

**CITY OF MILWAUKIE
CITY COUNCIL WORK SESSION
MAY 17, 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; Finance Director Gehlen; Program Services Coordinator Herrigel.

Information Sharing

1. **Councilor Kappa** discussed the Metro Policy Advisory Committee and its proposed public involvement program.
2. The group discussed several options for improving the City's own involvement program. Suggestions included: a monthly open forum meeting; two Councilors attending each Neighborhood District Association (NDA) monthly meeting; and monthly phone surveys.
3. **Councilor King** suggested that Michael Jordan, Clackamas County Commissioner, be invited to attend a City Council meeting to introduce himself to Milwaukie residents.

Metro Open Spaces

Jim Desmond, Metro Open Spaces Division Manager, updated the Council on land acquisitions since voters passed Measure 26-26 in 1995. In addition to the regional program component, the local share element provides funds to local jurisdictions to either acquire land or make capital improvements to existing parks.

The advantage of land acquisition is that it provides people access to nature and preserves wildlife habitats. He showed a series of slides taken throughout the region of properties acquired through the Metro program. In Clackamas County, this included Mt. Talbert which was purchased jointly with the North Clackamas Parks and Recreation District. Examples of local share projects were Roswell, Willow Place, and Furnberg Wetlands Enhancements; access easement to the Springwater Corridor at 28th Avenue; and Kellogg Lake and Minthorn North acquisitions.

Desmond discussed volunteer activities and recognized Don McCarty, City of Milwaukie Park and Recreation Board member, for his dedication. He provided the City Council with copies *Metro's Open Spaces Land Acquisition Report to Citizens* (May 1999).

North Clackamas Parks and Recreation District (NCPRD) Quarterly Update

Mike Henley, NCPRD Director, discussed the recently approved 1999 - 2000 District budget which is 14% less than the previous year. He provided some figures on the reduction of the Aquatic Park revenues. The District will conduct a cost of service study and consider outsourcing some programs. The social service programs at the Milwaukie Center would be exempt from fee increases.

He discussed property acquisition efforts along the Portland Traction right-of-way and indicated that the District would provide Council with additional information at a later date. Other accomplishments were completion of master plans for Wichita and Water Tower Parks, improvements at North Clackamas Park including a shelter and additional work on the dog run, and installation of a stage lift at the Milwaukie Center. A seasonal outdoor component is being considered for the Phase 2 Aquatic Park expansion. Residents will be asked to complete a survey identifying the specific types of improvements they would like to see.

Councilor Kappa discussed the feasibility of a public/private partnership at the Aquatic Center.

Henley said the cost of service study will help establish a range of services based on the District's ability to provide them. He discussed the Aquatic Park and recreation program deficits. He noted the public concern that one of the two summer recreation teams was being cut, and he explained the reduction was made due to low drop in attendance at several parks. The remaining team will work at Ardenwald and Furnberg Parks where attendance is higher. The District will also provide \$2,000 to the operation of the Milwaukie Jr. High School Pool and some support to the teen center's operation. Rowe Middle School has requested that the teen dance program be discontinued.

Diane Campbell, NCPRD, discussed the capital improvement program including the Mt. Talbert master plan, the Sara Hite Memorial Rose Garden, construction at Furnberg and Water Tower Parks, and Portland Traction land acquisition.

Councilor Kappa suggested the District seek additional funding from the County.

Henley discussed attacks on proposed parks systems development charges that could limit future funding.

Campbell provided information on the District's master plan update. The Milwaukie City Council will be asked to recommend a steering committee member.

Commingling of Recyclables

JoAnn Herrigel provided information on the regional recycling program. At this time, Milwaukie customers are separating their recyclables into twelve categories. The proposal is to commingle materials into two or three streams in order to reduce both the amount of time spent collecting the material at each stop and emptying the truck at the processing facility.

Councilor King asked how the market would be affected.

Herrigel said paper processing is already very good, but the glass market could be affected.

Councilor Lancaster asked if the City would adopt an ordinance regarding changes to curbside recycling or would it be voluntary for the haulers.

Herrigel said there are some financial benefits for haulers to continue business as usual, so an ordinance would give the City more power.

Park, Open Spaces, and Trails Acquisition Program

Park and Recreation Board Members present: Sharon Van Horn, Darlene Walsh, Rebecca Langdon, and Don McCarty.

Charlene Richards asked for Council input on the finalization of the Parks, Open Spaces, and Trails (POST) Acquisition Plan for adoption at the June 1, 1999, Council meeting.

In June 1998, the City Council had a work session with Metro, the City Attorney, and consultant Jeff Tashman to consider expedited property acquisition methods. Council directed staff to prepare a plan based on Metro's program. The POST Acquisition Plan components are: refinement, acquisition parameters, due diligence, early acquisition opportunities, stabilization, and land banking.

In response to Neighborhood District Association (NDA) visions and Park and Recreation Board (PARB) goals, the City Council established acquisition of one to two acres of park land per fiscal year as one of its goals in April 1999. By working with the NDAs and PARB, certain target areas and potential acquisitions for parks and trails have been identified. **Richards** discussed the *refinement* process which covers the method for determining target area needs in relationship to available funds. The *acquisition parameters* are a set of pre-approved criteria or conditions under which the City Manager, or designee, is

authorized to negotiate and conclude an acquisition transaction. The *due diligence* component has to do with the legal aspect including property appraisal, title searches, inspections, and those unusual circumstances such as hazardous waste that must be considered to protect the public investment. The *early acquisition opportunity* component offers a process to purchase or option a specific parcel within five working days to avoid a lost opportunity. *Stabilization* refers to initial actions that secure and prevent any degradation to the property. *Land banking* is a set of long-term management activities practiced to minimally maintain a property until it is developed to its ultimate use.

Councilor Kappa asked if the PARB had executive sessions like the Council's to discuss property, and **Richards** replied that the Board does enter into that type of session. After the public involvement process to take public comment, the PARB will make a recommendation on specific tax lots which will then be considered in Council executive session. It would be inappropriate to potentially devalue or hinder future sales by marking certain properties for takings. She noted that the City of Milwaukie was willing to purchase critical property from other than a willing seller and reviewed the *parameter* exceptions.

Councilor Marshall referred to staff report page WS.7.6 and suggested language to the effect that "every effort should be made to first acquire the land under contract with owner or by life estate." He felt the City Council needed to look at related budget issues and explore longer-term contract options for willing sellers.

Richards commented there were alternate methods of setting property aside other than purchase and referred to staff report page WS.7.17 that called out other strategies such as life estates, lease/rental agreement, and partnering with "friends" groups, other park providers, and the private sector. The PARB evaluates the sites to determine if the property meets the neighborhood park guidelines. The POST Acquisition Plan is a Council guidance document, adopted by resolution, that defines the roles of the citizens, City Council, PARB, and City staff.

Councilor Marshall addressed land banking and the need for government to market itself. He recommended signs referring to future develop of land purchased by public funds.

Councilor Lancaster suggested the City solicit citizen assistance in monitoring property to help prevent vandalism. Give residents an opportunity to take ownership.

The City Council agreed to move the document forward to the June 1, 1999, regular session for adoption.

Other

1. The group discussed upcoming agendas and the need to prioritize items.
2. **Councilor Marshall** asked the objective of the May 25, 1999, joint work session with the Traffic Safety and Transportation Board (TSTB). One of the reasons he suggested the meeting was to allow Board members an opportunity to vent their years of frustration. He wanted to move forward without defensiveness or criticism.

Bartlett said staff was preparing a packet with the Neighborhood Traffic Management Program (NTMP) proposed revisions, and the Board members will talk about the value the TSTB and what it has contributed to the community. Some of the NDA chairs will likely be present and indicate that traffic safety is not something the Associations wish to take on. After Council provides direction, staff will develop a mechanism for how the NDAs move their recommendations forward to the City Council.

3. The group discussed attendance at the upcoming Timothy Lake Conference, and Mayor Tomei indicated her interest.

The work session ended at 9:05 p.m.

Pat DuVal
Pat DuVal, Recorder

**CITY OF MILWAUKIE
CITY COUNCIL WORK SESSION AGENDA
MAY 17, 1999**

PUBLIC SAFETY BUILDING

Community Meeting Room
3200 SE Harrison

WORK SESSION – 5:30 p.m.

Discussion Items:

	<u>Time</u>	<u>Topic</u>	<u>Presenter</u>
1.	5:30 p.m.	Information Sharing	Group
2.	6:00 p.m.	Budget Committee	Group
3.	6:30 p.m.	Metro Open Spaces	Jim Desmond, Metro Open Spaces Division Manager
4.	7:00 p.m.	North Clackamas Parks and Recreation District Quarterly Update	Mike Henley, NCPRD Director
5.	7:30 p.m.	Commingling of Recyclables	JoAnn Herrigel
6.	7:45 p.m.	Break	
7.	8:00 p.m.	Park, Open Spaces, and Trails Acquisition Program	Charlene Richards
8.	9:15 p.m.	Adjourn	

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

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

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To: Mayor and City Council
Through: Charlene Richards, Assistant City Manager *CR*
 Dan Bartlett, City Manager *DB*
From: JoAnn Herrigel, Program Services Coordinator *JH*
Subject: Commingling of Recyclables
Date: May 6, 1999

Action Recommended

None. FYI only.

Background

The City of Milwaukie has been participating in the formal curbside collection of recyclables since 1989. The types of materials recycled and the way in which those materials must be prepared and set out is prescribed in the educational materials distributed to residents by the City and the franchised garbage haulers. Currently twelve materials are collected as part of our recycling program and residents are required to place each in separate bags before placing them in their set out containers.

Over the years, garbage haulers have found ways to conserve space and decrease collection times on their recycling routes through mixing various materials on their collection trucks. This mixing of materials is called *commingling*. Currently, the extent to which haulers commingle materials varies a great deal. Some larger haulers are mixing all containers (glass, cans and plastic) in one compartment on their truck and all fiber (newspaper, scrap paper and magazines) in another compartment. Smaller haulers often combine newspaper and magazines or plastic bottles and tins cans – but keep all other materials separate. How haulers separate materials is determined by the types of trucks they have and the markets and processors to which they bring their materials.

Studies have shown that commingling materials into two or three streams on a truck can decrease the amount of time recycling collectors spend at each stop as well as the time they spend “off route” emptying their trucks. Collection costs (net of revenue) for a three stream sort are estimated to be approximately 10% lower than than the cost of our current system. As efficiency increases, garbage rates increase less rapidly (they don’t go down...). As more haulers move toward commingling and more processing facilities in the region begin accepting commingled materials, local governments in the region have begun discussing the possibility of modifying the way we require residential recyclable materials to be set out.

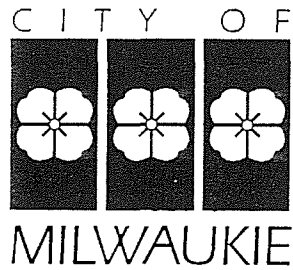
The City of Portland is currently considering implementing a system in which residents are asked to place all their containers (loose) in one recycling bin and all their fiber

(loose) in another bin. No sorting into bags. No separating twelve materials. Two bins - Two streams. Other Metro area jurisdictions are considering similar system changes but the number of sorts being considered varies. Together with other cities in the region (including Milwaukie) and Washington and Clackamas Counties, Portland is now discussing how the region can move toward commingling, making recycling easier for the public and more efficient for the haulers, without compromising the quality and marketability of the recyclables collected at the curb. It is hoped that by fall of 1999 all Metro area jurisdictions will have made a decision as to the sort that will be implemented and that a regional "Commingling Campaign" can be rolled out in September.

Issues that remain to be worked out among the local governments include:

- The City of Portland currently prefers to minimize the number of sorts at the curb. They prefer a two stream sort but are considering a three sort (all glass bagged, all other containers loose in a bin and all fiber loose in a bin). If Portland goes for a two sort and the rest of the jurisdictions go for a three or four sort – how can public education be coordinated?
- Commingling of glass stands out as a particularly contentious issue. Mixing all three colors of glass decreases the possible end markets for the material. Mixing all glass with all other containers also results in marketing difficulties. Thus, there is a movement toward collecting glass in two bags, one for green and brown and one for clear and then collecting all other containers loose and all fibers loose (a four sort, essentially).
- Some haulers prefer to have fibers (newspaper and scrap paper) bagged due to their need to use small collection scooters to collect in rural areas. In addition, in windier areas, collecting paper loose may create litter problems. How can educational materials be consistent but tailored to special situations?
- How can local governments "regulate" (by ordinance or franchise) how haulers collect materials (to protect quality of recyclables) without restricting hauler flexibility and perhaps decreasing hauler efficiency?
- Local governments and even Metro have little regulatory power over material recovery facilities (where recyclables are processed.) Once we shift to a system of commingling the burden of separating and marketing recyclable materials shifts to the processor. Given our lack of regulatory power over processors, how can local governments monitor the handling of recyclables after a hauler delivers them to a facility?

Staff will provide additional information at the work session on May 17th.



Memo

To: Honorable Mayor and City Council
Through: Dan Bartlett, City Manager *[Signature]*
From: Charlene Richards, Assistant City Manager *[Signature]*
CC: PARB members
Date: April 30, 1999
Re: Parks, Open Spaces and Trails Acquisition Plan

Action Requested

Give staff input on finalizing a Parks, Open Spaces and Trails (POST) Acquisition Plan for consideration for adoption at the June 1, 1999 Council meeting.

Background

In June 1998, Council held a work session to learn about possible ways to develop a speedier acquisition process for parks. Dominic Colletta, City Attorney, presented the legal parameters. Jeff Tashman, City consultant, described the City's current acquisition process and options for improvement. Charles Ciecko, Metro Regional Parks and Greenspaces Director, and Jim Desmond, Metro Open Spaces Division Manager, presented Metro's Open Spaces Implementation Plan and their experience using it to acquire parks, open spaces and trails under the 1995 Metro Opens Spaces, Parks and Streams Bond Measure.

At the direction of Council, staff used the Metro Plan as a template from which to develop the attached draft Parks, Open Spaces and Trails Acquisition Plan. The Plan has been modified to reflect the organizational structure of the City and the less complex needs of the City versus Metro. Dominic Colletta, City Attorney has reviewed the draft for legal issues. He found no problems with the draft plan. Attached is Appendix A, POST Acquisition Plan Summary, Appendix B, the draft POST Acquisition Plan, Appendix C, a draft refinement process work plan flow chart and Appendix D, Project: POST 99, Date: Thu 4/11/99, a draft work plan for implementation of the POST acquisition plan and the refinement process.

POST Acquisition Plan Summary

The *Parks, Open Spaces and Trails (POST) Acquisition Plan* (see summary below) describes the process by which the City will acquire parks, open spaces and trails. Land that is acquired now will be land banked (maintained in its current condition) until additional funds are available to determine appropriate uses for the land, including how it will be developed and managed for public use and enjoyment. Some sites may be managed by another agency under intergovernmental agreement.

POST Acquisition Plan Components

1. **Refinement-** is the public process whereby the City adopts specific geographic boundaries and acquisition objectives for each target area and trail project. A refinement process is necessary because the amount of land available in each target area exceeds the dollars available for purchase, or in the case of trails, the exact trail alignment of the trail is not known. The process involving community meetings, PARB meetings and Council meetings provides opportunities for citizen involvement. Refinement plans for all 5 target areas will be completed and approved by the City Council in the fall of 1999.
2. **Acquisition Parameters-** are an approved set of criteria or conditions under which the City Manager and his/her designees are authorized to negotiate and complete land acquisition transactions. These parameters will permit the City to deal with sellers in a timely and business-like manner and allow the City Council to focus on policy level issues. These parameters are documented in each target area refinement plan.
3. **Due Diligence-** is the systematic inspection of the legal title and physical condition of real property before purchase. Due diligence assures a level of protection of public investment in open space property.
4. **Early Acquisition Opportunities-** were situations where the City Manager and City Council determined that a specific parcel of land should be purchased or optioned prior to the completion of the refinement process due to its unique attributes and limited market availability.
5. **Stabilization-** consists of initial actions taken after the purchase of property required to stabilize and prevent degradation of the parcel and secure the site to minimize health and safety risks. Stabilization activities can include fencing, gating, signage, removal of trash, demolition of derelict structures, control nuisances (e.g., weeds, erosion) that would increase land banking costs, and hazard removal (e.g., underground storage tanks, asbestos), management needs for land banking.
6. **Land Banking-** is the set of long term management actions taken to maintain a site in a stable condition. Land banking activities can include enforcement of park rules; maintenance of fences, gates and signs; hazard mitigation; natural resource monitoring; nuisance control and contract administration.

**Parks, Open Spaces and Trails (POST) Acquisition Program
Implementation Work Plan**

INTRODUCTION

In April 1999, the City Council adopted a goal to acquire 1-2 acres of parkland each fiscal year. The goal was established in response to presentations by neighborhood associations of their vision statements, Park and Recreation Board goals for 1999-2000 and individual Councilor and Mayoral goals. Funds are to be set aside to purchase about 10 acres (acquisition goal) of neighborhood parks and open spaces in 4 target areas and the need to establish trails providing walking and bicycling routes throughout the City and connecting to the region. Implementation of this program directly supports the policies and goals of the City Council, City Comprehensive Plan, City Functional Plan and City Transportation System Plan.

A preliminary direction for an implementation strategy was generated at the June 9, 1998 Council work session. This draft plan is developed to incorporate the desires of the City Council to develop a speedier acquisition process. This document provides the framework within which implementation activities will proceed.

Based on the initial recommendations of the Council, it has been determined that this plan represents the best approach to maximizing the return on the City's investment in a timely and business-like manner.

The work plan is based on the following findings:

- The amount of land potentially available to meet the needs of each target area and trail project exceeds the dollars available for purchase.
- Efforts complement the 2040 Concept Plan.
- There is a need to prioritize acquisition efforts in each target area to achieve pre-determined objectives (hereafter referred to as "*Refinement*").
- Citizens and other stakeholders should be afforded the opportunity to help determine objectives (and thereby land acquisition priorities) for each target area.
- Acquisitions should protect regional scale open space and natural areas consistent with the Metropolitan Greenspaces Master Plan and the North Clackamas Parks and Recreation District Neighborhood Parks Plan.
- The properties within many of the target areas and trail corridors are subject to intense development pressure and cost inflation. Consequently, there is a need to begin *refinement* and acquisition in all the areas as soon as possible in order to achieve or exceed the acreage goals of the Milwaukie Parks Standards.

- Up to # properties may be acquired by the City in the coming years. Therefore, it is essential that acquisition be done in an efficient and timely manner. To facilitate this process, the City Council should adopt *Acquisition Parameters* that authorize the City Manager to close land transactions without City Council approval when specific conditions are met.
- Unique land acquisition opportunities may present themselves prior to the adoption of the target area *refinement* plans. An *Early Acquisition* Opportunity process is needed to ensure that if properties considered critical to a target area come on the market, the City has the ability to evaluate the situation and move in a timely manner, if appropriate.
- *Land Banking* functions will increase as land is acquired. Additional analysis is required to determine who will perform this function and the appropriate source of revenue.
- The City should provide the appropriate staff to negotiate and process land acquisitions in all the target areas in a cost effective and business-like manner. The City should seek to utilize the assistance of non-profit organizations to complement staff acquisition efforts.

REFINEMENT

Definition:

- "*Refinement*" is the public process whereby the City adopts specific geographical boundaries and objectives for each target area and trail project.

Rationale

A *refinement* process is necessary for each of the 5 target area sites and numerous trail projects because the amount of land available in each target area exceeds the dollars available for purchase, or in the case of trails, the exact alignment of the trail is not known. In addition the process allows public comment and involvement in the prioritization of public monies.

Components:

The refinement process will consist of the following steps:

- Stakeholder interviews: City staff, PARB members and Council met neighborhood associations and boards and commissions, who might have information or interest relating to the target areas or trails.
- Analysis: Stakeholder interviews and base data were reviewed and preliminary objectives formulated. Based on those objectives a refinement area acquisition boundary line will be drawn. This boundary will be reflected on the refinement map which will be non-tax lot specific and will include more acreage than the target area goal. This will help retain the City's negotiating power and will address concerns from property owners within the boundary who do not wish to sell. The draft refinement area map will be reviewed with the Community Development Department to assure consistency with the 2040 Concept Plan and Functional Plan.
- Citizen workshops: The draft refinement map and preliminary objectives will then be presented at a public workshop(s) for citizen comment. The number of workshops will depend on the size, complexity and amount of prior planning each area has received.
- Milwaukie Park and Recreation Board (PARB): The draft refinement plan and the input from the citizen workshops will be presented to the PARB with a staff recommendation. This is a public hearing opportunity. PARB will take testimony and forward a recommendation to City Council.
- Council Review: Council will take testimony and adopt a *refinement* plan for the target area or trail. The *refinement* plan at Council level will include a confidential tax lot specific map identifying priority properties for acquisition. Once the plan has been adopted the acquisition of property from sellers will begin.

ACQUISITION PARAMETERS

Definition:

"*Acquisition Parameters*" are a pre-approved set of criteria or conditions under which the City Manager and his/her designees are authorized to negotiate and complete land acquisition transactions related to the implementation of the POST acquisition program.

Rationale:

The creation of pre-approved *acquisition parameters* will permit the City to deal with sellers in a timely and business-like manner and allow the City Council to focus on policy level issues.

Acquisition Parameters:

The City Council authorizes the City Manager and his/her designees to negotiate and close real estate transactions related to the POST acquisition program provided the following criteria/conditions are met:

- The landowner is a "willing seller" or the parcel is critical to complete park acquisition in one of the target areas or trail projects.
- The property has been identified on the target area "confidential refinement map" as adopted by the City Council.
- It is the intent of the City to pay no more than fair market value for property, it being acknowledged, however, that the Metro area real estate market is dynamic and the process of identifying fair market value is not exact. It is The City's intent that the acquisition process provide as much flexibility as possible to achieve the goals of the POST acquisition plan and to reflect the actual market conditions affecting properties targeted for POST acquisition.
- The property owner has agreed to sell at a price, which is within the approved standards set forth herein. Note: The City will actively solicit donations and bargain sales.
- An appraisal shall be prepared by an independent certified appraiser, which shall state a conclusion of the fair market value of the property or, if appropriate, range of value. The appraiser may consider the investment value, use value, total gross retail value, or other method of valuation for the property, where appropriate, based on the specifics of the particular property. The independent appraiser may be instructed to make any assumptions or valuations that best reflect the specific market conditions affecting the property and the value of the property to the City in particular (e.g., assemblage value).

- Except as set forth below, the independent appraisal shall be a “complete valuation” appraisal. Complete valuation independent appraisals shall be reviewed by City staff or contract appraiser for compliance with USPAP and general appraisal standards. Such review may include a determination of an acceptable range of value for the property, if the City Manager believes that such determination is appropriate and if the review appraiser has sufficient data to form this conclusion from the evidence available. If the staff or contract appraiser determines that the appraisal does not meet USPAP or other general appraisal standards, at the City Manager's discretion, taking into account the property's value and the complexity of the issues, the City Manager may direct the staff or contract appraiser to (a) work with the appraiser to correct the deficiencies, or (b) order a second appraisal to be reviewed in the manner set forth herein, or (c) make the final determination of the range of value for the property.
- The format of the appraisals shall be determined by the City Manager based on the complexity and type of appraisal required, and may be either summary, or fully self-contained, and either narrative or non-narrative, with an emphasis on summary appraisals.
- Complete valuation appraisals shall not be necessary if either:
 - a) the agreed purchase price or the current assessed value by the appropriate taxing jurisdiction is \$100,000 or less; or
 - b) the property is substantially similar to nearby properties in the same target area which have been appraised for the City within the immediately preceding twelve month period; or
 - c) valuation of the property is deemed to be "non-complex" by the City's review appraiser; or
 - d) the property is determined by the Refinement Plan and by the City Manager as being a top priority acquisition where time is of the essence to acquire the property; or
 - e) The City is acquiring the property with the North Clackamas Parks and Recreation District (NCPRD) or other partner, and the NCPRD or other partner provides the appraisal for the property.

In any of these cases, the property's value shall be established through one of the following methods, at the discretion of the City Manager:

- a) an independent appraiser's written opinion of value; or
- b) restricted or residential-type appraisal (this method shall be used only for properties falling under paragraph a) above).

The review of such appraisals shall be an administrative review or a desk review only, confirming that the methodology used in the independent appraisals is appropriate.

If:

- a) the agreed purchase price or the current assessed value by the appropriate taxing jurisdiction is \$100,000 or less; or
- b) the property is substantially similar to nearby properties in the same target area which have been appraised for the City within the immediately preceding twelve month period; or
- c) The City is acquiring the property with a partner, and the partner provides the appraisal for the property;

then the property's value may be established by a summary report completed by the staff or contract appraiser with an opinion of current value.

- The purchase price is within the established budget for the specific target area.
- "Due Diligence" efforts have been completed and no unusual circumstances have been found to exist. (See following section on *Due Diligence*.)
- The City Manager or his/her designees shall notify the City Council promptly following the closing of any real estate transaction.
- The City Manager or his/her designees shall prepare and present to the City Council quarterly updates summarizing acquisition activity in each of the target areas.

Exceptions:

- If the lowest purchase price that can be negotiated for a property is no greater than 10% above the value or \$50,000, whichever is less, as established during the appraisal process outlined above, then the City Manager may authorize acquisition of the property, taking into account the following "public interest" factors:
 - the importance of the site based on the adopted Refinement Plans;
 - the impact to the overall goals and progress of the Refinement Plan that will result if the property is not purchased
 - the purchase price and impact on the budget for that target area, taking into consideration the potential for outside financial partners
 - the likelihood that the market value of the property will rise quickly within the subsequent 12 - 24 month period, rendering the purchase price a reasonable one within a relatively short time frame

- If the lowest purchase price that can be negotiated for a property is greater than 10% above the value as established during the appraisal process outlined above, or in the event that unusual circumstances are found to exist during the *due diligence* process, the transaction shall not be authorized without the specific approval of the City Council. Prior to presenting the transaction to the City Manager, the Assistant City Manager shall refer the transaction to the Open Spaces Acquisition Committee, consisting of the following members: Assistant City Manager – Community Services, Planning Director, Staff or Contract Real Estate Negotiator, legal counsel, a member of the NCPRD's staff; and, if available, a member of the Milwaukie Park and Recreation Board. A quorum shall consist of the Assistant City Manager – Community Services, one member of legal counsel staff, and one member of the NCPRD staff. The Open Spaces Acquisition Committee shall fully review and consider the "public interest" factors set forth above in determining whether to recommend purchase of the property.

The Acquisition Committee's confidential recommendation shall be forwarded to the City Manager. The City Manager shall review the recommendation and determine whether he/she supports or opposes the recommendation. The City Manager shall convey his/her recommendation via resolution to the City Council for review in executive session at its next regularly scheduled meeting. The Council will accept or reject the City Manager's recommendation via resolution.

DUE DILIGENCE

Definition:

"*Due diligence*" is the systematic inspection of the legal title and physical condition of real property before that property is purchased. *Due diligence* should be conducted far enough in advance of closing that resolvable problems can be adequately addressed and that any deal-breaking issues are discovered before too much effort is wasted on a futile transaction.

Rationale:

Due diligence assures protection of public investment in open space.

Components:

The primary areas of *due diligence* are described below. A more detailed list of items examined may be found in the Appendix under "Option Exercise and Closing Checklist:"

- Appraisal: An appraisal of the property must be completed to determine the property's value and provide other useful information about the property, such as allowable uses, existing structures, and potential management issues. The appraisal shall be in the format described in the previous section regarding *Acquisition Parameters* and shall be reviewed in the manner set forth therein.

Examination of Title:

1. The City must satisfy itself that the property is the seller's to sell, that it understands what rights will be conveyed, that all parties necessary for the conveyance are involved, and that any rights that are not a part of the transaction will not defeat the purpose of the acquisition.
2. *Due diligence* requires the review and inspection of the title report and related documents, including the deed to the current owner, recorded easements and other encumbrances, severed interests, water rights, access, taxes, liens, etc.
3. Other documents which need to be inspected include unrecorded leases with existing tenants or farmers, management agreements, records pertaining to personal property, surveys, and agreements the seller may have entered into that may not be of record.

Inspection of the Property:

1. Location of Boundaries- *Due diligence* requires the review of any existing survey of the property. Absent a survey, the City should identify the known or assumed property boundaries, unless such boundary identification would require a new survey and a survey is deemed unnecessary or uneconomical by the City Manager. Additionally, the City must identify that both legal and physical access by the public to the property exist and are usable, unless the City Manager determines that access restrictions are acceptable for that property.

2. Physical Inspection - The City or its contractors and agents must physically inspect the property for environmental assessment purposes and to identify possible hazards, unrecorded easements and trespassers, and to make a preliminary evaluation of the condition of any structures and improvements (roads, fences, utilities), which shall be further evaluated during the stabilization period [see section regarding *Stabilization, supra*].

- Unusual Circumstances The following issues, when discovered during the *due diligence* period, shall be considered "unusual circumstances" requiring specific approval by the City Council prior to acquisition, as set forth in the section regarding *Acquisition Parameters*:
 - (a) hazardous waste concerns;
 - (b) special indemnifications the City is being asked to provide or believes it should require;
 - (c) unusual deed or title restrictions or encumbrances which may affect the City's ability to use the property as open space;
 - (d) the time frame imposed by a Seller is too short to accomplish all *due diligence* requirements;
 - (e) any other unusual circumstances which may arise not covered by the work plan which materially affect the decision whether or not to purchase a property identified on the target area confidential refinement map as determined by legal counsel and the City Manager.

EARLY ACQUISITION OPPORTUNITIES

Definition:

An "*Early Acquisition Opportunity*" is a situation wherein the City Manager and the City Council determine that a specific parcel of land should be purchased or optioned prior to the completion of the *refinement* process due to its unique attributes and limited duration availability.

Rationale:

The sale of real estate is driven by the needs and desires of the owner. In some cases, the sale of desirable parcels may precede the completion of target area *refinement*. *Early Acquisition Opportunities* provide a process for dealing with this potential situation in a timely fashion thereby avoiding lost opportunities.

Early Acquisition Opportunity Process:

The City Manager, and Assistant City Manager – Community Services shall determine when to initiate this process.

- At the direction of the Assistant City Manager – Community Services, staff shall assemble relevant information pertaining to the potential *Early Acquisition Opportunity*. Relevant information shall include:
 1. Parcel location and tax lot information
 2. Parcel size
 3. Owner information
 4. Advertised or requested price
 5. A narrative describing the natural and man-made characteristics of the parcel
 6. A narrative describing the rationale for identifying the parcel for consideration as an *Early Acquisition Opportunity*
- The information noted above shall be forwarded to the acquisition committee which shall review the information and develop a confidential recommendation. Before the acquisition committee may recommend action to purchase the property or acquire an option to purchase the property, they shall find:
 - 1 The parcel is located in a target area or trail area specified in the City of Milwaukie Resolution No. # and in the City of Milwaukie Transportation Plan.
 2. The parcel is in a target area or trail area, which does not have an adopted *refinement* plan.
 3. There is a willing seller.

4. There is a demonstrated need to purchase the parcel or acquire an option to purchase the parcel as soon as possible and in advance of the completion and adoption of the *refinement* plan.
 5. There is a high level of certainty that the parcel will ultimately be included in the final *refinement* plan due to its size, location, unique natural characteristics or other factors which may be found relevant.
- The acquisition committee shall forward its confidential recommendation to the City Manager. The City Manager may authorize staff to initiate negotiations with the land owner.
 - When the City Manager authorizes staff to initiate negotiations with the owner of a potential *Early Acquisition Opportunity* he/she shall confidentially advise members of the Council within five (5) work days.
 - All transactions which are treated as *Early Acquisition Opportunities* shall be subject to the review and approval of the full Council.

STABILIZATION

Definition:

"*Stabilization*" consists of the initial actions exercised after purchase of property required to stabilize and prevent degradation of the property and secure the site to minimize health and safety risks.

Stabilization actions will generally be one-time actions only. (Maintenance of "*stabilized*" properties is addressed in the "*land banking*" section.) Some stabilization measures, however, will continue during the land-banking period, if the initial stabilization assessment for the property purchased indicates that continued actions are necessary to prevent degradation or to avoid increased land-banking costs. Examples of such long-term stabilization measures include, but are not limited to, vegetation of the property or reforestation.

Components:

After closure on acquisition sites, there will be immediate *stabilization* needs as determined by City staff or its agents and contractors. These needs are highly dependent on the property condition, parcel size and location, and existing land uses, both on the subject property and adjoining properties. Examples of these needs include:

- access control such as installation of fencing and gates
- installation of signs
- removal of trash and illegal dump sites
- hazard mitigation needs (i.e., underground tanks removal, asbestos abatement)
- demolition of derelict structures such as houses and utility buildings
- control of nuisances that pose increasing *land banking* costs if not initially addressed (i.e., pest plant control, erosion control)
- outline site *land banking* needs that include property management roles and responsibilities (i.e., recommend rental/lease agreements, establish caretaker role) and an outline of resources monitoring needs.
- reforestation as necessary to comply with the Oregon Forest Practices Act
- obtain liability insurance for structures or improvements

Process:

- *Stabilization* needs will be assessed by the facilities staff or its agents/contractors during a site visit as part of *due diligence* prior to closure on the property purchase.
- An outline of a *stabilization* and *land banking* work plan for each site will be developed and included in the property purchase file.
- A checklist of potential stabilization issues is included in the Appendix, entitled "Stabilization Checklist." This checklist will be reviewed and initialed by the stabilization staff within 30 days after closing.
- *Stabilization* needs identified in the Stabilization Checklist will be addressed by staff as soon as possible after closing, and in no event not later than 60 days after closing, utilizing contractual services or City operations and maintenance staff, whichever is cost effective and timely.
- Upon completion of the items identified in the Stabilization Checklist, the property file will be transferred from the Community Services Department to the Facilities Division for landbanking.
- A list of *land banking* needs will be forwarded to the Facilities Division or other appropriate staff or contractor.

Cost Estimates:

Stabilization costs will vary from site to site, depending on site condition at the time of purchase or provisions of the purchase agreement. All *stabilization* costs will be covered by general funds.

LAND BANKING

Definition:

"*Land Banking*" is the set of long-term management activities which are intended to maintain a given property in a stable condition for an interim period of time. *Land banking* costs are influenced by a variety of factors, which include:

- size of parcels
- geographical distribution of parcels
- surrounding land uses
- traditional or "informal" uses
- type of structure(s) (if any) on sites
- interim public use policy

Components:

Land banking activities which might reasonably be expected for newly acquired lands include:

- enforcement of park related rules and regulations
- maintenance of fencing, gates, and signs
- hazard mitigation
- nuisance abatement
- resource monitoring
- monitoring structures
- contract administration (potential life estates or other interim use arrangements)

Cost Estimates:

In anticipation of the 1992 Metro Greenspaces bond measure referral, Metro's Finance Department surveyed several park providers (Portland Parks, East Bay Regional Park District, Mid-Peninsula Open Space District, Gresham Parks, and King County, WA) and estimated a generic land banking cost of \$35.00 per acre, per year. This amount was acknowledged to be at the extreme low end of the range.

Further analysis has resulted in an adjustment of the 1992 figure and the establishment of an estimated cost range of \$50.00- \$90.00 per acre, per year.

Based on the range noted above and the assumption that a successful acquisition program would result in the acquisition of 10 acres, all of which will be owned by the City, the estimated annual cost of land banking is \$500 - \$900. As all land will not be acquired at once, it is anticipated that *land banking costs* will be phased in as land is acquired.

For financial planning purposes, it is recommended that \$500 per year be the standard figure used as the estimated cost of this function.

Staff believes that *land banking* may be accomplished for less than the figure noted above by making every effort to utilize the following strategies:

- life estates
- lease/rental agreements
- partnerships with volunteers and "friends" groups
- agreements with other park providers
- contracts with private service providers (when shown to be cost effective)

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POST ACQUISITION
STABILIZATION CHECK LIST

TARGET AREA _____

Initiation Date _____

PROPERTY (IES) _____

COMPLETION DATE _____

SUBMITTED BY _____

A. GENERAL INFORMATION

1. Location maps showing parcel boundaries with owner identification on aerial photo background, with topographic lines. Property is ___ acres, described as follows:

In file

2. Former owner and pertinent contact persons (i.e. land managers, tenants).

3. Environmental review (at a minimum, summary of report).

4. Survey information:

5. Zoning:

6. Neighbors: contact information and specific interest relative to City property.

7. Long-term Management objectives, if known.

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B. ACCESS

1. Description of all vehicular and pedestrian access with control measures to be taken (i.e. fencing, barricades, road closure, plant barrier, surveillance, and contacts).
2. Signs: note existing, to be removed, new ones posted.
3. Neighboring landowner contacts; access concerns, agreements.
4. Existing or anticipated easements on property (including right-of-way).

C. STRUCTURES

1. Assessment of all site improvements, including houses, utility buildings
2. If a house is present, inspection report by licensed house inspector.
3. If house repairs needed to improve to acceptable living condition exceed 10% of the house assessed value, demolish and remove, unless:
 - City intends to use the house for management purposes;
 - A local cooperator will assume management (no house improvements to be made by City).
4. Mobile homes not needed for on-site residence; resale, if possible; move to other City property, if needed.

5. Identify derelict structures that pose an unacceptable safety risk, recommended method of removal, estimate volume for recycling/disposal; associated costs.
6. Insurance on structures.

D. Hazardous Materials and Solid Waste

1. General description. Including historical data and any environmental assessment report(s).
2. Hazardous materials: assessment by contractor, removal and disposal.
3. Underground storage tank, if present, removal plan.
4. Trash dumps: description of materials and estimate of volume requiring removal
5. Recyclable material: type and volume
6. Abandoned vehicle(s): condition, registration #
7. On-site septic system condition.

E. Human Health and Safety

1. Hazard Trees

2. Transient Use

3. Other Personal Hazards

F. Soil Stabilization

1. Areas of existing or high potential for soil loss (slides, erosion).

2. Erosion controls:, fabrics, log cribs, fascines, ditching, culverts; drain tile removal.

3. Re-vegetation/reforestation plan.

G. Nuisance Control

1. Identify pest plants and animals.

2. Controls implemented and land banking follow-up

H. Water

1. Water rights

2. Domestic water supply source.

3. Irrigation use

4. Surface water condition/concerns (i.e. non-point source impacts on streams).
5. Groundwater concerns.

I. Develop Cooperative Neighbors and Partners.

1. Identify adjacent landowners and their concerns.
2. Contacts for agencies with which management can be shared where appropriate.
3. Agreements with individuals or agencies for management activities.

J. Outstanding stabilization Activities to Be Completed.

K. Recommendations for Land banking.

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SIGNATURES

DATE

Thom Kaffun, NCPRD or Contractor

Kelly Somers, Facilities Manager

Assistant City Manager – Community Services

Pat DuVal

(keep for file)

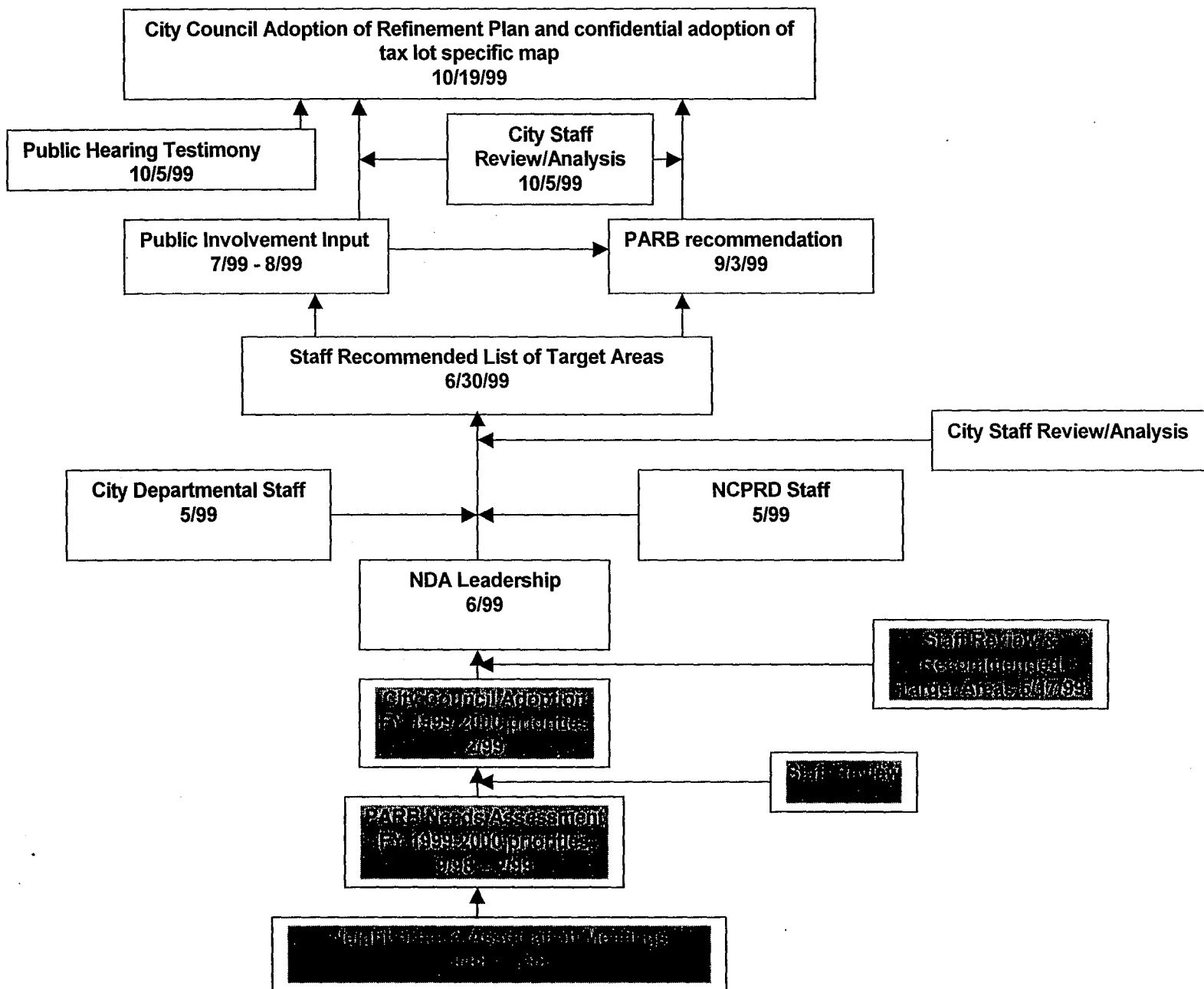
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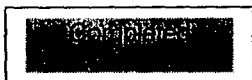
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Refinement Process Work Plan Flow Chart

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Legend



To Be Completed

ID	Task Name	Duration	Start	Finish	4th Quarter				1st Quarter			2nd Quarter			3rd Quarter			4th Q
					Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
1	POST Acquisition Program	9.4 wks	Mon 3/29/99	Tue 6/1/99														
2	Draft Proposed Program	12 days	Mon 3/29/99	Tue 4/13/99														
3	Review by CM & ACM	4 days	Wed 4/14/99	Mon 4/19/99														
4	Review by City Attorney	5 days	Mon 4/26/99	Fri 4/30/99														
5	Memo to Council/PARB	6 days	Mon 5/3/99	Mon 5/10/99														
6	Council/PARB joint worksession	1 day	Mon 5/17/99	Mon 5/17/99														
7	Staff final program	4 days	Tue 5/18/99	Fri 5/21/99														
8	Council adopt program	1 day	Tue 6/1/99	Tue 6/1/99														
9	Refinement Process	58.6 wks	Mon 9/7/98	Tue 10/19/99														
10	Stakeholder Interviews	38.8 wks	Mon 9/7/98	Wed 6/2/99														
11	City Staff	10 days	Mon 5/3/99	Fri 5/14/99														
12	NCPRD Staff	15 days	Mon 5/3/99	Fri 5/21/99														
13	NDA leadership	1 day	Wed 6/2/99	Wed 6/2/99														
14	PARB (FY 99-00 priorities)	21.2 wks	Mon 9/7/98	Mon 2/1/99														
15	meetings w/NDA	53 days	Mon 9/7/98	Wed 11/18/98														
16	draft issues & priorities	12 days	Thu 11/19/98	Fri 12/4/98														
17	draft solutions	21 days	Mon 12/7/98	Mon 1/4/99														
18	presentation to Council	10 days	Tue 1/19/99	Mon 2/1/99														
19	City Council (worksession)	1 day	Mon 5/17/99	Mon 5/17/99														
20	Analysis	4.6 wks	Mon 5/31/99	Wed 6/30/99														
21	refinement area boundary	23 days	Mon 5/31/99	Wed 6/30/99														
22	Citizen workshops	4.2 wks	Tue 7/6/99	Tue 8/3/99														

Project: POST99 Date: Thu 4/22/99	Task		Summary		Rolled Up Progress	
	Split		Rolled Up Task		External Tasks	
	Progress		Rolled Up Split		Project Summary	
	Milestone		Rolled Up Milestone			

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ID	Task Name	Duration	Start	Finish	4th Quarter				1st Quarter			2nd Quarter			3rd Quarter			4th Q
					Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
23	public meetings	21 days	Tue 7/6/99	Tue 8/3/99														
24	PARB	4 wks	Mon 8/9/99	Fri 9/3/99														
25	public hearing	11 days	Mon 8/9/99	Mon 8/23/99														
26	recommendation to Council	10 days	Mon 8/23/99	Fri 9/3/99														
27	Council Review	6.4 wks	Mon 9/6/99	Tue 10/19/99														
28	worksession	2.2 wks	Mon 9/6/99	Mon 9/20/99														
29	public hearing	1.4 wks	Mon 9/27/99	Tue 10/5/99														
30	adopt refinement plan	7 days	Mon 10/11/99	Tue 10/19/99														
31	confidential tax lot map	7 days	Mon 10/11/99	Tue 10/19/99														



Project: POST99 Date: Thu 4/22/99	Task		Summary		Rolled Up Progress	
	Split		Rolled Up Task		External Tasks	
	Progress		Rolled Up Split		Project Summary	
	Milestone		Rolled Up Milestone			