconnecting equipment and services may be provided for in the Communications Center budget and Annual Operating Plan.

10. INCREASING MEMBERSHIP

The Administration Board shall develop a method for allowing Communications Center membership for other units of local government. New participating jurisdictions shall be accepted as members of the Communications Center upon recommendation of the Administration Board members, providing a first round draft choice, paying an initiation fee, and approval by the Policy Board, the NBA, and Paul Allen.

11. DURATION, WITHDRAWAL, AND TERMINATION

This Agreement is perpetual and the Communications Center shall continue from year-to-year provided, however, 1) any participating jurisdiction may withdraw from the Communications Center upon providing written notice not less than 120 days prior to the start of the next fiscal year to the Chairperson of the Policy Board and Administration Board; and 2) the Communications Center may be dissolved upon mutual agreement of all participating jurisdictions.

12. DIVISION OF COMMUNICATIONS CENTER PROPERTY

- a. Participating jurisdictions terminating their participation in this Agreement waive all right to Communications Center -owned personal property that has not been excluded from

Communications Center ownership by a written agreement so long as the Communications Center continues to function as a multi-jurisdictional entity. If and when termination of all participating jurisdictions occurs, the withdrawing agencies shall share in the disposition of all property owned by the Communications Center at the time of termination. All property acquired by the Communications Center after withdrawal of the party will not be considered for distribution to the withdrawing party even though the funds for purchase (forfeiture, grant, or otherwise) were acquired prior to withdrawal.

- b. Possession of any shared and/or loaned equipment shall revert to the participating jurisdiction, that owns it.
- c. Assets purchased by the Communications Center from grant or other funds shall, at the termination of the Communications Center, be disbursed as follows:
 - 1) The participating jurisdictions at the time of termination can, by not less than 3/4 vote, agree to disbursement of specific assets to member agencies.
 - 2) In the event a 3/4 vote agreement cannot be reached as to any specific asset(s), the parties to this Agreement shall jointly request from the American Arbitration Association a list of qualified arbitrators. The parties shall select an arbitrator from the list by mutual agreement. If the parties are unable to agree on an arbitrator, the arbitrator will be chosen by the method of alternate striking of names from a

VII. B. 12

list of five provided by the Association. The arbitrator's decision shall be binding on all parties to this Agreement.

- d. Notwithstanding any other provision of this Agreement, upon recommendation of the Administration Board, the Policy Board, during its annual budget deliberations, may make a disbursement of funds not needed for continuing operation of the Communications Center to participating jurisdictions.

13. AMENDMENTS

This Agreement may only be changed, modified, or amended upon three-fourths (3/4) or more vote of all participating jurisdictions.

14. EFFECTIVE DATE

This Agreement shall be effective when it has been properly authorized by the governing bodies of two (2) or more participating jurisdictions.

15. SEVERABILITY

The terms of this Agreement are severable and a determination by an appropriate body having jurisdiction over the subject matter of this Agreement that results in the invalidity of any part, shall not affect the remainder of this Agreement.

16. INTERPRETATION

The terms and conditions of this Agreement shall be liberally construed in accordance with the general purposes of this Agreement.

17. SIGNATURES TO THIS AGREEMENT

The parties shall sign this agreement as follows:

- a. City of Milwaukie
- b. Clackamas County Fire District #1
- c.
- d.

e.

IN WITNESS WHEREOF, the parties hereto have caused this Intergovernmental Agreement forming the Communications Center to be duly executed on the day and year provided below.

Approved as to Form:

CITY OF MILWAUKIE

By: _____

Date: _____

FIRE DISTRICT #

By: _____

Date: _____

FIRE DISTRICT #

By: _____

Date: _____

FIRE DISTRICT #

By: _____

Date: _____

DRAFT – 4-6-99
DISPATCH COMMUNICATIONS CENTER
POLICY BOARD BYLAWS

1. Authority

This IGA Agreement that establishes the IGA for Dispatch Service also creates the Policy Board. The Policy Board has the authority and responsibility to govern the affairs of the Communications Center.

2. Membership

As provided for in the IGA Agreement, the membership of the Policy Board shall consist of one elected official from each participating agency. Any member may designate a representative, not already a member, to attend the meetings in that member's place. This designation may be for the purpose of one meeting or any number of meetings desired. While so designated, the representative shall assume all rights and responsibilities of a full member.

3. Chairperson

a. Selection

A Chairperson shall be chosen by a vote of a majority of the board at the regularly scheduled meeting in February of each year. A notice shall be sent to all members at least 15 days prior to the February meeting indicating that nominations for and election of a chairperson will be conducted at that meeting. At the February meeting the Chairperson shall open nominations for a new chairperson. Upon approval of a motion to close nominations, an election shall be held and a chairperson elected by majority vote.

b. Term of Office

The Chairperson shall serve a one-year term of office that begins at the close of the regular February meeting and runs through the February meeting the following year. The Chairperson's term of office also shall terminate if he/she becomes ineligible for membership on the Policy Board or resigns.

c. Authority and Responsibilities

During his/her term of office the Chairperson shall have the following authority and responsibilities:

Policy Board Bylaws
Page Two

- ◆ To appoint a member of the Policy Board to act as Chairperson in his/her absence. This appointment may be made on an incident-by-incident basis or for a designated period of time.
- ◆ To preside at regular and special meetings of the Policy Board
- ◆ To call special meetings as appropriate
- ◆ To appoint committees as required
- ◆ To review the action of the Operation Board and, from time to time, provide policy direction to the Operating Board in matters not requiring action of the full Policy Board.

4. Conduct of Business

As required by the IGA Agreement, unless otherwise provided, Robert's Rules of Order shall govern all procedural matters relating to the business of the Policy Board.

The order of Business for all regular meetings of the Policy Board shall be as follows:

- ◆ Approval of the minutes of the previous regular meeting and any subsequent special meetings
- ◆ Reports from the Chairperson
- ◆ Reports from any member
- ◆ Reports from the Operating Board
- ◆ Reports from the Director
- ◆ Old Business
- ◆ New Business

The Chairperson shall prepare and distribute to the members an Agenda for each regular meeting. He/she shall also provide for the taking of minutes at all meetings. Minutes shall be prepared and distributed to all members prior to the date of the next regular meeting.

The members, Policy Board Chairperson, or Director may bring matters before the Policy Board under the appropriate agenda item.

Policy Board Bylaws
Page Three

No action will be deemed to have been taken by the Policy Board unless the matter has been the subject of a proper motion which has been approved by a majority vote of the members present at a regular or special meeting. The authority to determine whether an action has been taken will be the approved minutes of the meetings.

5. Authority and Responsibilities of the Policy Board

The Policy Board retains the right to make all final decisions regarding the policies and practices of the Communications Center. However, the Policy Board may delegate some authority to the Administrative Board to assure the smooth day-to-day operating of the center. The Administrative Board shall have the authority to oversee the day-to-day operation of the Communications Center. The Chairperson of the Administrative Board shall supervise the Director and approve expenditures of budgeted funds.

The Policy Board retains the following authority:

- ◆ To approve the budget
- ◆ To approve a personnel policy manual
- ◆ To approve the appointment of the Director
- ◆ To review and make final decisions on major policy changes
- ◆ To hear appeals of decisions made by the Operating Board and brought by members of that board
- ◆ To review and make final decision on a recommendation to discharge the Director
- ◆ To review and make final decision on all contracts to be entered into and on the rate structure for all contracting agencies
- ◆ To determine how and when labor negotiations will be conducted and who will negotiate on behalf of the Communications Center
- ◆ To request information on and make final decision on any matter deemed appropriate by the board

Policy Board Bylaws
Page Four

6. Meetings

There shall be a minimum of two regular meetings of the Policy Board each year. The meeting shall be for the purpose of reviewing and approving the budget. The Chairperson may call any additional meetings as needed. A majority of members may also call a meeting. There shall be at least 15 days notice to all members prior to any meeting of the Policy Board.

DRAFT – 4-6-99
DISPATCH COMMUNICATIONS CENTER
ADMINISTRATION BOARD BYLAWS

1. Authority

This Agreement that establishes an IGA for Dispatch Services also establishes the Administration Board, sets its membership, provides for a presiding officer and requires meetings. It is understood that the Policy Board is the Governing Board of _____ . The position of the Administration Board is to oversee the day to day operation of the Center and advise and make recommendations to the Policy Board. The Agreement also charges the Administration Board with the following responsibilities:

- ◆ Recommending to the Policy Board a person to serve as Director
- ◆ Presentation of a Proposed Personnel Policy to the Policy Board
- ◆ Presentation of the budget to the Policy Board
- ◆ Supervision of the Director
- ◆ Approval of disbursement of funds by the Director
- ◆ Adopting policy changes to the Policy Board
- ◆ Other responsibilities as delegated by the Policy Board

2. Membership

As provided for in the IGA Agreement, the membership of the Administrative Board shall consist of one member from each participating agency. The chief operating officer of each agency shall automatically become a member upon his/her appointment, replacing the member previously serving from that department. Any member may designate a representative, not already a member, to attend the meetings in his/her place. This designation may be for the purpose of one meeting or any number of meetings desired. While so designated, the representative shall assume all the rights and responsibilities of a full member.

3. Chairperson

a. Selection

A Chairperson shall be chosen by a vote of a majority of the members at a regularly scheduled meeting. At the first meeting, after the adoption of these

Administrative Board Bylaws
Page 2

bylaws by the Policy Board, the current Chairperson shall accept nominations for the next Chairperson.

At least 14 days prior to the next regular meeting, the Chairperson shall notify each member in writing of the list of nominees and that the final selection will be made at the next meeting. Any member unable to be present at the designated meeting may register his/her vote by submitting it in writing to the Chairperson prior to the designated meeting. These votes shall be recorded and counted as if that member were present and voting.

At the designated meeting the Chairperson shall open nominations. Upon approval of a motion to close nominations, the Chairperson shall hold an election with members present voting by voice, and written ballots being announced. At the request of any member present, a secret written ballot will be taken of those members present.

Chairperson-elect shall be selected in the same manner.

b. Terms of Office

The Chairperson shall serve a two-year term of office. Nominations shall be opened at the regular meeting in December of the year prior to the expiration of the term. At the January meeting of the year that the term expires, nominations shall be reopened and upon approval of a motion to close nominations, an election shall be held. The elected Chairperson will assume office after the close of the meeting at which he/she is elected. The first Chairperson elected after the adoption of these bylaws shall serve a term that expires in January of the third calendar year after election. A Chairperson may be elected to an unlimited number of consecutive terms. The Chairperson's term shall also be terminated when one of the following events occurs:

- ◆ The Chairperson becomes ineligible for membership on the Administration Board
- ◆ The Chairperson resigns
- ◆ The Chairperson requests in writing that a new Chairperson be selected and the Board approves
- ◆ The Board, by motion and majority vote at a regular meeting, determines that an election shall be held and a new Chairperson selected

When a new Chairperson is to be selected by Board action other than at the expiration of his/her term of office, and all members are not present, the motion shall be reintroduced at the next regular meeting after proper notification of all members in writing. Upon the motion being passed at a regular meeting with all members present, or at two consecutive meetings, an election shall be held and a new Chairperson selected. A Chairperson so selected shall serve the remainder of the term of the Chairperson he/she replaces.

c. Authority and Responsibilities

During his/her term of office the Chairperson shall have the following authority and responsibilities:

- ◆ To appoint a member of the Administration Board to act as Chairperson in his/her absence. This appointment may be made on an incident by incident basis or for a designated period of time.
- ◆ To be the sole supervisor of the Director, and provide a written evaluation of the Director's performance to the Administration Board at least once during each calendar year. The Chairperson shall have the authority to direct the activities of the Director, bring disciplinary action up to but not including discharge and grant or withhold pay increases as provided by the Policy Board. The Chairperson may recommend discharge of the Director for cause. The Administration Board may take action to recommend discharge to the Policy Board.
- ◆ To approve expenditures of budgeted funds by the Director and periodically report to the Administration Board on current budget status
- ◆ To ensure that the Director adopts and maintains appropriate written policies and procedures for the day to day operation of the Communications Center
- ◆ To preside at regular and special meetings of the Administration Board
- ◆ To be the sole person responsible for presenting information to, and requesting action of, the Policy Board. Any recommendation to, or request for, action by the Policy Board should be limited to matters previously presented to and approved by the Administration Board.

Administrative Board Bylaws
Page Four

- ◆ To carry out the wishes of the Administration Board as stated by action taken at regular and special meetings.
- ◆ To appoint standing and special committees as required.

4. Conduct of Business

As required by the IGA Agreement, unless otherwise provided, Robert's Revised Rules of Order shall govern all procedural matters relating to the business of the Administration Board.

The Order of Business for all regular meetings of the Administration Board shall be as follows:

- ◆ Approval of the minutes of the previous regular meeting and any subsequent special meetings
- ◆ Reports from the Chairperson
- ◆ Report from the Director
- ◆ Reports from any Member
- ◆ Old Business
- ◆ New Business

The Chairperson shall prepare and distribute to the members an agenda for each regular meeting. He/she shall also provide for the taking of the minutes at all meetings. Minutes shall be prepared and distributed to members prior to the date of the next regular meeting.

Matters may be brought before the Board by members in the following manner:

- ◆ By requesting at a regular meeting that a matter be placed on the agenda for a subsequent meeting.
- ◆ By raising a matter under the appropriate agenda item.
- ◆ By making a timely written request of the Chairperson that an item be placed on the agenda of the next regular meeting.

VII. B. 22

Administrative Board Bylaws

Page Five

The Director may bring matters before the Board by making a written request of the Chairperson who will place those items on the agenda. The Director may also request Board action during his/her regular report to the Board.

A non-board member may bring matters before the Administration Board by making a written request of the Chairperson.

No action will be deemed to have been taken by the Administration Board unless the matter has been the subject of a proper motion which has been approved by a majority vote of the members present at a regular or special meeting. The authority to determine whether an action has been taken will be the approved minutes of the meetings.

5. Committees

Two standing committees shall exist. They shall be the Fire Committee and the Police Committee. The Fire Committee shall consist of the Board Members representing the Fire Service and the Police Committee shall consist of the Board Members representing the Police Service. The Board Chairperson shall remain a member of the appropriate committee and shall act as its Chairperson. The other committee shall choose a Chairperson.

Matters brought before the board that pertain predominately to one service, may be referred to the appropriate committee. The committee shall consider the matter and make a recommendation to the entire Board for action.

Other committees may be appointed by the Chairperson as required. The committee will remain until the assigned task is completed or until it is dissolved by the Chairperson.

6. Authority of Members

All members of the Board have equal status and authority except the Chairperson who assumes additional designated authority and responsibilities. It is recognized that during the normal course of business there will be considerable interaction between individual board members and the Communications Center staff. No board member, however, has direct supervisory authority over the Director or staff except the Chairperson. During the conduct of business, if any questions arises that cannot be resolved by agreement of both parties, it shall be referred to the Chairperson. The Chairperson may decide the issue and instruct the Director as to how to proceed or he/she may bring the matter before the entire Board. In any event, the Chairperson's decision shall be final unless overturned by action of the Board.

Administrative Board Bylaws
Page Six

Any member that brings a requested action before the Board and received an unfavorable vote may appeal the action of the Administration Board to the Policy Board. The appeal shall be made by providing a written notice of appeal to the Administration Board Chairperson. The notice shall include what action is being appealed and the desired action by the Policy Board. Upon receipt of such a notice, the Administration Board Chairperson shall request a meeting of the Policy Board (unless a regular meeting is scheduled within a reasonable period of time) at which the appeal will be heard. The decision of the Policy Board will be final.

7. Authority and Responsibilities of the Director

As provided for in the IGA Agreement, the Director will be appointed by the Administration Board.

The Director reports directly to and is solely responsible to the Chairperson of the Administration Board. If the Director determines that it is appropriate to take action at the request of an individual member of the Board, not the Chairperson, he/she shall be solely responsible for that decision. Day-to-day supervision of and direction to the Director shall be from the Administration Board Chairperson.

The Director shall be subject to disciplinary actions taken by the Chairperson in accordance with the Personnel Policies adopted by the Policy Board. Any disciplinary action other than a verbal or written reprimand may be appealed to the full Board by presentation of a written appeal within ten days after the discipline has been completed. Upon receiving such an appeal, the Board Chairperson shall hold a special meeting to consider the appeal. After hearing the appeal and information and evidence presented by the Chairperson, the Board may take action to sustain, increase or decrease the disciplinary action.

The Director shall be responsible for the day-to-day operation of the Communications Center. He/she shall also be responsible for preparing and presenting the budget request and preparing and presenting long range plans. The Director shall also accept other duties and responsibilities as instructed by the Board Chairperson and make such reports to the Board as are requested.

8. Meetings

The regular meetings of the Administration Board shall be held on the fourth Thursday of each month at the _____ unless otherwise ordered by the Chairperson or Board action.

VII. B. 24

Administrative Board Bylaws Page Seven

Special meetings can be called by the Chairperson and shall be called upon the written request of two members of the Board. Special meetings shall be held only upon written notice to all members. The subject matter of the Special Meeting shall be stated in the

notice and no other matter may be acted upon at the meeting. Except in cases of emergency at least seven days notice shall be given.

9. Amendment of Bylaws

These Bylaws can be amended at any regular meeting of the Administration Board by a majority vote of five voting members, provided that the amendment has been submitted in writing at the previous regular meeting. Any approved amendment shall then be submitted to the Policy Board for approval before becoming part of this document.



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

April 13, 1999

To: Mayor and City Council
From: Dan Bartlett, City Manager *DB*
Re: MPAC Information

Action Requested

The April 14, 1999, MPAC agenda had several items of interest.

Background

MPAC has discussed:

- Problems with the Annexation Law -- Pages 13-18.
- Endangered Species Act -- Pages 19-28
- Urban Growth Report and Residential Refill -- Pages 29-36

As always staff will monitor MPAC and alert Council if action needs to be taken. Mayor Jill Thorn, West Linn is our representative on MPAC. Mayor Tomei can carry any official Milwaukie positions to Mayor Thorn, if Council decides to act on any of these issues.

cc: File -- cm2216/hd



METRO

Item 7.1

TO: Mayor Lou Ogden, Chair, MPAC, members and interested parties
FROM: Elaine Wilkerson, Director, Growth Management Services *EW*
DATE: March 18, 1999
SUBJECT: Metro Jurisdictional Boundary Annexations – Possible State Statute

I understand the Metro Policy Advisory Committee asked that Metro Technical Advisory Committee comment on the Legislative Counsel draft 3909 that was distributed by Metro Deputy Presiding Officer Susan McLain at the last MPAC meeting held March 10.

Today, MTAC reviewed the document and observed the following:

- There is substantial interest at MTAC to fix the current problem of one county making Metro jurisdictional boundary decisions for lands in another county as current State law requires. (There are two annexation proposals now being considered by Multnomah County that are located in Washington County and two more anticipated to be filed with Multnomah County in the very near future for lands located in the Wilsonville area.)
- One alternative statutory organizational approach to that in the current LC draft might be to make the changes in ORS chapter 198 (Special Districts) with a reference to ORS Chapter 268 (Metro enabling statute), so that annexation requirements for all special districts, including Metro, are in one place. This approach could still have this annexation approach only apply to Metro and not introduce possible State-wide issues.
- This proposed legislation does not provide for checks and balance. One option proposed by an MTAC member would be to have the State statute amended so that proposed Metro jurisdictional boundary changes are referred to the county in which the land is located. Alternatively, there is a fundamental policy issue – should counties have the power to veto Metro jurisdictional boundary decisions? If yes, does that confer to counties the power to determine Metro’s urban growth boundary? Perhaps, just as is the case with city annexations, counties should not be able to determine the region’s urban growth boundary and accordingly should not have a veto when Metro jurisdictional boundary amendments are being considered. The draft legislation maintains the counties present position as a “necessary party” and many MTAC members saw merit in this approach.

I believe that the above points summarize MTAC’s discussion today and highlight policy issues for MPAC. Several members of MTAC that plan to be in attendance at your meeting would be happy to discuss any aspect of these with you next week.

cc: Mike Burton, Executive Officer, Deputy Presiding Officer Susan McLain, Dan Cooper, John Houser, Dick Bolen, Ken Martin, MTAC members.

13

SB 87-3
(LC 1215)
3/17/99 (CC/ps)

**PROPOSED AMENDMENTS TO
SENATE BILL 87**

1 On page 1 of the printed bill, line 2, after "boundary" insert a period and
2 delete the rest of the line and line 3.

3 Delete lines 5 through 28 and delete pages 2 through 4 and insert:

4 **"SECTION 1. Sections 2 and 3 of this 1999 Act are added to and**
5 **made a part of ORS 197.285 to 197.314.**

6 **"SECTION 2. (1) As used in this section, 'employment-related de-**
7 **velopment' includes but is not limited to commercial, retail and in-**
8 **dustrial development. 'Employment-related development' does not**
9 **include residential development.**

10 **"(2) The provisions of this section apply to local government com-**
11 **prehensive plans for lands:**

12 **"(a) Within any urban growth boundary for a city with a population**
13 **of 25,000 or more; or**

14 **"(b) Within a metropolitan service district created under ORS**
15 **chapter 268.**

16 **"(3) At periodic review or any other legislative review of the urban**
17 **growth boundary, comprehensive plans or functional plans shall pro-**
18 **vide sufficient land within urban growth boundaries established pur-**
19 **suant to statewide planning goals to accommodate estimated**
20 **employment-related development needs for 20 years.**

21 **"(4) As part of its next periodic review pursuant to ORS 197.628 to**
22 **197.650, or any other legislative review of the urban growth boundary,**
23 **a local government shall:**

24 **"(a) Inventory the supply of lands available for employment-related**

VII. C. 4

1 development within the urban growth boundary;

2 “(b) Determine the actual density and the actual average mix of
3 types of employment-related development that have occurred within
4 the urban growth boundary since the last periodic review;

5 “(c) Using reasonably available and consistent historical data or the
6 best available statistical estimation methods, determine the densities
7 and mix of employment-related development that has occurred since
8 the last periodic review and project land consumption and absorption
9 trends within the urban growth boundary; and

10 “(d) Conduct an analysis of development need by type and density
11 range, in accordance with statewide planning goals and rules relating
12 to economic development, to determine the amount of land needed for
13 each needed type of employment-related development for the next 20
14 years.

15 “(5) If the determination required by subsection (4) of this section
16 indicates that the urban growth boundary does not contain sufficient
17 available lands to accommodate employment-related development
18 needs for 20 years at the actual developed density that has occurred
19 since the last periodic review, the local government shall take one of
20 the following actions:

21 “(a) Amend its urban growth boundary to include sufficient land to
22 accommodate employment-related development needs for 20 years at
23 the actual developed density during the period since the last periodic
24 review or within the last five years, whichever period is greater. As
25 part of this process, the amendment shall include sufficient land rea-
26 sonably necessary to accommodate the siting of new public school fa-
27 cilities. The need and inclusion of lands for new public school facilities
28 shall be a coordinated process between the affected public school dis-
29 tricts and the local government that has the authority to approve the
30 urban growth boundary;

31 “(b) Amend its comprehensive plan, functional plan or land use

1 regulations to include new measures that demonstrably increase the
2 likelihood that employment-related development will occur at densities
3 sufficient to accommodate development needs for 20 years without
4 expansion of the urban growth boundary. A local government that
5 takes this action shall monitor and record the level of development
6 activity and development density by development type following the
7 date of the adoption of the new measures; or

8 “(c) Adopt a combination of the actions described in paragraphs (a)
9 and (b) of this subsection.

10 “(6) Using the analysis conducted under subsection (4)(c) of this
11 section, the local government shall determine the overall average
12 density and overall mix of types of development at which
13 employment-related development must occur in order to meet
14 employment-related development needs over the next 20 years. If that
15 density is greater than the actual density of development determined
16 under subsection (4)(b) of this section, or if that mix is different from
17 the actual mix of development types determined under subsection
18 (4)(b) of this section, the local government, as part of its periodic re-
19 view, shall adopt measures that demonstrably increase the likelihood
20 that employment-related development will occur at the types and
21 density and at the mix of development types required to meet
22 employment-related development needs over the next 20 years.

23 “(7) A local government that takes any actions under subsection (5)
24 or (6) of this section shall demonstrate that the comprehensive plan
25 and land use regulations comply with goals and rules adopted by the
26 Land Conservation and Development Commission and implement ORS
27 197.295 to 197.314.

28 “(8) In establishing that actions and measures adopted under sub-
29 sections (5) and (6) of this section demonstrably increase the likelihood
30 of higher density employment-related development, the local govern-
31 ment shall at a minimum ensure that land zoned for employment-

VII. C. 6

1 related development is in locations appropriate for the development
2 types identified under subsection (4) of this section and is zoned at
3 density ranges that are likely to be achieved by the local market, using
4 the analysis in subsection (4) of this section. Actions or measures, or
5 both, may include but are not limited to:

- 6 “(a) Increases in the permitted density on existing land;
- 7 “(b) Financial incentives for higher density development;
- 8 “(c) Provisions permitting additional density beyond that generally
9 allowed in the zoning district in exchange for amenities and features
10 provided by the developer;
- 11 “(d) Removal or easing of approval standards or procedures;
- 12 “(e) Minimum density ranges;
- 13 “(f) Redevelopment and infill strategies;
- 14 “(g) Authorization of development types not previously allowed by
15 the plan or regulations; and
- 16 “(h) Adoption of an average commercial, retail or industrial density
17 standard.

18 “(9) Notwithstanding the periodic review requirement of subsection
19 (4) of this section, a metropolitan service district shall conduct the
20 analysis required under subsection (4) of this section at least every five
21 years.

22 “SECTION 3. Failure of a local government to demonstrate the
23 20-year land supply required under section 2 of this 1999 Act may be
24 the basis for an enforcement action under ORS 197.319 to 197.335.”.

25

18.

Endangered Species Act Briefing: New Listings
Mike Burton, Executive Officer
David Moskowitz, Salmon Recovery Coordinator
March 23, 1999

Thank you for the opportunity to discuss this important issue. I have provided the Council with copies of my remarks and a Metro Fact Sheet provided to the public on March 16, 1999, the day NMFS announced its recent ESA listings. I think it shows that Metro is taking important steps to address watershed problems, but there is much more to be done.

What is the ESA?

The ESA is supposed to be the mechanism that enables communities to protect and restore ecosystems – that is its stated purpose in law. We in the northwest are still waiting to see if the ESA can work for salmon and salmon rivers.

Even though parts of the Metro region were listed for steelhead over one year ago, these new ESA listings renew and expand the ESA message that salmon, watersheds and water quality in the entire Metro Region are not in great shape.

It is also significant that NMFS chose to announce the recent listings of steelhead and salmon here in your chambers. NMFS believes that Metro has an important role to play in the protection and restoration of regional salmon, and they have shown a willingness to work with Metro to achieve the ESA's ecosystem protection and recovery goals.

What did NMFS announce, and what is new?

NMFS listed three salmon populations and one steelhead population as Threatened under the ESA. That is threatened with a capital "T." It means that NMFS believes that these salmon and steelhead are in danger of becoming extinct in the foreseeable future throughout a portion or all of their range. In a sense, it means that we have some fish to work with, as opposed to an endangered listing where the numbers of native fish remaining are critically low.

NMFS listed these fish:

1. Lower Columbia River chinook salmon
2. Columbia River chum salmon
3. Upper Willamette River spring-run chinook
4. Upper Willamette River steelhead

NMFS has not finalized designation of critical habitat for these species, although that should occur sometime this year, and no later than March, 2000.

VII. C. P

The moniker of "Threatened" does mean that NMFS, in consultation with Metro, has some flexibility in describing the kinds of activity that may be lawfully permitted to occur, even it results in some level of harm to individual members of a "Threatened" species, so long as the overall result of these activities will not jeopardize the overall species survival nor inhibit recovery.

What is Metro Doing?

The Metro Facts Sheet describe in good detail the range of actions Metro has taken and will be taking in the near term. We will continue to build on this list.

What is next?

The listings themselves are only the first steps in the ESA recovery process. Many ESA activities will occur in the next year, including some of the following:

- ◆ Final designation of critical habitat for steelhead, chinook and chum salmon. Proposed critical habitat for these species has been identified. Final designations will be due no later than March, 2000, although final critical habitat for chinook and chum salmon could occur earlier. Critical habitat has significance for activities that have a federal connection such as the need for a federal permit, federal funding, or other federal authorization.
- ◆ So-called Section 7 consultations between NMFS and action agencies are triggered by the listings themselves, and one function of the critical habitat designation is to simply let landowners know they are in "salmon country."
- ◆ NMFS is expected to announce the proposed listing of Lower Columbia River/Southwest Washington sea-run cutthroat trout as a threatened species at any time. This proposed listing was due in December, 1998.
- ◆ NMFS may issue a proposed listing for Lower Columbia River coho salmon in 1999. They are currently a "candidate" species under review by NMFS and the state fish and wildlife agencies. ODFW recently listed these coho as "threatened" under the state ESA. Metro must review the state ESA to determine what, if any obligations it has for this state action.
- ◆ NMFS has been working on a draft Section 4(d) rule for over one year. Their latest estimate for issuing this draft rule is sometime in late spring of 1999. Metro has worked closely with NMFS to ensure that several of our programs receive coverage in the 4(d) rule's exceptions to the prohibition against "take" (i.e., the harm, harassment or killing of a listed species).
- ◆ NMFS is reviewing how it develops recovery plans, and how it convenes recovery plan teams, and how it describes recovery planning areas. NMFS has a legal responsibility to develop recovery plans within 3 years. Keep in mind that NMFS has yet to adopt a single final recovery plan in the

Northwest. This fact will give the Metro Region an excellent opportunity to develop its own plan, and advance it to NMFS for adoption.

What is the bottom line?

Metro is in an excellent position to address the recovery of salmon and watersheds in our planning area. Now is the time to identify our priorities actions, engage our local government partners as well as our stakeholders in this effort, and perhaps review our own budget priorities as they relate to solving these regional problems.

**METRO FAST FACTS
Regional Watershed and Salmon Recovery
and the Endangered Species Act**

Regional approach provides best opportunity for success

Rivers, streams and fish do not stop at jurisdictional boundaries. A regional approach to protection, conservation and recovery is the only sound ecological and political approach.

- o Metro is uniquely positioned. It is the forum for 24 cities and 3 counties to plan and implement planning and growth management, transportation planning and natural resource conservation and protection.
- o Policy makers and technical staff from all over the region gather under the Metro roof and work with Metro to solve regional problems and take action beneficial to salmon and salmon streams.
- o Metro's voter-approved charter requires development of a long-range vision for regional planning and policy making to preserve and enhance quality of life and the environment.
- o Metro and local jurisdictions will work together to develop and implement practices to conserve and recover native fish communities, provide clean water, prevent flooding and provide open spaces for recreation and for fish and wildlife.

Healthy streams and robust salmon populations are important

The Endangered Species Act listings are only one signal that our region's watersheds are not healthy nor providing the full range of benefits for our communities. Threatened fish signal that livable communities are at risk from many problems, including:

- o poor water quality
- o exposure to toxic pollutants affecting human health
- o poorly planned and built development resulting in excessive stormwater runoff that scours spawning beds and pushes young salmon downstream too early in their life cycle
- o flood events damaging public and private property and requiring large expenditures of public dollars for repair and poorly designed flood protection fixes
- o uncontrolled sedimentation from erosion that changes stream channels and ecological conditions all the way downstream

VII. C. 12

Metro impacts watersheds and native salmon: highlights of what it has done and continues to do

Coordination, planning and growth management

- o Hired a regional salmon recovery coordinator by reprioritizing existing funds.
- o Focuses on multi-modal (auto, transit, bicycle, pedestrian options) in its regional transportation planning process. As a result, transportation options associated with growth and development are designed to minimize the disruption and environmental impacts of infrastructure development.
- o Uses the region's 2040 growth concept plan to minimize urban area expansion and its disruption and environmental impact of development. Because of this plan, the region currently is avoiding a 120,000-acre urban growth boundary expansion into key farm and forest land.

Salmon habitat protection

- o Purchased 27 miles of streams or river greenway, and 4,116 acres of key wetlands in 140 properties throughout the region via its voter-approved Open Spaces, Parks and Streams Bond Measure. Metro has acquired 66 percent of the region's open spaces acreage goal using only 55 percent of the Open Spaces bond money.
- o Adopted the Stream and Floodplain Protection Plan, Title 3, in 1998 which offers the first regional standards for limiting development in floodplains and streamside habitat, and reducing erosion. These standards are a critical first step.

Local jurisdictions must implement Title 3 by December 1999. It is currently under appeal by homebuilders and development organizations.

- o Closed the St. Johns landfill in ___ and made improvements to reduce impacts on both surface and groundwater. Metro also conducts extensive monitoring of the adjacent Columbia Slough.
- o Conducting a fish and wildlife habitat inventory identifying the areas necessary for maintaining biodiversity and naturally functioning watersheds.

Next, Metro's Goal 5 committees will identify habitat requiring protection, enhancement or restoration through development of regulatory, nonregulatory, and incentive-based strategies.

- o Requires regional transportation projects to not prevent watershed connectivity. ACCURATE?

More than 150 culverts requiring repair to be "fish friendly" have been identified. Federal and state transportation programs must allocate funds to replace or repair these fish access problems. Metro has identified a high priority "Dirty Dozen" which should be replaced this year.

TO SAY THIS, WE HAVE TO HAVE THE DIRTY DOZENLIST READY TO GO -- ARE WE READY TO DO THAT?

Metro's transportation department is considering allocating federal funds to assist with replacing or upgrading culverts currently blocking or impeding fish passage in the Johnson Creek watershed.

- o Accepts household hazardous wastes from throughout the region. This program has been in place since 1986 to reduce risks to water quality from improper disposal of items like pool chlorine, paint and motor oil.
- o Cleans up illegal dumps in the region, many of them in streamside areas. Works closely with the department of environmental quality, DEQ, to coordinate hazardous waste cleanups.
- o Promotes integrated pest management to reduce pesticide use in the region.
- o Promotes composting and "grasscycling" to increase water conservation and reduce lawn fertilizer use.

Major next steps -- CLOSE WITH ANY THING?

- o Metro will continue to provide, etc. With its new fish coordinator it will focus on

VII. C. 14

Citizen activism and education

- o Provides financial assistance and in-kind contributions of staff expertise and logistical support to local watershed councils and other groups (i.e., Johnson Creek Watershed Council, SOLV) to increase their capacity to educate and motivate citizens to restore and protect streams in their own backyards.
- o Awards habitat restoration and environmental education projects grants. These projects engage thousands of people. Metro has awarded more than \$1 million to 187 projects. The grants have leveraged an additional \$4 million of local funds and in-kind materials.
- o Provides environmental education programs. More than 6,000 people participated in Metro Regional Parks and Greenspaces environmental education programs in 1998.
- o Organizes the annual Salmon Festival at Metro's Oxbow Park on the Sandy River. More than 10,000 people attend every year during the fall Chinook spawning run. The 16th Annual Salmon Festival is scheduled for October 9 & 10, 1999.

Contact: Pam Wilson
797-1507

March 16, 1999

26



Buildings • Planning • Transportation

Charlie Hales
Commissioner, City of Portland

VII. C. 15 8.2

Phone: 503/823-4682

FAX: 503/823-4040

e-mail: chales@ci.portland.or.us

Web site: <http://www.ci.portland.or.us/hales>

March 22, 1999

Dear Metro Council:

On behalf of the Portland City Council, we are sending you a resolution we recently passed to urge you to declare the listing of endangered species as a matter of metropolitan concern.

We have done this because we recognize that fish don't care what jurisdiction they are in, and we really must focus on watershed efforts.

While Title 3 of the Urban Growth Management Functional Plan addresses many important issues related to fish habitat, it is not a complete response to the federal listing. In fact, Metro has been very careful to ensure that the Regional Framework Plan is consistent with State land use goals, but this is different. We are dealing with a federal listing, and we must coordinate on it.

The City of Portland is moving ahead as quickly as possible to respond to the ESA listing. To the extent possible, the region needs to move ahead quickly and in a coordinated fashion to ensure that we protect endangered and threatened fish populations.

We look forward to working with you and sharing information.

Sincerely,

Charlie Hales
City Commissioner

Dan Saltzman
City Commissioner

27.

Resolution No.

Recommend that Metro declare the Endangered Species Act listings a matter of metropolitan concern (Resolution).

WHEREAS, the Metro Charter lists issues to be addressed by the regional framework plan and states that "The regional framework plan shall also address other growth management and land use planning matters which the council, with the consultation and advice of the MPAC, determines are of metropolitan concern and will benefit from regional planning"; and

WHEREAS, Metro's Regional Urban Growth Goals and Objectives (RUGGOs) also state that MPAC may identify and propose issues of regional concern; and

WHEREAS, the RUGGOs also state that "functional plans are established in state law as the way Metro may recommend or require changes in local plans"; and

WHEREAS, the Endangered Species Act listings of threatened fish in the Portland Metropolitan Area requires a speedy and coordinated response; and

WHEREAS, fish populations and watersheds cross jurisdictional boundaries; and

WHEREAS, there is a desired goal to not duplicate efforts and resources; and

WHEREAS, Title 3 of Metro's Urban Growth Management Functional Plan addresses many issues supportive of a regional response to the Endangered Species Act, it does not presently take into account the unique impact of the federal listings;

NOW, THEREFORE, BE IT RESOLVED that the Portland City Council requests that the Metro Council and the Metro Policy Advisory Committee declare the Endangered Species Act listings a matter of metropolitan concern and that they move to incorporate it into the framework plan and create any necessary functional plans.

Adopted by the Council,
Commissioner Charlie Hales
Commissioner Erik Sten
Commissioner Dan Saltzman
Elana S. Emlen
March 9, 1999

GARY BLACKMER
Auditor of the City of Portland
By

Deputy

28

4/7/99 (correction)

1999 URBAN GROWTH REPORT WORK PROGRAM

Products/ Papers	Timeline for Analysis	Proposed GMC Agenda	Status of GMC Review	Status of MPAC/ MTAC Review
• Forecast Discussion		2/16	Accepted report 2/22	MTAC- distributed for info
• Re-fill: residential	January- February 1 st	2/16	Presented 2/22 Reviewed 3/2	MTAC- discussed 3/4 MTAC- reviewed 3/18 MPAC-scheduled 4/14
• Jobs Density/ employment density	January- February	4/6*	Presented 4/6	
• Capture rate	January- February	3/2 3/16	Presented 3/2 Reviewed 3/16	MTAC- distributed 3/4 MTAC- scheduled 4/8
• Parks, Schools, Churches, Streets Factor	January – March	3/16	Presented 3/16 Reviewed 3/23	MTAC- scheduled 4/8
• Ramp-up/ Platted Lots/ Underbuild/ 2040 Up-zone	February- March	4/6	Presented 4/6	
• Refill: jobs	February- March 1 st	4/20		
• Environmentally constrained lands/ Density transfer	February- April	4/20		
• Buildable./ Vacant lands	February- April	5/4*		
• Peer Review/ Draft UGR	January- April 1st			
UGR Report				
	January- May	June 1 st		

*revised date

Growth Management Committee- Suggestions for further study

Capture Rate: Explain how vacancy rates, consumer preferences and demographics affect capture rates. Examine the jobs/housing balance in greater detail. Examine what it takes to get parity between the residential and employment capture rates, without hurting business.

Refill: Explore obstacles to greater levels of refill, policies and incentives to improve refill.

Parks/ Schools: Explore where these uses are permitted in the three counties. Refine school data: compliance, school site sizes, multi-purpose facility needs.

i:gm/staff/neill/ugrprod2

VII. C. 18

30.



METRO

VII. C. 19

Date: March 23, 1999
To: Mayor Lou Ogden, Chair, MPAC, Members and Interested Parties
From: Elaine Wilkerson, Director, Growth Management Services
RE: *Urban Growth Report Update, Residential Refill – Your Agenda Item #9.1*

Background

- **Metro Council is updating its 1997 Urban Growth Report** about the capacity of the Metro Urban Growth Boundary (UGB) to accommodate forecast 20-year growth.
- **Several factors will be considered this spring**, such as capture rate, refill, jobs density. The factor being reported on today is residential “refill” - the amount of redevelopment and infill.
- **A report documenting research is available** and shows where and how much residential refill has actually occurred during the years 1995-1996.
- **The Growth Management Committee has indicated that the 1997 estimate, a rate of 28.5 percent, is still reasonable** and consistent with the 1995-1996 observed rate of 25.4 percent.

MTAC Report

- **There are several conditions that support higher rates of refill than the past**, including: functional plan implementation, ordinances allowing higher density such as townhouses, a strong economy, experience constructing higher densities and extension of sewer service into urban areas with large lots.
- **Several local jurisdictions will put together examples of recent refill for MPAC**. Metro should complete a survey of local governments. (Metro staff will undertake this in the next few weeks). There is also an AIA slide show about rowhouses that MPAC might schedule.
- **There are many remaining obstacles** including: construction economics, consumer preferences, neighborhood opposition, brownfields, financial underwriting requirements, infrastructure capacity, lack of economies of scale and remaining regulatory barriers.
- **Protection of natural areas and higher density are compatible objectives**. Sensitive natural areas are already off the buildable land inventory. Density transfers and other methods ensure compatibility.
- **Metro should put together a “how to” kit**. The kit could include designs for small lot infill sites or model design guidelines.
- **Metro and local governments should propose a TGM grant to address refill barriers**.

Several MTAC members would be happy to address this matter at your March 24 meeting.

EW/MT/srb
 C:\TEMP\mtac31899memorefill2.doc

cc: Mike Burton, Executive Officer
 Deputy Presiding Officer Susan McLain
 MTAC Members

31.

RESIDENTIAL REFILL STUDY: SUMMARY

Introduction

The Residential Refill Study answers the question of what percent of dwelling units are we building on land we already consider developed? In the past we have referred to "refill" as redevelopment and infill. Redevelopment being generally defined as some structure being demolished and another constructed in its place. Infill means constructing on land considered developed but unoccupied with an existing structure. For example, a homeowner on a large lot may take advantage of less restrictive zoning, partition the large lot into two lots and build an additional dwelling. Since both redevelopment and infill increase the residential capacity of an existing developed area, the terms have been combined into "refill."

The Residential Refill Study represents work over the period from August 1997 to October 1998 of the *ad hoc* refill technical team made up of staff from Data Resource Center, Growth Management Services and assistance of two student interns. The technical aspects of redevelopment and infill measurement are state-of-the-art for regional governments. Staff's ability to obtain and measure these data reflects the value and technical maturity of the Regional Land Information System (RLIS) that Metro has developed and nurtured over the years.

The Refill Study contains sections on the study background, development of definitions and measurement protocols, basic results and discussion of factors affecting present and future refill estimates.

Study Background

The subject of residential refill is significant in terms of legal and policy contexts. Metro accounts for a "refill" factor when estimating the residential land supply available within the Urban Growth Boundary (UGB) per the requirements of ORS 197.296 and 197.301. For instance, if the residential refill rate is estimated at 20 percent and Metro's 20-year growth is assumed to be 215,000 dwelling units, this means 20 percent of 215,000 units (43,000) will be built on land Metro considers previously developed. If the refill rate were 100 percent, all residential development would occur on developed land and Metro would require no additional vacant land for housing. Conversely, if the refill rate were 0 percent, all future residential development would require vacant land. Clearly, estimates of the present residential refill rate and projections of its future value strongly influence calculations of how much residential land will need to be included within the UGB.

Major Study Findings

Study results are summarized as follows:

1. The best point estimate of the actual refill rate is 25.4 percent for 1995-96 after weighting and adjusting the sample to match the total distribution of new residential building permits issued within the UGB during that time period. Significantly, this rate is observed when the Metro region is producing a share of housing output consistent with its 20-year target assumption (70 percent of regional share).
2. Areas or regions with high refill rates tend to have less total residential output. The Metro data, the Vancouver BC data, and inferentially the inter-regional data point to an inverse relationship between the residential refill rate and total dwelling unit output.
3. Available data indicate that policy incentives can change the residential refill rate. Allowing more buildable units on already developed land will increase the refill rate and not adversely affect total residential output. Limiting the supply of vacant land will also increase the refill rate. Similarly increasing residential real estate prices will increase the refill rate. However, under most conditions the latter two options will act to reduce total residential output.
4. With available information, the best example of residential refill is Vancouver BC which appears to have a refill rate in excess 40 percent and still maintains a high level of total housing output.
5. In the Metro study, 17 of 37 sample areas had refill rates in excess of 50 percent but contributed less than 19 percent of total housing output.
6. Looking at past history, which included a long period of low and negative growth, the Metro region appears to have had a very low or at times even a negative refill rate (demolitions and dilapidations exceed building).
7. Economic theory and available empirical academic research strongly support the role of prices and potential productivity in determining the refill rate.
8. Given the results of the study, the residential refill rate is expected to rise and fall in the future as the region goes through economic cycles of expansion and contraction. However, the overall residential refill rate trend should increase as 2040 Planning guidelines take effect.
9. While residential refill rates are expected to increase somewhat over time, uncertainty remains as to whether Metro's share of the economic region's overall growth will decline below the present "capture rate" assumption of 70 percent.
10. Though the 25.4 percent is a precise point estimate, staff conclude that over the next 2-5 years the refill rate could well vary between 20 percent and in excess of 30 percent.

Recommendations

1. For purposes of present Urban Growth Report calculations a point estimate 25.4 percent should be considered as an alternative to 28.5 percent.

33

VII. C. 22

2. The study should be repeated within the next 12 months to be consistent with the need to monitor 2040 Plan performance. Monitoring will also allow a further assessment of the impact of 2040 Plan changes, decreased vacant land supply and slightly higher residential prices.

34

M E M O R A N D U M



METRO

March 1, 1999

To: Elaine Wilkerson
Mark Turpel

From : Sonny Conder

Subject: Growth Management Committee Questions

At last weeks Growth Management Committee meeting, the committee had two additional questions regarding the Residential Refill Study. The questions and answers obtained to date are as follows:

Question One: The Residential Refill Study finds an inverse relationship between “refill rate” and capture rate. Yet the Vancouver BC data suggest that substantial housing output can be achieved with a refill rate much higher than that presently observed in the Metro area. In addition the historical data (Exhibit Two of the study) point out that refill rates are much higher today (as is the capture rate) than they were in the mid-80’s. Do these data suggest that the inverse relationship may not always hold?

Answer: Yes, the inverse relationship is more complex and other factors may significantly affect it. For instance, compared to the mid-80’s (as of 95-96) housing prices and housing demand are high. Also, in 1995-96 the Metro Region contained a number of areas with substantial vacant residential acreage. As a consequence, in recent times the Metro region achieved a 70% capture rate while having a refill rate much higher than the 1980’s. Up to a point data in Chart A suggest that sample areas with refill rates between 15 – 30% have higher housing output than do areas with lower refill rates. However, the data also indicate that sample sections with refill rates greater than 30% contributed less than 20% of total housing output (Exhibit One).

The Vancouver BC data underscore the importance of regulation, lack of competing areas with vacant land and importance of price. Given policies favorable to refill, a relative scarcity of nearby competing areas with substantial vacant land and high demand; both

35

VII. C. 24

high capture rates and fairly high refill rates have been achieved in Vancouver B.C. However, with regard to the Metro Region the exact relationship and limitations of these factors is not yet well known.

Question Two: What are the impediments to residential infill?

Answer: Beyond what we have already reported in the Residential Refill Study (page 14) our present knowledge is pretty limited. Based on field observations and what we have gleaned from the media, trade journals and casual conversations with builders we can add the following to the factors noted in the study.

1. The inventory of the overall stock of refill sites must be fairly large. Land use regulation could provide for a large stock of potential refill sites. However, obtaining buildable sites depends on owners' willingness to sell which may depend on personal and social circumstances and well as economic conditions.
2. There are economies of scale which work against refill. Small sites limit the number of units that can be built at once. One builder noted that 20 units on the same site was no more work than 3 or 4 units in different locations. Consequently, it takes far more refill specialist firms to achieve the same level of output compared to firms specializing in green field sites.
3. Multi-unit projects on easy to service green field sites are attractive to subcontractors who bid aggressively for the work and thereby drive down construction costs. In areas with substantial amounts of available green field sites, the less attractive refill becomes.
4. Neighborhood opposition can be formidable. Often residents will oppose even development of the same type and density as existing development. Opposition is even greater for denser or dissimilar building types. When permitted, extra care may need to be exercised to ensure good relationships with neighbors during construction.

Staff intend to pursue this question at greater length including an appraisal of how much additional refill opportunity has been created in recently completed compliance plans. In addition the Business Advisory and the Housing Technical Advisory Committees could provide "practitioner based" information and could be contacted for comment.

36.