

**MILWAUKIE CITY COUNCIL
REGULAR SESSION
MAY 18, 1999**

The one thousand eight hundred and fifteenth 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

Jan Gehlen,
Finance Director

Gary Firestone,
City Attorney

Jim Brink,
Public Works Director

Martha Bennett,
Assistant City Manager

JoAnn Herrigel,
Program Services Coordinator

Charlene Richards,
Assistant City Manager

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPOTS, AND AWARDS

Safe Night USA -- Proclamation

Sharon Van Horn discussed nationwide Safe Night events sponsored by the Elks Lodge. The goal is to provide youth with safe places where they can have fun and peacefully resolve any conflicts.

Mayor Tomei read a proclamation declaring Saturday, June 5, 1999, as Safe Night USA in the City of Milwaukie.

Bahai Faith Community

Tim Healy, Maggie Reich, and Damien McCunnis spoke on the equality of men and women.

CONSENT AGENDA

It was moved by Councilor Marshall and seconded by Councilor King to move the Intergovernmental Agreement with Oregon Department of Transportation for Rowell Street Improvement Project Grant from "Other Business" to "Consent" and with that addition adopt the consent agenda that consisted of:

- 1. City Council Minutes of May 3 and 4 and April 20, 1999;**
- 2. Acceptance of Stanley Avenue Sidewalk Improvement Project (RD-99-3);
and**
- 3. Intergovernmental Agreement with Oregon Department of
Transportation for Roswell Street Improvement Project Grant.**

The motion to adopt the consent agenda passed unanimously.

AUDIENCE PARTICIPATION

Linda Hatlelid, 8617 SE 36th Avenue, Milwaukie. She understood there was a move to empower the Neighborhood District Associations (NDA) by turning over certain Traffic Safety and Transportation Board (TSTB) responsibilities. While the intent to empower may be good, she did not believe the NDAs would be as effective as the TSTB. She had thirteen letters and/or signatures supporting the Board.

She addressed the Johnson Creek Blvd. Project Phase 3. No one should be allowed to add qualifying statements to change existing TSTB minutes or any other official minutes. After a special neighborhood meeting on April 8, 1999, she found that Public Works Director Brink had told the Ardenwald Elementary School Principal that he had neighborhood approvals for an expanded right-of-way. She stated that no one other than Brink had seen this to be the case.

On May 7, 1999, Hatlelid asked Brink for a list of property owners supporting the proposed 44-foot right-of-way, and he said he would prepare it. In March, she and Richard Cayo contacted 32 out of 43 residents, and 75% indicated they wanted improvements to be done in the existing 40-foot right-of-way. They also obtained 53 adult signatures of Johnson Creek Blvd. residents between 36th and 45th Avenues. Two property owners did not want to sign, and others were not home when the signatures were collected.

The supported 40-foot right-of-way allows for two 11-foot travel lanes; two 5-foot bike lanes, two half-foot curbs, one five-foot sidewalk on the south side, and one 2-foot transitioning on the north side. This can all be accomplished in a 40-foot right-of-way, and the south-side sidewalk would be consistent with other reconstruction in the area. According the City of Portland and Metro representatives, it is unlikely that the north-side sidewalk was ever intended for construction.

Brink has argued that variances are hard to get, but Hatlelid suggested the entire road was a variance when trying to apply both old and new standards. She implored the City Council to assure there would be no sidewalk constructed on the north side of Johnson Creek Blvd. so all reconstruction and property acquisition could be kept within the supported 40-foot right-of-way. Residents should not be forced to accept a more costly, unsafe, and less livable solution.

She felt there was still a discrepancy between whether or not the residents would accept the 40- or the 44-foot right-of-way. She asked if the right-of-way had been discussed at all with the residents contacted by City staff. Brink's May 14, 1999, letter indicated information that did not appear to deal with the 44-foot right-of-way. His subsequent May 17, 1999, letter indicated he had explained the 44-foot right-of-way to those property owners he contacted. Hatlelid was confident the 40-foot right-of-way was heavily endorsed.

Richard Cayo, 42nd Avenue and Johnson Creek Blvd. He addressed Johnson Creek Blvd. improvements. Based on his involvement with Hatlelid and various others, he had spent considerable time talking to and getting signatures from residents. It seemed obvious, that everyone wanted the road improved, and they wanted it done within the existing 40-foot right-of-way. No one wants the road to be any closer to their houses than it is now.

Having attended one of the TSTB meetings last week and listening to Brink's public statement that he would do anything to get \$1.2 million from Metro to improve the road, it made him as a landowner feel very unkindly toward the Public Works Director. The additional four feet on the north side of the street will likely never be used or improved by their own acknowledgment. On the north side of Johnson Creek Blvd. between 32nd and 36th Avenues, neither property owners nor the City care for this four to five feet of property. It appears that someone wants Metro to take and pay for the extra four feet whether or not it is against the wishes of those living there. He strongly urged the City Council advocate for the 40-foot right-of-way.

Cayo went on to discuss Brink's May 14, 1999, letter which did not appear to deal with the 44-foot right-of-way issue. The subsequent May 17, 1999, letter indicated that he had talked about the proposed 44-foot right-of-way with residents. On May 16, 17, and 18, Cayo and Hatlelid contacted 21 of those residents listed in Brink's letter. One supported the 44-foot right-of-way, seventeen wanted to keep improvements within the 40-foot right-of-way, and the balance either abstained or did not wish to comment.

Gene Hatlelid, 4277 SE Johnson Creek Blvd. The residents are getting so much information so quickly, it is hard to digest it and come up with related material. Many years ago when the project was presented, it was presented as simply a minor engineering problem that could be resolved with a minimum amount of effort. Now, however, it seems to have become a big problem, and he felt people

were being misled as more information is added. In conclusion, he stated that the right-of-way was originally 40 feet. It is not a major corridor for east/west traffic between I-205 and the Sellwood Bridge. The TSTB implied in its letter to Metro that residents supported the 40-foot right-of-way. He also stated that the TSTB also seems to listen to the public and should remain in existence.

Susan Stone, 9212 SE 32nd Avenue. She addressed the Johnson Creek Blvd. project and clarified that the TSTB was given a review of the neighborhood's opinion at the March 15, 1999, meeting. When Public Works asked the Board to sign a letter to Metro for funding, Stone made some revisions that indicated the neighborhood was not in favor of the 44-foot right-of-way. She understood there was sufficient width to make the improvements within the existing 40-foot right-of-way. She hoped the project would be moved forward in such a way as to save taxpayer money and to appease those affected property owners. She was in favor of citizen involvement and working toward a solution that would satisfy the neighborhood. The Board had also suggested at its March 15 meeting that the feasibility of a variance be investigated in order to keep within the 40-foot right-of-way.

Stone's other topic of concern was the proposed raised crosswalks on 32nd Avenue. This was a line item in the budget, but raised school crosswalks had never been discussed. The 1995 Ardenwald Pedestrian Task Force recommended the entire street be calmed with speed humps, but that concept was somehow changed to raised crosswalks only in the school zone. This does not address livability. The TSTB is in the process of revising the Neighborhood Traffic Management Program Policy to address livability. Her other issue was that the project was presented to the Ardenwald NDA one week ago. She had no knowledge of this being done and its being fast-tracked as a July or August project. According to the NTMP ranking criteria, 32nd Avenue was not slated to have any improvements until 2002. She felt the process which stipulates the City Engineer will coordinate the projects with the TSTB and affected NDA was being circumvented. She stated the Ardenwald NDA was not in agreement with the proposed raised crosswalks and wanted more discussion.

Council directed staff to respond to all of the concerns expressed in Audience Participation.

Bartlett said the TSTB has been working on revising the NTMP and expects to present its recommendations at the joint work session on May 25.

Stone believed June 30 was the scheduled Council review date.

Mayor Tomei said staff will respond to these questions in public at the next Council meeting under *Special Reports*. The meetings are broadcast live and schedule for replay on City Channel 12.

PUBLIC HEARING**TCI Cable Franchise Renewal -- Ordinance**

Mayor Tomei called the public hearing on the extension of the agreement between the City of Milwaukie and TCI Cablevision of Georgia, Inc. to order at 6:30 p.m.

The purpose of the hearing was to consider authorizing the City Manager to sign an agreement to extend the current non-exclusive franchise agreement. Mayor Tomei reviewed the conduct of the hearing.

Staff Report: **Herrigel** presented the staff report in which the City Council was requested to adopt an ordinance authorizing the City Manager to enter into an agreement with TCI Cablevision of Georgia, Inc. to extend the current non-exclusive franchise agreement. Parties have come to a tentative agreement and with a draft franchise. The extension request would allow for an additional 30 days or until July 7, 1999, and staff intends to schedule a public hearing for the June 15, 1999, City Council meeting.

Correspondence: None.

Audience Testimony: None.

Staff Comments: None.

Questions of Clarification: None.

Mayor Tomei closed the public testimony portion of the hearing at 6:35 p.m.

Discussion among Councilmembers and Decision:

It was moved by Councilor King and seconded by Councilor Kappa to read the ordinance authorizing the City Manager to enter into an agreement between the City of Milwaukie and TCI Cablevision of Georgia, Inc. to extend the current non-exclusive franchise agreement 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 seconded by Councilor Marshall to read the ordinance authorizing the City Manager to enter into an agreement between the City of Milwaukie and TCI Cablevision of Georgia, Inc. to extend the current non-exclusive franchise agreement 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 authorizing the City Manager to enter into an agreement between the City of Milwaukie and TCI Cablevision of Georgia, Inc. to extend the current non-exclusive franchise agreement. Motion passed unanimously.

**ORDINANCE NO. 1859:
AN ORDINANCE AUTHORIZING THE CITY MANAGER TO
ENTER INTO AN AGREEMENT BETWEEN THE CITY OF
MILWAUKIE AND TCI CABLEVISION OF GEORGIA, INC., TO
EXTEND THE CURRENT NON-EXCLUSIVE FRANCHISE
AGREEMENT.**

Supplemental Budget For Fiscal Year 1998 - 1999 -- Resolution

Mayor Tomei called the public hearing to consider a 1998 - 1999 supplemental budget to order at 6:37 p.m.

The purpose of the hearing was to consider a supplemental budget resolution amending the appropriation levels for fiscal year 1998 - 1999. Mayor Tomei reviewed the conduct of the hearing.

Staff Report: Gehlen presented the staff report in which the City Council was requested to adopt a resolution amending appropriation levels for 1998 - 1999. The action reflected a total budget reduction of \$327,167.

Correspondence: None.

Audience Testimony: None.

Staff Comments: None.

Questions of Clarification: None.

Mayor Tomei closed the public testimony portion of the hearing at 6:37 p.m.

Discussion among Councilmembers and Decision:

It was moved by Councilor Marshall and seconded by Councilor Lancaster to adopt the resolution adopting the supplemental budget and amending appropriations for fiscal year 1998 - 1999. Motion passed unanimously.

RESOLUTION NO. 19-1999:**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO ADOPT A SUPPLEMENTAL BUDGET AND AMEND APPROPRIATIONS FOR FISCAL YEAR 1998 - 1999.****Amend Metro Local Share Projects -- Resolution**

Mayor Tomei called the public hearing on the City of Milwaukie's amendments to the Metro Local Share Projects to order at 6:40 p.m.

The purpose of the hearing was to consider public comment on the proposed project list amendments. Mayor Tomei reviewed the conduct of the hearing.

Staff Report: **Richards** presented the staff report in which the City Council was requested to adopt a resolution adopting amendments to the Metro Local Share Projects. The proposed resolution addressed the following: finds the Johnson Creek/Springwater Corridor not feasible; finds the actual cost of the Kellogg Lake property acquisition to be less than estimated; approves transfer of Johnson Creek/Springwater Corridor and remaining Kellogg Lake acquisition funds to the Minthorn North Addition project; and changes the Minthorn North Addition project to an acquisition and capital improvement project.

Richards discussed the proposed riverfront property purchase that had reached impasse with an unwilling seller, and the City declared that project not feasible in November 1997. The City then submitted a list of substitute projects of which the Johnson Creek/Springwater Corridor acquisition project was one. As staff worked on this project, it became apparent that not all property owners were willing sellers. The cost of building demolition and circumstances placing the City in a landlord situation in addition to losing desirable contiguous properties, staff deemed the project as not feasible.

The Minthorn North Addition Acquisition Project has already been assigned \$85,000. If Council agrees that the Johnson Creek/Springwater Corridor project is not feasible, \$130,000 would go to Minthorn in addition to the \$17,569 remaining from the Kellogg Lake acquisition for a total of \$232,569. The Minthorn project partners the City with the Wetland Conservancy to build on the Milwaukie Marketplace development mitigation program and provides for a desirable habitat project contiguous to an existing 5 acre wetland. Minthorn itself is just under one acre.

Correspondence: None.

Audience Testimony: None.

Staff Comments: None.

Questions of Clarification:

Mayor Tomei closed the public testimony portion of the hearing at 6:45 p.m.

Discussion among Councilmembers and Decision:

It was moved by Councilor King and seconded by Councilor Marshall to adopt the resolution finding the Johnson Creek/Springwater Corridor acquisition local share project not feasible and revising the Local Greenspaces and Trail project list. Motion passed unanimously.

RESOLUTION NO. 20-1999:

A RESOLUTION 1) FINDING THE CITY OF MILWAUKIE JOHNSON CREEK/SPRINGWATER CORRIDOR ACQUISITION PROJECT NOT FEASIBLE FOR THE CITY OF MILWAUKIE LOCAL GREENSPACES AND TRAILS PROJECT LIST FUNDED BY METRO'S GREENSPACES BOND MEASURE; 2) FINDING ACTUAL COST FOR THE KELLOGG LAKE ACQUISITION PROJECT LESS THAN THE ESTIMATED COST; 3) APPROVING TRANSFER OF THE JOHNSON CREEK/SPRINGWATER CORRIDOR ACQUISITION PROJECT FUNDS AND THE REMAINING KELLOGG LAKE LAND ACQUISITION PROJECT FUNDS TO THE MINTHORN NORTH ADDITION PROJECT; AND CHANGING THE MINTHORN NORTH ADDITION PROJECT TO AN ACQUISITION AND CAPITAL IMPROVEMENT PROJECT.

OTHER BUSINESS

Intergovernmental Agreement with Oregon Department of Transportation for Roswell Street Improvement Project Grant

Moved to *Consent Agenda*.

INFORMATION

The group discussed upcoming agendas and agreed to prioritize the items. Bartlett suggested considering a revised forecast at the next work session.

Councilor King sensed public frustration with the *Audience Participation* time limit and suggested a 60-minute roundtable discussion during one work session per month.

Mayor Tomei reminded residents of the upcoming Milwaukie Riverfront Stakeholders' meeting on May 26 at Milwaukie Elementary.

Councilor Kappa discussed current Oregon Legislature issues.

Mayor Tomei announced an executive session to discuss personnel and consult with legal counsel pursuant to ORS 192.660.

ADJOURN

Mayor Tomei adjourned the meeting at 6:55 p.m.

Pat DuVal

Pat DuVal, Recorder

**CITY OF MILWAUKIE
CITY COUNCIL AGENDA
MAY 18, 1999**

MILWAUKIE PUBLIC SAFETY BUILDING

Community Meeting Room
3200 SE Harrison

1815th MEETING

REGULAR SESSION - 6:00 p.m.

I. CALL TO ORDER

Pledge of Allegiance

II. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

A. Safe Night USA -- Proclamation

B. Milwaukie Bahai Faith Community Presentation (Tim Healy)

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 May 3 & 4 and April 20, 1999

B. Acceptance of Stanley Avenue Sidewalk Improvement Project (RD-99-3)

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.)*

A. TCI Cable Franchise Renewal -- Ordinance (Herrigel)

B. Supplemental Budget for Fiscal Year 1998 - 1999 -- Resolution (Gehlen)

C. Amend Metro Local Share Projects -- Resolution (Richards)

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.)*

Intergovernmental Agreement with Oregon Department of Transportation for Roswell Street Improvement Project Grant (Shelton)

VII. INFORMATION

A. Board and Commission Minutes

- 1. Citizens Utility Advisory Board, April 14, 1999**
- 2. Park and Recreation Board, April 5, 1999**
- 3. Planning Commission, April 27, 1999**

B. 1998 - 1999 Capital Improvement Project Summary

VIII. ADJOURNMENT

EXECUTIVE SESSION

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

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

PROCLAMATION

WHEREAS, millions of American youth are looking for something to do and the temptations and risks are everywhere; and

WHEREAS, 1 million victims of violent crimes are juveniles and 220,000 youths were arrested for drug abuse last year; and

WHEREAS, Safe Night USA is a national youth violence and substance abuse prevention program proven successful in urban, suburban and rural communities; and

WHEREAS, on June 5, 1999, Milwaukie, Oregon Metro District Elks Lodge will join thousands of other communities in a nationwide Safe Night celebration by providing safe places where youth can have fun and learn to resolve conflict peacefully; and

WHEREAS, Safe Night USA includes a live nationally televised show on PBS and black Entertainment Television (ET) to connect thousands of Safe Night parties across the country;

NOW, THEREFORE, I, Carolyn Tomei, Mayor of the City of Milwaukie, Oregon, do hereby proclaim that Saturday, June 5, 1999 as a day to commemorate Safe Night USA in Milwaukie, Oregon.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of May 1999.

ATTEST:

Pat DuVal,
City Recorder

Carolyn Tomei, Mayor
City of Milwaukie

CITY OF MILWAUKIE
CITY COUNCIL WORK SESSION
MAY 3, 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, and Lancaster.

Staff present: City Manager Bartlett; Assistant City Managers Bennett and Richards.

Information Sharing

Councilor Kappa discussed the Fire Oversight Committee.

Councilor King asked the status of the Washington Street sidewalk situation, and **Bartlett** reported that M. Bennett was working with the property owners.

Councilor King discussed Council rules and setting clear guidelines regarding public input at work sessions.

The group had agreed at its April 4, 1999, work session to discuss Council rules and directed staff to research the background of earlier legislation. **Bartlett** said staff research had been inconclusive because the 1979 - 1980 minutes did not include any significant discussion that would indicate why certain sections of the ordinance were adopted. **Councilor Kappa** said he had contacted the ACLU for an outside opinion rather than going through the City Attorney on an inter-Council conflict. The group agreed to discuss the issue in more depth when all Councilors were present.

Bartlett provided the Council with a draft of the remaining 1999 Council agendas. The group felt it would be important to prioritize agenda items but remain flexible important, unanticipated issues. **Councilor Kappa** suggested giving the advisory boards and commissions more responsibility in the area of societal-wellness.

The group discussed the most recent Riverfront/Downtown Redevelopment Stakeholder meeting, and **Mayor Tomei** indicated she was very impressed with those providing input at that session.

Several people were present to discuss the proposed ordinance that would repeal the Traffic Safety and Transportation Board (TSTB). **Mayor Tomei** said she would accept written comments, and those wishing to speak during the Council's regular session could do so during the Audience Participation portion of

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the agenda. TSTB members **Susan Stone** and **Julie Wisner** said they had hoped for a dialogue before any final decision was made, and Stone said Lancaster had suggested she attend this work session. **Helen Liere**, Alliance for Community Traffic Safety in Oregon (ACTS) Executive Director, was also present and agreed to submit written comments.

Tri-Met Service Proposal

Bob Stacey and **Phil Selinger** of Tri-Met provided the Council with preliminary information on transportation service improvements being developed since the voters rejected the South/North Light Rail in November 1998. Metro has held a series of meetings, or listening posts, to determine what kind of transportation solutions the public will support.

Stacey discussed Federal Transit Authority (FTA) funding that had been designated for light rail and could still be captured if corridor service improvements using bus connections were identified. There are portions of the light rail study that will prove valuable in developing a strategy. The City of Portland and Tri-Met will also provide funding.

Selinger said Tri-Met sees bus rapid transit as a possible solution and has been looking for a way to launch it. The FTA is very interested in demonstrating how bus transit can emulate light rail. After light rail failed, Tri-Met staff brainstormed on possible solutions. Selinger discussed the concept of a bus rapid transit network between downtown Portland and Milwaukie and branching to Oregon City and the Town Center. The final phase would be to connect Oregon City and Gateway via I-205. Milwaukie would be a key hub in this network.

The concept is to move busses as quickly as possible by working with land use and developing preferential traffic options. Stops would be farther apart and integrate with the community just as light rail stations do. In the future, there will likely be an HOV (high occupancy vehicle) treatment on McLoughlin Boulevard, shoulder treatment on Hwy. 224, and signal priority on Harmony Road to the Town Center. The I-205 connection between Oregon City and Gateway would probably have the more traditional HOV lane treatment.

There will also be some very important park-and-ride locations proposed for construction Phase 2 during 2002 and 2003. The Tacoma Street location is still being considered as it was in the South/North plan.

Councilor Kappa was concerned that once drivers got to the Tacoma park-and-ride, they would find it just as easy to continue taking their cars to downtown Portland.

Selinger said there is also a park-and-ride proposed in Gladstone. One issue would be whether these lots would be surface or structure parking. Oregon City has suggested it might be interested in a park-and-ride, and Linwood/Harmony is considered a strategic site. The two transit centers, Milwaukie and Clackamas Town Center, already exist. The third phase in fall 2004 will actually introduce HOV lanes.

Councilor King asked what kind of service was being planned for Sunnyside Road.

Selinger replied Sunnyside is currently on frequent service with four mini routes and extends to the Sunnyside Village Transit Center at about 140th Avenue.

Bartlett added that this concept built upon providing rapid service to Kaiser Permanente. The Town Center management has been clear that it does not want anything that would create a park-and-ride in its lots.

Mayor Tomei noted the draft discussion paper proposed developing an off-street Milwaukie Transit Center in 2002 - 2003.

Selinger stated that Tri-Met was working to integrate bus service into the McLoughlin Boulevard improvement plan.

Stacey commented that the potential for having HOV lanes on McLoughlin Boulevard was limited by the railroad overpass, and he discussed the viaduct problem on the north end of Martin Luther King Jr. Blvd. Tri-Met General Manager Hansen hopes to capture \$9 million for use in this corridor.

Metro Transportation Manager Cotugno is identifying how a regional transportation improvement plan might be programmed so that the Clackamas County portion has some assurances. Tri-Met and Metro are interested in a demonstration project that would show how bus service could act like light rail. The program will include a six to nine month community involvement process.

Councilor Kappa had some concerns with a park-and-ride located at Tacoma Street. He felt it would be important to have a transportation center in downtown Milwaukie with plenty of adjacent parking spaces.

Selinger said drivers downstream or those using Hwy. 224 would likely use the Tacoma park-and-ride, although the Southgate Theater site is another option.

Councilor King was not supportive of a park-and-ride in downtown Milwaukie.

Mayor Tomei was concerned that the Southgate Theater property was part of the redevelopment area.

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Bartlett commented that the Tacoma location was included in the draft Final Environmental Impact Statement (FEIS). The existing overpass and cross movements would work well for a park-and-ride by capturing Johnson Creek Blvd. and Sellwood Bridge traffic.

Stacey said the Tacoma site is being considered based on the light rail study, but there has been no final decision.

Selinger added it was integral to the plan to have future flexibility to convert to another transportation mode. Good connections to the transit areas, such as continuous sidewalks, will prove to be very important.

Bartlett noted the North Clackamas Chamber of Commerce was drafting a letter supporting increased lighting, turn outs, sidewalks, and bike lanes in the McLoughlin Boulevard improvement design. He suggested Tri-Met schedule a briefing with the Chamber Land Use Committee in the near future.

Stacey said Tri-Met would be working with Metro on a comprehensive community process to develop a good design. The system will need to be cost effective and allow for continued service roll out. Metro agreed to be the coordinator but has yet to identify a specific timeframe. He indicated Tri-Met was ready to begin talks about the Milwaukie Transit Center.

Mayor Tomei directed staff, with Council concurrence, to set meeting dates to discuss the Milwaukie Transit Center relocation.

Councilor Kappa asked what would have to be done to get the Hawthorne Bridge considered in the Regional Transportation Plan (RTP) since there is already a rail connection there.

Stacey believed that would have to be an RTP amendment, and he understood the deck of the Hawthorne Bridge was reconstructed to handle street cars.

Bartlett suggested discussing it with Cotugno.

Councilor King asked Stacey to define Tri-Met's role with commuter rail.

Stacey understood that Washington County Commissioner Rogers had been pursuing the Wilsonville to Milwaukie line that would cross the Willamette River at Lake Oswego. Fred Hansen, Tri-Met General Manager, expects Tri-Met to be a partner in commuter rail and its operations.

Councilor King asked if Tri-Met was looking at jitney service.

Stacey said jitney, or local, service is often on a limited daily route and may be publicly or privately owned. Small busses on non-conventional routes may be the solution, but they are not cost-effective. Hansen is committed to developing bus lines in communities that feed into a transit center and then proceed to build regular local service.

Milwaukie Downtown Development Association (MDDA) Agreement

Bartlett said the existing agreement needed to be replaced before July 1, 1999, and he asked that he and the Mayor be authorized to negotiate the renewal.

Milwaukie is using the National Trust for Historic Preservation "Main Street" approach to downtown redevelopment. **Bartlett** discussed the Association's three-legged stool funding sources. These included a business license surcharge, economic improvement district, and a contract with the Association to provide economic stimulus to the downtown area.

He redrafted the existing agreement to be more specific in the areas organization, economic restructuring, promotion, design, and administration. The MDDA acts in an advisory capacity to the City.

Mayor Tomei was concerned that the draft contract was too specific in some areas, such as the requirement to sponsor at least two major community events per year in the downtown area. This kind of activity might not be financially viable for some reason.

Councilor Kappa said there needed to be some performance targets to judge the organization's success.

Bartlett suggested renegotiating the work plan on an annual basis.

Councilor King was comfortable with the basic outline; however, she suggested some leeway for situations, such as recruiting two arts and entertainment related businesses, that are outside the Association's control.

Bartlett suggested the Council ask for documentation of efforts to show that certain contacts were made. He discussed the Enterprise Zone agreement and work plan.

Councilor Lancaster saw the key issue as efforts being expended that produce nothing.

Councilor Kappa felt an economic development organization needed to produce, and it was time to see a return on investment.

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Councilor Lancaster added this was not judgement on past efforts. He saw the City funding as seed money for specific projects.

Mayor Tomei did not disagree with the concept, but she felt too-specific language might set the Association or its director up for failure. She pointed out how much had been invested in efforts to strengthen communication with the community.

Councilor Lancaster felt quarterly reviews would indicate what MDDA business plan elements were or were not working. For example, not getting two niche businesses would not necessarily mean the contract would be terminated, but the City should have the option to terminate the contract for lack of performance.

Councilor Kappa said there needed to be some mechanism for identifying the City's expectations and measuring the Association's success without setting the organization up for failure. The bar should be raised just as it is for the City's appointed advisory boards. He suggested it might not be inappropriate to restructure the MDDA.

Councilor King felt this issue should be addressed during negotiations.

Councilor Lancaster said there were circumstances in which the City expected results, and he felt reasonable, attainable goals should be in the contract. The Council is looking at specific target activities for the MDDA in support of City-wide goals.

The group discussed dispute resolution for issues arising between downtown business owners, and **Mayor Tomei** pointed out that Clackamas County has a mediation program that might be more effective than a process handled by the MDDA.

Councilor Lancaster suggested language that would refer to the MDDA's supporting existing dispute resolution programs.

Councilor Kappa asked if there was any progress with downtown housing.

Bartlett discussed the downtown mixed use zone. The City would expect the MDDA Director and Board to act as ombudsmen for developers and provide them with information on the newly adopted zoning.

Councilor Kappa suggested measuring the MDDA's promotional activities in the area of mixed use development.

Bartlett said he and the Mayor would use recommendations from this work session as a starting point for discussion with the Association. He anticipated a revised draft for Council review that would better incorporate expectations.

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Councilor Lancaster basically liked the draft agreement and noted that the Association had modified its last quarterly report in response to Council's request.

Bartlett added that the City Code establishes the City Council as the Urban Renewal Agency. He discussed the City's ability to package mixed use zoning and the riverfront/downtown and transportation projects. As an assessment district, the economic improvement district can take on other projects such as underground utilities and streetscapes on certain blocks without going to tax increment financing.

The work session ended at 7:20 p.m.

Pat DuVal, Recorder

MILWAUKIE CITY COUNCIL
REGULAR SESSION
MAY 4, 1999

The one thousand eight hundred and fourteenth 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

Jim Coleman,
City Attorney

Martha Bennett,
Assistant City Manager

Charlene Richards,
Assistant City Manager

Brent Collier,
Police Chief

Jim Brink,
Public Works Director

Ali Safayi,
Associate Engineer

Jan Gehlen,
Finance Director

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPOTS, AND AWARDS

Milwaukie Public Safety Recognition Week

Collier announced a brief ceremony on Monday, May 10, 1999. **Mayor Tomei** read a proclamation declaring May 9 - 15, 1999, as "Milwaukie Public Safety Recognition Week."

CONSENT AGENDA

It was moved by Councilor Lancaster and seconded by Councilor Marshall to adopt the consent agenda that consisted of:

- 1. City Council Minutes of April 15, 19, 20 & 21, 1999; and**
- 2. Community Development Block Grant (CDBG) Sidewalk Improvement.**

Mayor Tomei noted a correction to the heading of the April 20, 1999, regular session minutes.

The motion to adopt the consent agenda with the correction noted passed unanimously.

AUDIENCE PARTICIPATION

Ed Zumwalt, 10888 SE 28th Avenue, Milwaukie, Historic Milwaukie Neighborhood District Association (NDA) Co-chair. He read a statement into the record opposing the repeal of the Traffic Safety and Transportation Board (TSTB). TSTB members are dedicated, and he was concerned that the proposal to turn over the TSTB functions to the NDAs would be too great a burden on those few regular attendees. The current citizen base is too small for this type of activity. Disbanding the TSTB and putting more responsibility into the hands of fewer people was neither logical nor democratic.

Darlene Walsh, 3108 SE Kelvin, Milwaukie. She spoke on behalf of the Ardenwald NDA and expressed her concern with the Budget Committee's being responsible for neighborhood grant awards. Her most recent concern was the denial of a grant request for a reading program that she and the Ardenwald Elementary School principal had designed to piggyback on the summer reading program. The NDAs are looking at social programs while the Budget Committee is concerned with dollars. These grants are part of the City's adopted budget and need to be accessible to the NDAs. Neighborhood representatives would have attended the grant committee meeting to provide input, but they were not aware it was an open process.

Walsh addressed the Council regarding the North Clackamas Parks and Recreation District's (NCPRD) budget and the cuts to Milwaukie's summer recreation programs. These cuts would eliminate one of the two summer recreation teams. Recreation and leisure program development was identified as #4 in the Council's February 1999 resolution listing Milwaukie's funding priorities. She was also concerned that Milwaukie was not represented at the last NCPRD meeting. Although she supported property acquisition, it severely limited other programs. A summer recreation team costs about \$9,000, and she hoped the City could budget that amount or enter into some kind of intergovernmental agreement for the service.

Councilor Marshall explained that Measure 50 was impacting decisions made for the District as a whole. There are quite a few programs whose survival will depend on new or increased fees. He felt he had heard what the Park and Recreation Board and the community had to say, and, as the City's NCPRD representative, he did advocate for Milwaukie's programs at the District level.

Mayor Tomei directed staff to look into the issue.

Michelle Roberts, 13709 SE Laurie Avenue, Milwaukie, was disturbed by the dissolution of the Traffic Safety and Transportation Board (TSTB) and understood that neither the TSTB nor the NDAs knew about the proposed change. She understood there were conflicts with the previous Council making it difficult to get anything accomplished. She felt the staff did not support the Board

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and has, in fact, directly impeded its progress. While the TSTB has been working long and hard on traffic calming devices with the City of Portland as its model, nothing has happened. All the funding goes to sidewalk improvements. It is not the City Council or the TSTB that is the problem, it is staff. Council is not getting timely information, and the Public Works Director has rewritten the Neighborhood Traffic Management Plan (NTMP) criteria developed by the Board. Roberts supported both the continuation of the Board and its individual members.

Gene Covey, 4952 SE Mason Lane, TSTB member. He spoke on behalf of the Board and was concerned about the knowledge base that would be lost if the function went to the NDAs. He did not think the new structure would work because of NDA attendance problems. Normally, the Board has a quorum, and citizens who attend have a chance to ask questions and get answers.

Patty Wisner, 3325 SE Wister, Lake Road Neighborhood District Association (NDA) Co-chair. She was not in favor of Council adopting an ordinance that would disband the TSTB and shift the functions to the NDAs. The Lake Road NDA, for example, still has a critical shortage of volunteers. Traffic safety would become a dead issue if the responsibility was put on the backs of the NDA membership. Any progress toward traffic safety measures and protecting livability would effectively be halted. She recommended that Council adopt an ordinance giving the TSTB more power. She believed a lot of the current problems had to do with the City Manager's prejudices and his consistently creating impediments to the Board's work. As a taxpayer and citizen, she was not pleased. She recommended the City Council talk to the TSTB before making any decision and to do some homework. The Board has the ability to do a lot in the areas of traffic safety and livability.

Susan Stone, 9212 SE 32nd Avenue, TSTB Chair. This was the meeting at which she was to have presented Neighborhood Traffic Management Plan (NTMP) to the Council. Staff, however, changed the course of that by claiming there was a lack of a quorum when, in deed, there were enough members present. She said she was speaking to the Council and was once again fighting for the Board's survival just as she had two years earlier. The NTMP policy did not have official TSTB input, and it was not written with the intent of addressing livability issues on streets with high traffic volumes.

Stone continued by saying that it seemed the Council's decision had already been made. She understood the Mayor had contacted a TSTB member to find out if he was interested in being appointed to another advisory board. She asked why the Board was not notified of the pending action. Where was the communication that was promised? Traffic safety issues need focus and should

not be given over to loosely-formed neighborhood groups. Giving the NDAs the impression they will have power was merely a lure, because control is the last thing the City Manager wants citizens to have. She recommended keeping the TSTB nucleus and enhancing it with NDA volunteers. She appealed to the City Council to meet with the TSTB before making its decision.

Julie Wisner, 3325 Wister, TSTB member. She expressed a strong belief in traffic safety commissions and felt the process would be diluted if turned over to the NDAs. She submitted a letter from Helen Liere, Executive Director of the Alliance for Community Traffic Safety in Oregon (ACTS Oregon) supporting the Milwaukie TSTB. The current Board is committed to serving the community and is already educated in traffic safety issues. The TSTB has been instrumental in implementing the banner program, SMART trailer, neighborhood speed watch, School Trip Safety Program, and the Neighborhood Traffic Management Program (NTMP). As a six-year member of the Board, Wisner did not see City staff as being dedicated to traffic calming. The NTMP was written by staff, not by the Board or Milwaukie citizens. As a Board member, she knew nothing of the pending dissolution of the advisory group, and she urged the Council to meet with the TSTB within the next ten days to develop a dialogue. She felt the only available information was misinformation. Milwaukie has the right to have an intact TSTB and a non-bias city staff. She believed the City Manager's bias toward certain Board members and traffic calming was at the heart of the issue. Wisner pointed out that traffic calming devices are only needed on a few Milwaukie streets.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

Brookside Sewage Pump Station Reconstruction Project -- SE-99-3

Safayi, Project Manager, presented the staff report in which the City Council was requested to authorize the City Manager to sign a contract for the Brookside Sewage Pump Station Reconstruction Project with 4 Rivers Construction, LLC, in the amount of \$174,500. Council authorized the project in July 1998, and the pump station design was completed in March 1999.

Councilor Lancaster asked if the site was outside the Johnson Creek Blvd. improvement project, and **Safayi** said the project was a reconstruction on City-owned property outside the right-of-way.

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It was moved by Councilor Kappa and seconded by Councilor Marshall to authorize the City Manager to sign a contract for the Brookside Sewage Pump Station Reconstruction Project with 4 Rivers Construction LLC in the amount of \$174,500. Motion passed unanimously.

Intergovernmental Agreement (IGA) for Coordinating Use of Water Resources from Clackamas River

Brink presented the staff report in which the City Council was requested to authorize the City Manager to sign an intergovernmental agreement for coordinating the use of water resources from the Clackamas River.

The purpose of the agreement was to document the coordinated water release from the PGE-owned hydroelectric facility at Timothy Lake to assure that all parties will have an adequate supply. He discussed the July to October release dates based on needs. Clackamas River Water (CRW) would be the lead agency and coordinate the release with PGE on behalf of all Clackamas water producers. To date, water releases have not been coordinated.

Councilor Lancaster asked if implementation of the IGA would result in any impact.

Brink said, given current demand and availability, it will be business as usual. The purpose of the IGA is to manage the use of this water resource more effectively.

Mayor Tomei asked if CRW instigated the agreement, and **Brink** responded that it was developed mutually by the parties involved.

Councilor Kappa said it appeared to be a sound proposal that would improve watershed management.

It was moved by Councilor King and seconded by Councilor Lancaster to authorize the City Manager to sign an intergovernmental agreement for coordinating the use of water resources from the Clackamas River. Motion passed unanimously.

Repeal of the Traffic Safety and Transportation Board as a Council Appointed Advisory Board -- Ordinance

Bartlett presented the staff report in which the City Council was requested to adopt an ordinance that would repeal Milwaukie Municipal Code Chapter 2.24 and the Traffic Safety and Transportation Board. After several strategic planning

sessions that included appointed advisory boards and neighborhood associations, Council directed staff during its April 15, 1999, work session to prepare an ordinance repealing the TSTB and transferring traffic safety functions to the NDAs.

Coleman recommended that the last sentence of Section 1 -- "*the functions of the Traffic Safety and Transportation Board are delegated the neighborhood associations*" be deleted for clarification.

Mayor Tomei stated that the City Council had discussed this action for some time, and it was not instigated by the City Manager.

Bartlett said it is no longer mandated that cities have traffic safety commissions in order to be eligible for certain programs. He is committed to traffic and has looked at many examples of traffic calming devices during his tenure as City Manager. Relative to other communities, the City of Milwaukie spends more on its School Trip Safety Program and Neighborhood Traffic Management Program. The City also continues to accept applications from neighborhoods for traffic safety improvements.

Councilor Marshall explained that he was one of the people who initiated the proposed restructuring and that it has always been his intent to empower and strengthen the NDAs. He pointed out the Neighborhood Land Use Committee's success in working with staff and Council on flaglot issues. That achievement fostered his thought that the NDAs could also effectively address neighborhood traffic safety concerns. He stated that he would continue to advocate for empowering the NDAs. Although he wished to move forward with the concept, he suggested the City Council meet with the Board to discuss the NTMP and transition of responsibilities.

The group agreed there should be a dialogue with the Board to reach consensus.

Councilor King recommended tabling the decision pending a work session with the Traffic Safety and Transportation Board (TSTB).

Councilor Marshall stated his intention to move forward with the proposal. In fairness to all parties, he agreed there should be a dialogue with the Board in order to make a good transition.

Staff was directed to schedule a work session.

Transportation and Growth Management (TGM) 1999 - 2001 Grant Applications

Bennett presented the staff report in which the City Council was requested to authorize staff to apply for two TGM grants. The State's Transportation and

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Growth Management (TGM) Program provides grants to transportation and land use planning projects that support more efficient use of the transportation system. Milwaukie intends to apply for two grants: one to implement the Transportation System Plan through the development code; and the second to address an area-specific plan for McLoughlin Blvd. from Harrison Street to the railroad overpass. She discussed the proposed boulevard treatment to McLoughlin and scheduling the project to complement the riverfront/downtown plan.

Councilor Kappa asked if the grant would help deal with right-of-way issues.

Bennett responded that it would have to do more with traffic volume, projected speeds, and land use. The work would be technical and relate to zoning and setback issues.

Councilor King asked how the City would match the grant funds for the TSP work, and **Bennett** said the 10% match would be \$5,000 in staff time.

Councilor Marshall said this seemed to be primarily code work.

Bennett said that was correct. The grant relating to McLoughlin Boulevard would also include some design elements.

Councilor Marshall was concerned that the applicable criteria would be ODOT's rather than Milwaukie's.

Bennett said, in order to be successful, Milwaukie will have to skillfully describe the project it wants, and the two projects would be in-sync with what the City hopes to develop. Staff will push to get the consultant it wants rather than having the state select one.

Councilor Kappa expressed his concern that right-of-way not be taken from the west side of McLoughlin Boulevard. He urged having a dialogue with neighboring CPOs about McLoughlin Boulevard improvements and Milwaukie's riverfront/downtown plan. The City will need partners to be successful.

It was moved by Councilor Marshall and seconded by Councilor King to authorize staff to apply for two TGM grants. Motion passed unanimously.

Board and Commissions Appointments

Mayor Tomei made the following advisory board appointments with the consent of Council: Pat Healy and Anna O'Guinn to the Library Board; Charles Bird to the Citizens Utility Advisory Board; and Doug Ouder Kirk to the Planning Commission.

COPS "School Based Partnerships" Federal Grant Application

Collier presented the staff report in which the City Council was requested to approve an application for COPS "School Based Partnerships" Federal Grant in the amount of \$149,658. The grant would assist in collaboratively addressing Milwaukie High School conflict resolution issues with students, faculty, and staff; Milwaukie Police Department; and Milwaukie Together! There is no local match required.

It was moved by Councilor Kappa and seconded by Councilor Lancaster to approve an application for COPS "School Based Partnerships" Federal Grant in the amount of \$149,658. Motion passed unanimously.

Council Rules

Councilor Kappa recommended seeking a third party opinion on the current Council rules. He had already contacted the ACLU, but the organization has not responded.

Mayor Tomei wanted to drop the entire issue.

Bartlett said staff research had proven inconclusive. The minutes from the 1980's did not contain discussion beyond one councilor's requesting a minor modification before the ordinance was read and adopted. There was absolutely no discussion of how that section of the ordinance was worded or why it was adopted. Related correspondence seems to indicate that the City Attorney took the standard form council rules from either the League of Oregon Cities or the now defunct Bureau of Governmental Research.

Mayor Tomei was not in favor of expending funds on legal research of this issue, but she did agree that Kappa should follow up with the ACLU.

Councilor Marshall felt the current language was ambiguous, and it was important to understand what each Councilor swore to uphold when he/she took the Oath of Office.

Councilor Kappa did not believe it was in the Council's best interest to let the issue go.

Councilor Lancaster was in favor of looking at alternatives and felt this could be a very important decision with possible ramifications.

Councilor King agreed it should be clarified, but she did not want to spend a lot of money.

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Coleman said the issue seems to go beyond what the words say and has more to do with conduct. The Council rules are part of the Municipal Code, and, if the Council wishes, it may adopt an amending ordinance.

Councilor Kappa was concerned with inhibiting the political process.

The group agreed to postpone further action until Kappa got feedback from the ACLU. If there was no response by June, the Council agreed it would look for an alternate way to address the question.

Regional Water Providers Consortium Subcommittee

Councilor Kappa asked for Council input prior to the May 5, 1999, meeting, and the other Councilors agreed to review the material and provide comments.

INFORMATION

1. **Mayor Tomei** was invited to attend a Hillside Manor monthly meeting, and she was very impressed by how supportive attendees were of each other. This was the kind of spirit she hoped to see in the NDAs.
2. **Councilor Marshall** also saw community spirit during a recent Lewelling NDA cleanup near the elementary school. This is the kind of activity that should be supported by grant funds. If people feel the work is worthwhile, they will volunteer.
3. **Councilor Kappa** urged expansion of the involvement process into the unincorporated areas. He felt there was an opportunity to develop new partnerships based on common interests.

Mayor Tomei announced an executive session pursuant to ORS 192.660 to discuss potential litigation, property acquisition, labor relations, and potentially employee performance.

ADJOURN

It was moved by **Councilor King** and seconded by **Councilor Marshall** to adjourn the meeting. Motion passed unanimously.

Mayor Tomei adjourned the meeting at 8:30 p.m.

Pat DuVal, Recorder

**CITY OF MILWAUKIE
EXECUTIVE SESSION
APRIL 20, 1999**

The City Council met in executive session at 8:50 p.m. in the Public Safety Building Community Meeting pursuant to ORS 192.660 to consider pending litigation.

Present: Mayor Tomei and Councilors Kappa, King, Lancaster, and Marshall; City Prosecutors Blake and Duckler; City Manager Bartlett; City Attorney Ramis; and Assistant City Manager Bennett.

Blake and Duckler updated the Council on the status of a municipal court code enforcement case. They provided a timeline of events that would take place moving toward foreclosure. The City Council asked several questions about the events taking place for informational purposes only.

The executive session ended at approximately 9:30 p.m.

Pat DuVal, Recorder



TO: Mayor and City Council

FROM: Robert Shelton, Associate Engineer

THROUGH: Dan Bartlett, City Manager
Martha Bennett, Assistant City Manager - Community Development
Jim Brink, Public Works Director

RE: Stanley Avenue Sidewalk Improvement Project (RD-99-3)
City Acceptance

DATE: May 6, 1999

A handwritten signature in dark ink, appearing to read "MAB", is written over the name "Martha Bennett" in the "THROUGH:" section of the memo.

ACTION REQUESTED

For Council to accept the Stanley Avenue Sidewalk Improvement Project.

BACKGROUND

The Stanley Avenue Sidewalk Improvement Project included \$117,827 in improvements. The improvements included curb, sidewalk and storm drainage structures on Stanley Avenue between Harlow Street and Harlene Street. The City of Milwaukie issued the notice to proceed on December 7, 1998.

The project was completed in April 1999. The last remaining punch list items were completed on April 29, 1999. Retainage in the amount of \$5907 is being held pending final approval of the project by the Milwaukie City Council. At the time of acceptance, the contractor will be informed that the one-year warranty period has begun.



******MEMORANDUM******

May 17, 1999

To: Mayor and City Council

From: Barb Kwapich

Re: Changes to City Council Packets for May 18, 1999

Item listed below was submitted to you minus the ordinance. Please replace with corrected copy.

Item V. A TCI Cable Franchise Extension



To: Mayor and City Council
Through: Charlene Richards, Assistant City Manager *[Signature]*
Dan Bartlett, City Manager *[Signature]*
From: JoAnn Herrigel, Program Services Coordinator *[Signature]*
Subject: TCI Cable Franchise Extension
Date: May 6, 1999

Action Requested/Recommended

Approve an ordinance authorizing the City Manager to enter into an agreement between the City of Milwaukie and TCI Cablevision of Georgia, Inc to extend the current non-exclusive franchise agreement.

Background

The current franchise with TCI (as extended by Council on several occasions) expires June 2. As of May 3, staff has reached a tentative agreement with TCI and is ready to finalize the franchise. However, in order to present Council with a document that has been adequately reviewed by City staff and TCI representatives, TCI has requested an extension of another 30 days. Staff believes that this amount of time will allow us to make all necessary revisions, finalize the document and present a document to Council by the end of June.

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF MILWAUKIE AND TCI CABLEVISION OF GEORGIA, INC. TO EXTEND THE CURRENT NON-EXCLUSIVE FRANCHISE AGREEMENT.

WHEREAS, on May 3, 1983, the City Council adopted Ordinance No. 1540 authorizing the grant of a non-exclusive franchise to Jones Intercable, predecessor in interest to TCI Cablevision of Georgia, Inc. which is the current Franchisee; and

WHEREAS, that franchise agreement has been extended, and will expire on June 2, 1999; and

WHEREAS, the City and TCI Cablevision of Georgia, Inc. have been conducting negotiations as provided by Federal law concerning renewal of non-exclusive cable television franchise agreements according to an informal process, while reserving the right to pursue a formal process provided for by federal law; and

WHEREAS, the City and TCI Cablevision of Georgia, Inc., will require additional time to conclude these negotiations, and therefore provision must be made for an extension of the agreement for a reasonable period to allow the completion of the negotiation process and the approval by City Council of a new agreement; now, therefore;

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. That the City Manager is hereby authorized, on behalf of the City of Milwaukie, to execute and otherwise enter into an extension of the non-exclusive franchise agreement with TCI Cablevision of Georgia, Inc. The extension shall be controlled by the terms and conditions of Ordinance No. 1540, except that the additional extension shall expire and be of no legal effect as of July 7, 1999 or on such date as the City may grant a new non-exclusive franchise to TCI Cablevision of Georgia, Inc., whichever occurs first.

READ for the first time at the regular meeting of the City Council, City of Milwaukie, Oregon, on the ___th day of _____, 1999.

READ for the second time and passed by the City Council, City of Milwaukie, Oregon at the regular meeting on the ___th day of _____, 1999.

Signed by the Mayor on _____.

Mayor

ATTEST:

Approved As to Form:

City Recorder

Berry & Elsner, LLP.

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Legal Counsel for Telecommunications



MEMORANDUM

TO: City Council and Budget Committee

FROM: Dan R. Bartlett, City Manager/Budget Officer *DB*

DATE: May 18, 1999

RE: SUPPLEMENTAL BUDGET for FY 1998-99

Action Requested:

Consider the attached Supplemental Budget Resolution amending appropriation levels for FY 1999-00.

Background Information:

The Fiscal Year 1998-99 Budget was adopted by City Council on June 16, 1998 in the amount of \$37,566,768. On October 20, 1998 a resolution was passed recognizing \$10,100 as revenue in the Public Safety Services Fund above that originally budgeted. On April 6, 1999 two resolutions were passed recognizing \$5,000 as revenue in Public Safety Services Fund above that budgeted. All three resolutions also appropriated the respective amounts within the Public Safety Services Fund for personnel services.

The attached Resolution presents all appropriation categories showing amendments where recommended. Following, the Resolution is a table titled "FY 1998-99 SUPPLEMENTAL BUDGET: BUDGET ADJUSTMENTS" which presents the actual budget line items where adjustments will be made if the recommended Resolution is approved. The column titled "DESCRIPTION" in this table states the purpose or reason for the adjustment.

With changes to Oregon Local Budget Law, the City Council must hold a special hearing to adopt the supplemental budget. If, ten interested taxpayers request in writing that the Budget Committee hear this supplemental budget, then Council would allow the Budget Committee Chair and members conduct the hearing. After the hearing, then Council would adopt and appropriate this supplemental budget.

MILWAUKIE, CLACKAMAS COUNTY, OREGON

RESOLUTION NO. -1999

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON TO ADOPT A SUPPLEMENTAL BUDGET AND AMEND APPROPRIATIONS FOR FISCAL YEAR 1998-99,

WHEREAS, in accordance with ORS 294.305 to 294.565 by Resolution 15-1998, the budget of the City of Milwaukie for fiscal year 1998-99 was adopted, and budgeted funds appropriated; and

WHEREAS, unforeseen events and new revenue and expenditure projections require adjustments to the adopted budget, and

WHEREAS, The City of Milwaukie finds that requirements are greater than some existing appropriation amounts and less than others.

NOW, THEREFORE, BE IT RESOLVED by the City Council of The City of Milwaukie, Clackamas County, Oregon that

• **section 1.** On May 18, 1999 the budget of the City of Milwaukie is hereby amended for fiscal year 1998-99 to reflect a total sum of \$ 37,254,701.

• **section 2.** For the 1998-99 fiscal year, the amounts shown below are hereby appropriated for the purposes indicated within the funds listed:

<u>FUND</u>	<u>APPROPRIATION CATEGORY</u>	<u>CURRENT</u> <u>APPROPRIATION</u>	<u>ADJUSTMENT</u>	<u>REVISED</u> <u>APPROPRIATION</u>
GENERAL FUND				
	Administration/Community Service	516,069		516,069
	Police Services	3,675,069		3,675,069
	Fire Services	3,116,348		3,116,348
	Community Development	564,934	20,000	584,934
	Finance	242,591	9,238	251,829
	Transfers	1,959,497	385,000	2,344,497
	Contingency	620,596	(417,532)	203,064
	TOTAL GENERAL FUND	\$10,695,104	(\$3,294)	\$10,691,810
STRUCTURAL SAFETY				
	Public Works	\$322,217	\$12,400	\$334,617
CODE ENFORCEMENT ABATEMENT FUND				
	Administration/Community Service	13,470	10,000	23,470
	Contingency	54,306	(7,922)	46,384

TOTAL CODE ENFORCEMENT ABATE	\$67,776	\$2,078	\$69,854
STATE GAS TAX/STREET REPAIR FND			
Public Works	1,408,456	90,572	1,499,028
Transfers	16,875		16,875
Contingency	123,402	(41,462)	81,940
TOTAL STATE GAS TAX FUND	\$1,548,733	\$49,110	\$1,597,843
BIKE PATH FUND			
Public Works	3,165	37,000	40,165
Contingency	73,452	(6,581)	66,871
TOTAL BIKE PATH FUND	\$76,617	\$30,419	\$107,036
STORM SEWER SDC FUND			
Public Works	2,968		2,968
Transfers	55,000		55,000
Contingency	110,922		110,922
TOTAL STORM SEWER SDC FND	\$168,890	\$0	\$168,890
WATER SDC FUND			
Public Works	5,222		5,222
Contingency	403,503		403,503
TOTAL WATER SDC FND	\$408,725	\$0	\$408,725
SEWER SDC FUND			
Public Works	12,302		12,302
Transfers	215,000		215,000
Contingency	733,558		733,558
TOTAL SEWER SDC FUND	\$960,860	\$0	\$960,860
PARKS & REC DISTRICT FUND			
Administration/Community Service	1,682,275	(\$462,496)	\$1,219,779
LIBRARY SERVICES FUND			
Administration/Community Service	\$1,351,859	\$21,000	\$1,372,859

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PUBLIC SAFETY FUND

Police Services	\$276,312	(\$20,522)	\$255,790
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WATER FUND

Public Works	1,959,522		1,959,522
Debt Service	133,080		133,080
Transfer	500,000		500,000
Contingency	2,115,406	(550,439)	1,564,967
TOTAL WATER FUND	\$4,708,008	(\$550,439)	\$4,157,569

SEWER FUND

Public Works	2,430,738		2,430,738
Contingency	305,793	18,081	323,874
TOTAL SEWER FUND	\$2,736,531	\$18,081	\$2,754,612

STORM SEWER FUND

Public Works	961,796	90,000	1,051,796
Transfer	16,875		16,875
Contingency	54,574	56,583	111,157
TOTAL STORM SEWER FUND	\$1,033,245	\$146,583	\$1,179,828

9-1-1 DISPATCH SERVICES FUND

Police Services	3,069,643		3,069,643
Contingency	100,000		100,000
TOTAL 9-1-1 SERVICES FUND	\$3,169,643	\$0	\$3,169,643

RESERVE FOR FUTURE WATER CAPITAL PROJECTS

Reserve for Future Capital Projects	\$500,000		\$500,000
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RESERVE FOR FUTURE FLEET PURCHASES

Reserve for Future Capital Projects	\$528,574		\$528,574
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PUBLIC SAFETY FACILITY DEBT SERVICE FUND

Debt Service	425,880		425,880
Reserves for Debt Service	757,784		757,784
TOTAL PUBLIC SFTY FAC DEBT SRV	\$1,183,664	\$0	\$1,183,664

FACILITY ACQUISITION FUND

Administration/Community Services	\$485,873		\$485,873
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CAPITAL PROJECTS FUND

Public Works	\$0	\$1,815	\$1,815
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FLEET SERVICES

Public Works	856,418	70,443	926,861
Transfers	253,000		253,000
Contingency	41,981		41,981
TOTAL FLEET SERVICES FUND	\$1,151,399	\$70,443	\$1,221,842

FACILITIES MANAGEMENT

Public Works	815,119	455,620	1,270,739
Contingency	179,710	(148,129)	31,581
TOTAL FACILITIES MANAGEMENT	\$994,829	\$307,491	\$1,302,320

ADMINISTRATIVE SERVICES

Legislative	40,750	8,000	48,750
Administration/Community Service	2,141,851	42,164	2,184,015
Public Works	506,439		506,439
Finance	776,937		776,937
TOTAL ADMIN SERVICES FUND	\$3,465,977	\$50,164	\$3,516,141

KNUTSON CEMETARY TRUST

Finance	3,025		3,025
Contingency	45,001		45,001
TOTAL KNUTSON CEMETARY TRUST	\$48,026	\$0	\$48,026

FORFEITURE TRUST

Finance	6,460		6,460
Transfers	10,271		10,271

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TOTAL FORFEITURE TRUST	\$16,731	\$0	\$16,731
GRAND TOTALS	\$37,581,868	(\$327,167)	\$37,254,701

Introduced and adopted by the City Council of the City of Milwaukie, Oregon on May 18, 1999.

Carolyn Tomei, Mayor

ATTEST:

APPROVED AS TO FORM

Pat DuVal, City Recorder

RAMIS, CREW, CORRIGAN & BACHRACH

City Attorney

FY 1998-99 SUPPLEMENTAL BUDGET: BUDGET ADJUSTMENTS

<u>ACCOUNT CODE</u>	<u>AMOUNT</u>	<u>DESCRIPTION</u>
General Fund		
11-000-4001-0000	<48,294>	Reduce Fund Balance to actual 06/30/98 audited figures.
11-000-4129-0050	40,000	Recognize Tri-Met Reimbursement for Police Officer
11-000-4129-0000	5,000	Recognize Metro Planning Grant
	<3,294>	Total reduction of revenue
11-511-6020-0000	20,000	Increase Contractual Services
11-999-6020-4220	9,238	Increase MDDA Contract Services for increase of tax remittance.
11-999-8172-0000	100,000	Recognize transfer to Facilities fund for the Safeway Lease & Maintenance, it was erroneously not previously budgeted.
11-999-8139-0000	285,000	Increase 911-Dispatch Transfers
11-999-9510-0000	<417,532>	Reduce contingency to reflect the transfer to the Facilities Fund, the reduction of Fund Balance and 911 transfer
	<3,294>	Total reduction of expenditures
Structural Safety		
20-000-4220-0000	1,200	Increase building permit revenue to reflect fee increase as of 3/5/99.
20-000-4222-0000	5,000	Increase plan check revenue to reflect fee increase as of 3/5/99.
20-000-4227-0000	6,200	Increase plumbing inspection revenue to reflect fee increase as of 3/5/99.
	12,400	Total increase in revenue
20-613-5110-0000	12,400	Increase salary expense
	12,400	Total increase in expenditures
Code Enforcement Abatement		
21-000-4001-0000	2,078	Increase Fund Balance to actual 06/30/98 audited figures.
	2,078	Total increase in revenue
21-000-6280-0000	10,000	Increase expenditures to cover unanticipated abatement costs.

21-000-9510-0000	<7,922>	Reduce contingency to cover unanticipated abatement costs
	2,078	Total increase in expenditures
Street Fund		
22-000-4001-0000	33,234	Increase fund balance to reflect audited 6/30/98 figures.
22-000-4250-0000	15,876	Misc. fees & charges have been collected at a higher rate than anticipated.
	49,110	Total increase in revenues
22-000-7140-0000	35,572	Increase equipment costs to cover expenditures that were unanticipated.
22-000-7522-0000	55,000	Increase Capital Projects to finish two sidewalk projects started in FY98.
22-000-9510-0000	<41,462>	Reduce contingency to cover the above costs.
	49,110	Total increase in expenditures
Bike Path Fund		
23-000-4001-0000	30,419	Increase working capital to reflect audited 6/30/98 figures.
	30,419	Total increase in revenues
23-000-7510-0000	37,000	Increase Capital Projects to finish two pedestrian improvement projects.
23-000-9510-0000	<6,581>	Reduce contingency to help fund the above projects.
	30,419	Total increase in expenditures
Parks & Rec Fund		
27-000-4001-0000	<302,496>	Reduce fund balance to reflected audited 6/30/98 figures.
27-000-4129-0000	<160,000>	Reduce Metro Grants that will not be received this year.
	<462,496>	Total reduction in revenues
27-123-7511-0000	<712,496>	Reduce budget for property not being purchased in thus fiscal year.
27-553-7511-0000	250,000	Redistribute projects for Metro Greenspace Grand charges approved by Metro.
	<462,496>	Total reduction of expenditures
Library Fund		
28-000-4120-0000	21,000	Increase revenue for unanticipated state grant
	21,000	Total increase in revenue
28-233-7170-0000	21,000	Increase in Computer Hardware

	21,000	Total increase in expenditures
Public Safety Services Fund		
29-000-4001-0000	10,817	Increase fund balance to reflect audited 6/30/99 figures.
29-000-4115-0000	18,000	Increase CopsFAST grant to reflect the amount being reimbursed
29-000-4116-0000	28,500	Increase CopsMORE grant to reflect the amount being reimbursed
29-000-4117-0000	<70,000>	Reduce Problem Solving Partnership grant to reflect amount being reimbursed
29-000-4250-0000	<6,839>	Reduce misc. fees & charges to reflect actual
29-000-4510-0000	<1,000>	Reduce interest income to reflect actual
	<20,522>	Total reduction of revenue
29-312-5210-0855	28,000	Increase Overtime-CopsMORE
29-312-6020-0000	<50,522>	Reduce contractual services that won't be used this year.
29-313-5110-0000	<20,000>	Reduce Personnel costs that won't be used this year.
29-313-6020-0000	12,000	Increase contractual services for problem solving grant
29-313-6200-0000	850	Increase problem solving grant supplies
29-313-6260-0000	2,000	Increase travel, food, & lodging for problem solving grant
29-313-6270-0000	7,150	Increase education & training for problem solving grant
	<20,522>	Total reduction of expenditures
Water Fund		
31-000-4002-0000	<550,439>	Reduction of working capital to reflect audited 6/30/98 figures
	<550,439>	Total reduction of revenue
31-000-9510-0000	<550,439>	Reduce contingency to offset reduction of working capital
	<550,439>	Total reduction of expenses
Sewer Fund		
32-000-4002-0000	18,081	Increase working capital to reflect audited 6/30/98 figures
	18,081	Total increase in revenues
32-000-9510-0000	18,081	Increase in contingency to offset increase in working capital
	18,081	Total increase in expenses

Storm Fund

33-000-4002-0000	114,583	Increase in working capital to reflect audited 6/30/98 figures.
33-000-4620-0000	32,000	Increase in Recovered Expenditures for unanticipated revenue
	146,583	Total increase in revenues
33-000-7533-0000	90,000	Increase in capital projects for unanticipated costs
33-000-9510-0000	56,583	Increase in contingency to offset increase in revenues
	146,583	Total increase in expenses

911 Dispatch Services

39-000-4260-0000	<285,000>	Reduce Intragovernmental Charges
39-000-4911-0000	285,000	Increase Transfers from the General Fund
	0	Total Change in Revenue

Capital Projects Fund

64-000-4001-0000	1,815	Increase fund balance to audited 6/30/98/figures.
	1,815	Total increase in revenues
64-000-7510-2018	1,815	Increase in miscellaneous costs for improvements to the Public Safety Building.
	1,815	Total increase in expenditures

Fleet Services Fund

71-000-4002-0000	<156,557>	Reduce working capital to reflect audited 6/30/98 figures.
71-000-4269-0000	227,000	Increase Clackamas Fire fleet charges to reflect actual
	70,443	Total increase in revenue
71-000-7510-0001	25,000	Increase in capital projects for fire pump test tank
71-000-7510-0002	45,443	Increase in capital projects for shop modifications for fire fleet
	70,443	Total increase in expenses

Facilities Fund

72-000-4002-0000	<30,129>	Reduce working capital to reflect audited 6/30/98 figures.
72-000-4640-0000	337,620	Increase loan proceeds to recognize state loan.
	307,491	Total increase in revenue

72-621-7510-0004	12,000	Increase capital projects for repairs to City Hall brick siding
72-621-7510-0002	70,000	Increase capital projects for City Hall roof installation
72-621-7510-0003	27,000	Increase capital projects for repairs to Safeway youth center
72-621-7510-0400	9,000	Increase capital projects for the JCB remodel Phase I
72-621-7510-0001	337,620	Increase capital projects to bring in to the budget the City Hall HVAC project
72-621-9510-0000	<148,129>	Reduce contingency to cover the above expenses

307,491 Total increase in expenses

Administrative Services
Fund

75-000-4261-0000	50,164	Increase General Admin Charges collected from general fund to cover court personnel
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50,164 Total increase in revenue

75-111-6020-0000	5,000	Increase contractual services for City Council to reflect actual
75-111-6211-0000	5,000	Increase photocopier charges for City Council to reflect actual cost
75-111-6270-0000	3,000	Increase education & training for City Council to reflect actual
75-712-6020-0000	<5,000>	Reduce contractual service in General Government to reflect actual
75-712-6210-0000	<7,000>	Reduce office supplies in General Government to reflect actual
75-712-6250-0000	<8,000>	Reduce dues and subscriptions in General Government to reflect actual
75-812-5510-0000	31,212	Increase RIM personnel costs to reflect court personnel
75-812-5210-0000	1,000	Increase RIM personnel costs to reflect court personnel
75-812-5510-0000	2,464	Increase RIM personnel costs to reflect court personnel
75-812-5520-0000	129	Increase RIM personnel costs to reflect court personnel
75-812-5525-0000	199	Increase RIM personnel costs to reflect court personnel
75-812-5530-0000	102	Increase RIM personnel costs to reflect court personnel
75-812-5605-0000	1,933	Increase RIM personnel costs to reflect court personnel
75-812-5610-0000	2,551	Increase RIM personnel costs to reflect court personnel
75-812-5620-0000	500	Increase RIM personnel costs to reflect court personnel
75-812-5650-0000	48	Increase RIM personnel costs to reflect court personnel
75-812-5670-0000	119	Increase RIM personnel costs to reflect court personnel

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75-812-5680-0000	3,340	Increase RIM personnel costs to reflect court personnel
75-812-5680-0000	372	Increase RIM personnel costs to reflect court personnel
75-812-6210-0000	6,635	Increase RIM office supplies to reflect court supplies
75-812-6260-0000	1,030	Increase RIM travel, food & lodging to reflect court personnel
75-812-6270-0000	530	Increase RIM education & training costs to reflect court personnel
75-851-6210-0000	5,000	Increase in photocopier expense to reflect actual
<hr/>		
	50,164	Total increase in expenses

NOTICE OF SUPPLEMENTAL BUDGET HEARING

A public hearing on a proposed supplemental budget for the City of Milwaukie, Clackamas County, State of Oregon, for the fiscal year July 1, 1998 through June 30, 1999 will be held at the Milwaukie Public Safety Building, 3200 SE Harrison, Milwaukie, Oregon. The hearing will take place on the 18th day of May 1999 at 6:00 p.m.

The purpose of the hearing is to discuss the supplemental budget with interested persons.

A copy of the supplemental budget document may be inspected or obtained on or after April 30, 1999 at Milwaukie City Hall, 10722 SE Main Street, Milwaukie, Oregon between the hours of 8:00 a.m. and 5:00 p.m. (503/786-7521)

The supplemental budget will amend the adopted budget in the following manner:

<u>FUND</u>	<u>APPROPRIATION CATEGORY</u>	<u>AMOUNT</u>	<u>Description</u>
General			
	Revenue: Fund Balance	(\$48,294)	Reduce Fund Balance to actual 06/30/98 audited figures.
	Revenue: Metro Grant	\$45,000	Recognize Metro Planning Grant and Police Services Reimbursement.
	Community Development	\$20,000	Increase Contractual Services.
	Finance	\$9,238	Increase MDDA Contract Services for increase of tax remittance.
	Transfers	\$385,000	Recognize transfer to Facilities fund for the Safeway Lease & Maintenance, it was erroneously not previously budgeted and transfer to 911 Dispatch.
	Contingency	(\$417,532)	Reduce contingency to reflect the change in transfers and the reduction of Fund Balance.
STRUCTURAL SAFETY			
	Revenues: Charges & Fees	\$12,400	Increase in inspection fees collected.
	Public Works	\$12,400	Increase salary expense
CODE ENFORCEMENT ABATEMENT			
	Revenue: Fund Balance	\$2,078	Increase Fund Balance to actual 06/30/98 audited figures.
	Administration/Community Service	\$10,000	Increase expenditures to cover unanticipated abatement costs.
	Contingency	(\$7,922)	Reduce contingency to cover unanticipated abatement costs.
STATE GAS TAX/STREET REPAIR FND			
	Revenue: Fund Balance	\$33,234	Increase fund balance to reflect audited 6/30/98 figures.
	Revenue: Charges & Fees	\$15,876	Misc. fees & charges have been collected at a higher rate than expected.
	Public Works	\$90,572	Increase equipment expenditures because of unexpected replacements and increase Capital Projects (\$55,000) to finish two sidewalk projects.
	Contingency	(\$41,462)	Reduce contingency to cover the above costs.

BIKE PATH FUND

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Revenues: Working Capital \$30,419 Increase working capital to reflect audited 6/30/98 figures.
Public Works 37,000 Increase Capital Projects to finish two pedestrian improvement projects.
Contingency (6,581) Reduce contingency to help fund the above projects.

PARKS & REC DISTRICT FUND

Revenue: Fund Balance (\$302,496) Reduce fund balance to reflected audited 6/30/98 figures.
Revenue: Metro Grant (\$160,000) Reduce Metro Grants that will not be received.
Administration/Community Service (\$462,496) Reduce budget for property not being purchased in this fiscal year.

LIBRARY SERVICES FUND

Revenue: State Grant \$21,000 Increase revenue for unanticipated state grant.
Administration/Community Service \$21,000 Increase in Computer Hardware.

PUBLIC SAFETY FUND

Revenue: Fund Balance \$10,817 Increase fund balance to reflect audited 6/30/99 figures.
Revenue: Grants (\$23,500) Net reduction in grant funds that won't be requested.
Revenue: Misc. Charges (\$7,6839) Reduction of Misc. Revenue
Police Services (\$20,522) Net reduction in contractual services

WATER FUND

Revenue: Working Capital (\$550,439) Reduce working capital to reflect audited 6/30/98 figures.
Contingency (\$550,439) Reduce contingency to offset reduction of working capital.

SEWER FUND

Revenue: Working Capital \$18,081 Increase working capital to reflect audited 6/30/98 figures.
Contingency 18,081 Increase contingency to offset increase in working capital.

STORM SEWER FUND

Revenue: Working Capital \$114,583 Increase working capital to reflect audited 6/30/98 figures.
Revenue: Other \$32,000 Increase recovered expenditures for an unanticipated expense reimbursement.
Public Works \$90,000 Increase in capital projects for unanticipated costs.
Contingency \$56,583 Increase Contingency to offset increase in working capital

911 Dispatch Services

Revenue: Transfers \$285,000 Recognize transfer from the General Fund.

CAPITAL PROJECTS FUND

Revenue: Fund Balance \$1,815 Increase fund balance to reflect audited 6/30/98 figures.
Public Works \$1,815 Increase expenditures for improvements to Public Safety Building.

STREET SERVICES

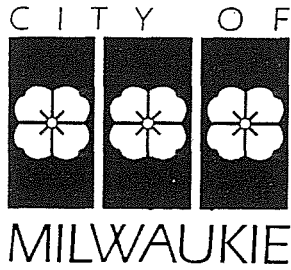
Revenue: Working Capital (\$156,557) Reduce working capital to reflect audited 6/30/98 figures.
Revenue: Charges & Fees \$227,000 Increase revenue for charges to Clackamas Fire that were previously not budgeted.
Public Works \$70,443 Increase capital projects for fire testing equipment and shop modifications.

FACILITIES MANAGEMENT

Revenue: Working Capital (\$30,129) Reduce working capital to reflect audited 6/30/98 figures.
Revenue: Loan Proceeds \$337,620 Recognize state loan proceeds received in FY 99
Public Works \$455,620 Increase capital projects for facilities funded through the state loan, and unforeseen facility repairs.
Contingency (\$148,129) Reduce contingency to cover the above expenditures not funded through the loan.

ADMINISTRATIVE SERVICES

Revenue: General Admin Charges \$50,164 Increase charges to the General Fund for support to Municipal Court.
Legislative 8,000 Increase in City Council training and contractual services.
Administration/Community Service 42,164 Net increase in personnel costs for support to Municipal Court.



V. C. 1

Memo

To: Honorable Mayor and City Council
Through: Dan Bartlett, City Manager *DB*
From: Charlene Richards, Assistant City Manager *CR*
CC: PARB members
Date: April 30, 1999
Re: Metro Local Share Projects

Action Requested

Adopt the attached resolution 1) finding the City's Johnson Creek-Springwater Corridor acquisition project not feasible for the City's Local Greenspaces and Trails project list funded by Metro's Greenspaces Bond Measure, 2) finding actual cost for the Kellogg Lake Land Acquisition project less than the estimated cost and 3) approving transfer of the Johnson Creek-Springwater Corridor acquisition project and remaining Kellogg Lake Land Acquisition project funds to the Minthorn North Addition project and 4) changing the Minthorn North Addition project to an acquisition and capital improvement project.

Background

In July 1994, Metro Council passed a resolution to submit to the voters a General Obligation bond of indebtedness of \$138.8 million for greenspaces, including up to \$25 million for local government greenspaces projects. In October 1994, the Milwaukie City Council passed a resolution submitting the City's Local Greenspaces and Trails Project List to be funded by Metro's Greenspaces Bond Measure. Six (6) projects were submitted. Metro accepted two of the six projects. An Intergovernmental Agreement (IGA) between the City and Metro was signed in October 1995, authorized two projects for a total cost of \$349,020. The projects included the Waterfront property acquisition estimated at \$310,000 and the Kellogg Lake property acquisition estimated at \$39,020. See attached Metro Local Share Project List History.

As of November 1997, \$21,451 of local share funds was expended for the purchase of property on Kellogg Lake, leaving a remainder of \$17,569. The proposed acquisition of property on the waterfront reached impasse with an unwilling seller. On November 18, 1997, the City declared the waterfront project not feasible and submitted a list of substitute projects. See attached Metro Local Share Project List History.

Council Memo
Minthorn Local Share Project

Recommendation

One of the substitute projects is the Johnson Creek-Springwater Corridor acquisition project. The project is for purchase of up to four parcels of property on Johnson Creek within the flood plain and designated riparian area. After contact with the property owners, only two owners are willing sellers. They are the owners of the two middle parcels of the four parcels of interest. Based on appraisals, the funding level for this project would allow the purchase of only one property. Acquiring one property not contiguous to the existing trailhead and entrance to the Johnson Tideman Park, degrades the value of the project. Also, both properties have buildings on them. The value of the buildings and the cost of razing the buildings also make the project cost prohibitive. Additionally, the owners are interested in maintaining current occupancy, requiring the City to become a landlord. For the above reasons, staff recommends that the Johnson Creek-Springwater Corridor acquisition project be deleted and the money, \$130,000, be transferred to the Minthorn North Addition acquisition project.

As stated earlier, there is \$17,569 of unexpended funds in the Kellogg Lake Land Acquisition project. Staff recommends that the remaining funds be transferred to the Minthorn North Addition acquisition project.

With the \$130,000 from the Johnson Creek-Springwater Corridor project and the \$17,569 from the remaining Kellogg Lake Land Acquisition project, added to the original \$85,000 assigned to the Minthorn North Addition Acquisition project, the total funding for the Minthorn North Addition acquisition project would be \$232,569. See Attached Metro Local Share Project List History. The Minthorn North Addition project was the top priority for funding when the substitute projects were submitted in November 1997 to Metro. This project is contiguous to a large wetland area and provides much needed planting and habitat area for the existing Minthorn Springs wetland. This project would partner the City with the Wetlands Conservancy and build on the wetland mitigation from the Milwaukie Marketplace development. The increased funding level would provide adequate funding to purchase the property, develop a joint management plan with the Wetlands Conservancy, and possibly complete some capital improvements.

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RESOLUTION NO. _____

A RESOLUTION 1) FINDING THE CITY OF MILWAUKIE JOHNSON CREEK/SPRINGWATER CORRIDOR ACQUISITION PROJECT NOT FEASIBLE FOR THE CITY OF MILWAUKIE'S LOCAL GREENSPACES AND TRAILS PROJECT LIST FUNDED BY METRO'S GREENSPACES BOND MEASURE, 2) FINDING ACTUAL COST FOR THE KELLOGG LAKE ACQUISITION PROJECT LESS THAN THE ESTIMATED COST, 3) APPROVING TRANSFER OF THE JOHNSON CREEK-SPRINGWATER CORRIDOR ACQUISITION PROJECT FUNDS AND THE REMAINING KELLOGG LAKE LAND ACQUISITION PROJECT FUNDS TO THE MINTHORN NORTH ADDITION PROJECT AND 4) CHANGING THE MINTHORN NORTH ADDITION PROJECT TO AN ACQUISITION AND CAPITAL IMPROVEMENT PROJECT.

WHEREAS on October 18, 1994, the City Council of the City of Milwaukie approved by Resolution No. 40-1994 the Local Greenspaces and Trails Project list to be funded by Metro's Greenspaces Bond Measure, and

WHEREAS on October 24, 1995, the City of Milwaukie and Metro entered into an Intergovernmental Agreement Open Spaces Bond Measure, Local Share Component, providing approved projects, as listed in the attached Local Share Project List History, and providing funding requirements for substitute projects, and

WHEREAS on November 18, 1997, the City Council of the City of Milwaukie approved by Resolution No. 36-1997, that the Milwaukie Riverfront Acquisition project was not feasible and approved the Local Greenspaces and Trails Substitute Project List, as listed in the attached Local Share Project List History, to be funded by Metro's Greenspaces Bond Measure in lieu of the Milwaukie Riverfront Acquisition project, and

WHEREAS the City has unwilling sellers for the Johnson Creek/Springwater Corridor acquisition project; and

WHEREAS the remaining properties are not contiguous to the existing green space; and

WHEREAS there is an existing trailhead a block from the proposed acquisition project; and

WHEREAS the Johnson Creek/Springwater Corridor acquisition project was funded at the estimated cost of \$130,000, less than needed to purchase the remaining willing seller properties; and

WHEREAS the remaining properties with willing sellers have structures that are currently occupied; and

WHEREAS the City is not interested in becoming a landlord and it is economically not feasible to raze the structures; and

WHEREAS the Johnson Creek/Springwater Corridor acquisition project was the second priority for funding on the substitute project list; and

WHEREAS the Kellogg Lake acquisition project was funded at \$39,020 and actual costs were \$21,451 leaving an unexpended allocation of \$17,569; and

WHEREAS the Minthorn North Addition acquisition project is the number one priority on the City of Milwaukie substitute project list; and

WHEREAS the Minthorn North Addition acquisition project is contiguous to an existing wetlands, provides key elements to the existing wetlands in support of wildlife habitat and would provide opportunity for development of a joint management plan; and

WHEREAS the existing funding level for the Minthorn North Addition acquisition project, \$85,000, will not cover acquisition costs and any planning and improvement expenses such as a management plan, trails, viewing areas and interpretive signs; and

WHEREAS the Milwaukie Park and Recreation Board held a public meeting on April 26, 1999, and recommended approval of the proposed transfer of funding from the Johnson Creek/Springwater Corridor acquisition project and remaining unexpended Kellogg Lake acquisition project funding to the Minthorn North Addition project revised to be both an acquisition and a capital improvement project; and

WHEREAS the City Council held a public hearing on May 18, 1999, to consider the deletion of the Johnson Creek/Springwater Corridor project and transfer of funding; and

WHEREAS the City Council has conducted a public process to determine 1) the Johnson Creek/Springwater Corridor acquisition project not feasible and 2) the need to transfer funding to the Minthorn North Addition acquisition project and to expand the project to include capital improvements and determined that both actions are consistent with the provisions of the Bond Measure and the Local Share Guidelines;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, that:

Section 1. The Johnson Creek/Springwater Corridor acquisition Local Share project is found not feasible due to unwilling sellers and that the remaining properties are less desirable and feasible for public acquisition and maintenance.

Section 2. The City of Milwaukie approves the Local Greenspaces and Trails Revised Project List dated May 18, 1999, described in Attachment A of this document, to be funded by Metro's Greenspaces Bond Measure in lieu of the Milwaukie Johnson Creek/Springwater Corridor acquisition project and the remaining unexpended funds for the Kellogg Lake acquisition project.

Signed by the Mayor on this ____ day of May 1999.

Carolyn Tomei, Mayor

ATTEST:

Pat DuVal, City Recorder

Approved as to form:

Ramis, Crew, Corrigan & Bachrach, LLP
City Attorney

Attachment A

<u>Project Title</u>	<u>Type</u>	<u>Estimated Cost</u>
1. Minthorn North Addition	Acquisition and Capital Improvement	\$232,569
2. Ardenwald to Springwater Access Easement	Capital Improvement	\$ 5,000
3. Furnberg Park Wetland Enhancements	Capital Improvement	\$ 80,000
4. Roswell Wetland Enhancement	Capital Improvement	\$ 5,000
5. Willow Place Wetland Enhancement	Capital Improvement	\$ 5,000
6. Kellogg Lake(completed)	Acquisition	\$21,451 (actual cost)
	Total	\$349,020.00

Dated: May 18, 1999

Metro Local Share Project List History

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IGA 10/24/95		Resolution 11/18/97		Resolution 5/18/99	
Project Title/Type	Cost	Project Title/Type	Cost	Project Title/Type	Cost
Milwaukie Waterfront Land Acquisition	\$310,000	<i>Deleted</i>			
		Minthorn North Addition/ Acquisition	\$ 85,000	Minthorn North Addition/Acquisition & Capital Improvement	\$232,569
		Johnson Creek-Springwater Corridor/ Acquisition	\$130,000	<i>Delete (transfer funds to Minthorn)</i>	
		Ardenwald to Springwater Access Easement/ Capital Improvement	\$ 5,000	Ardenwald to Springwater Access Easement/ Capital Improvement	\$ 5,000
		Furnberg Park Wetland Enhancements/Capital Improvement	\$ 80,000	Furnberg Park Wetland Enhancements/Capital Improvement	\$ 80,000
		Roswell Wetland Enhancement/Capital Improvement	\$ 5,000	Roswell Wetland Enhancement/Capital Improvement	\$ 5,000
		Willow Place Wetland Enhancement/Capital Improvement	\$ 5,000	Willow Place Wetland Enhancement/Capital Improvement	\$ 5,000
Kellogg Lake Land Acquisition	\$39,020	Kellogg Lake Land Acquisition – <i>actual cost</i>	\$ 21,451	Kellogg Lake Land Acquisition – <i>actual cost (transfer remaining funds to Minthorn)</i>	\$ 21,451
Total	\$39,020.00		\$349,020.00		\$349,020.00



April 29, 1999

To: Mayor and City Council

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

From: Martha Bennett, Assistant City Manager - Community Development *MB*

Jim Brink, P.E., Public Works Director *JTB*

Robert Shelton, Associate Engineer *RS*

Action Requested: Authorize the City Manager to sign the Project Intergovernmental Agreement with ODOT.

Discussion:

- 1) The Roswell Street Improvement Project is a jointly funded project between the ODOT Bicycle and Pedestrian Program and the City of Milwaukie. The project includes curb, sidewalk and stormwater improvements on SE Roswell Street between SE 32nd Avenue and SE 42nd Avenue. New curb and sidewalk will be constructed on the south side of SE Roswell Street from 32nd to 42nd, and along the north side from 36th to 42nd. The project will construct approximately **4180 linear feet** of curb, **20,150 square feet** of sidewalk and **583 LF** of stormline. An additional **660 LF** of stormline is designed to carry water down SE 41st Ave to tie into the proposed Johnson Creek Boulevard improvements and will be bid as an alternate. Roswell Street was chosen because it meets the objectives of both the School Trip Safety Program and the Neighborhood Traffic Management Program.
- 2) In July 1998, staff submitted a grant application with ODOT for the pedestrian improvements on SE Roswell Street as described above. This grant, in the amount of **\$100,000**, has been approved by ODOT. The total cost estimate for the project is **\$203,692.50**. This means that the City share of the project cost is estimated at **\$103,692.50**, and is included in the FY 1999-2000 budget in the Street, Bike and Storm Funds, and in the FY 2000-2001 budget in the Street Fund. (See the attached CIP sheet.)
- 3) Design work for the project is 99% complete, with some field design issues left to resolve such as mailbox and utility relocation. The ODOT Bicycle and Pedestrian Program section has reviewed and approved the project plans. Staff will continue to work with ODOT during construction to ensure that all work meets Federal ADA guidelines. Construction cannot begin before July 1, 1999 and must be completed by October 1, 2001. Staff proposes to bid the project in February 2000 and begin construction in May or June of 2000, coordinating construction with the school year. The estimated project duration is 75 days.

- 4) The purpose of the Intergovernmental Agreement is to formally assign City and State obligations as they relate to the State Pedestrian Grant Program in general, and the Roswell Street Sidewalk Improvements in particular. This IGA has been reviewed and approved as to form by the City Attorney's office. ODOT originally requested that the City Manager sign this IGA and return two copies by May 15, 1999, but has verbally agreed to extend the deadline to May 31, 1999. A copy of the IGA and the memo from ODOT are included as Attachment A.
- 5) The North Clackamas School District has committed \$11,669 to assist with the funding of improvements along the frontage with Ardenwald Elementary School. Any revenue from School District participation will be credited to the Street Fund. The North Clackamas Park District may also be participating, and revenue from the park district would also be credited to the Street Fund.
- 6) Staff has based the project cost estimate on the most recent sidewalk projects. Price variations in the bid results will occur that may increase or decrease the final project cost.

Fiscal Impact: The fiscal impact is shown below for project funding during FY 2000 and FY 2001. A copy of the CIP sheet is included as Attachment B.

<u>FY 2000</u>		<u>FY 2001</u>	
Bike Fund (COM)	\$ 30,000.00		
Street Fund (COM)	\$ 58,000.00	Street Fund (COM)	\$ 15,692.50
<u>ODOT Grant</u>	<u>\$100,000.00</u>		
Total for year	\$188,000.00	Total for year	\$ 15,692.50

(2000) (2001)

Total Project (est): \$188,000.00 + \$15,692.50 = \$203,692.50 (CIP scheduled amount)

Stormwater Improvements: \$68,000 (Including Roswell Street and 41st Avenue)*

*Stormwater funding is separate as required by the ODOT Bike & Pedestrian Grant Agreement.



Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation
Bicycle and Pedestrian Program
Room 210 Transportation Bldg.
Salem, OR, 97310
Telephone (503) 986-3555
FAX (503) 986-3749
michael.p.ronkin@odot.state.or.us

RECEIVED

APR 02 1999

JRB
4-5-99

March 30, 1999

City of Milwaukie
Attn: Jim Brink
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

PUBLIC WORKS

Subject: Your application for a local pedestrian project grant
Sidewalk improvement on SE Roswell St
Agreement No. 17,248
Cost: \$203,692.50
State share: \$100,000.00
Your share: \$103,692.50

Enclosed are three copies of the agreement for this project, already signed by ODOT.
Please note the following information in the agreement:

- The first half of the grant (\$50,000) will be available July 1, 1999. You may request this amount as soon as you have begun preliminary engineering or other design work. You may begin design work sooner.
- A set of plans must be submitted to the Bicycle and Pedestrian Program Office for approval before any construction work begins.
- Work (design/engineering) should begin by October 1, 1999. The project should be completed within two years (a later date may be chosen with written approval by this office).
- Final payment will be released upon completion of the project and inspection by the Bicycle and Pedestrian Program office or an ODOT representative.

Please obtain signatures on all three copies and return two copies to this office at your earliest convenience, but no later than May 15th. **Failure to execute the agreement by this date may result in loss of state funding for this project.**

This project will serve local bicyclists and pedestrians well. Please call me if you have any questions.

Sincerely,

Michael Ronkin
Bicycle and Pedestrian Program Manager

Misc. Contracts Agreement No 17,248
City of Milwaukie

FISCAL YEAR 2000-2001 LOCAL ASSISTANCE BICYCLE/PEDESTRIAN
PROJECT AGREEMENT

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and CITY OF MILWAUKIE, acting by and through its Elected Officials, hereinafter referred to as "City."

WITNESSETH

RECITALS

1. By the authority granted in ORS 366.514, funds received from the State Highway Trust Fund are to be expended by the State and the various counties and cities for the establishment of footpaths and bicycle trails. For purposes of Article IX, Section 3a, of the Oregon Constitution, the establishment and maintenance of such footpaths and bicycle trails are for highway, road, and street purposes when constructed within the right of way.
2. By the authority granted in ORS 190.110, 366.770 and 366.775, State may enter into cooperative agreements with counties and cities for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.

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

TERMS OF AGREEMENT

1. Under such authority, State and City plan and propose to construct shoulder widening and sidewalks along SE Roswell Street hereinafter referred to as "project." The location of the project is approximately as shown on the sketch map attached hereto, marked "Exhibit A," and by this reference made a part hereof.
2. City has determined that the actual total cost of the project is estimated to be \$203,693. This cost shall be shared 80% by State and 20% by City; in no event shall State participation exceed the total sum of \$100,000 or 80% of the actual cost, whichever is the lesser. City shall be responsible for all costs in excess of States participation amount.

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Misc. Contract Agreement No 17,248
City of Milwaukie

3. This agreement shall become effective on the date all required signatures are obtained and shall remain in effect for the purpose of ongoing maintenance responsibilities for the useful life of the facilities constructed as part of the project. The project shall be completed within two calendar years from initiation of a contract to develop the project or commencement of the project by City forces.

CITY OBLIGATIONS

1. City shall perform the work described in this agreement. City shall conduct the necessary field surveys, prepare plans and contract documents, advertise for bid proposals, award all contracts, and supervise construction of the project. Actual construction of the project may be accomplished by City forces, by contract, or by any combination of these methods, as City shall elect.

2. City shall submit a copy of the plans and specifications to State's Bicycle and Pedestrian Program Manager for review and concurrence prior to construction. The project design, signing, and marking shall be in conformance with the current Oregon Bicycle and Pedestrian Plan.

3. City shall submit to the State's Bicycle and Pedestrians Program Manager a notification that City is prepared to proceed with the development of the project and a request for 50% of the agreed maximum State share of the project costs in the amount of \$50,000.

4. City shall by October 1, 1999, enter into a contract for development of project with a private contractor or commence actual development if project is to be accomplished by City forces. Preparation of construction plans may be considered development of project. This deadline may be extended upon written request from City and approved in writing by the State's Bicycle and Pedestrian Program Manager, but shall not be extended beyond May 1, 2000. If such deadlines are not met, City shall refund all funds paid by State on the project. City shall complete project within two calendar years from initiation of a contract or commencement of the project.

5. City shall, upon completion of project, submit to State Bicycle and Pedestrian Program an itemized statement of the final actual total cost of the project.

6. City shall, upon completion of project, thereafter maintain and operate the completed project at its own cost and expense, and in a manner satisfactory to State.

7. City shall enter into and execute this agreement during a duly authorized session of its City Council. City shall be responsible for all costs in excess of States' participation amount.

8. City shall not enter into any subcontracts for any of the work scheduled under this agreement without obtaining prior written approval from State.

9. City agrees to comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this agreement, including, without limitation, the provisions of ORS 279.312, 279.314, 279.316, 279.320 and 279.555, which hereby are incorporated by reference. Without limiting the generality of the foregoing, City expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

10. City shall perform the service under this agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this agreement, including but not limited to retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.

STATE OBLIGATIONS

1. State's Bicycle and Pedestrian Program Manager shall review and must concur in the plans prepared by City before construction begins, and shall process all billings submitted by City.

2. Upon receipt of notification that the City is prepared to proceed with the development of project, State shall deposit with City the sum of \$50,000 such amount being equal to 50 percent of the agreed maximum State share of project costs. Said deposit shall not be made prior to July 1, 1999. Upon completion of project, inspection by the Bicycle and Pedestrian Program staff (or a representative of State's Region office), and receipt from City of an itemized statement of the actual total cost of the project, State shall deposit with City a final payment in an amount which, when added to the initial deposit, would equal State's proportional share of the total project costs, but in no event shall participation by State exceed the total sum of \$100,000.

3. In the event this agreement is terminated for any reason, City shall provide an itemized statement of the costs and expenses prior to date of termination. City and State shall share expenses in proportion to the rate established in Terms of Agreement, paragraph 2, and if any funds are remaining from the advance deposit they will be refunded to State.

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4. State certifies, at the time this agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this agreement within State's current appropriation or limitation of current biennial budget.

GENERAL PROVISIONS

1. City, its subcontractors, if any, and all employers working under this agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.

2. This agreement may be terminated by mutual written consent of both parties.

State may terminate this agreement effective upon delivery of written notice to City, or at such later date as may be established by State, under any of the following conditions:

- a. If City fails to provide services called for by this agreement within the time specified herein or any extension thereof.
- b. If City fails to perform any of the other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within 10 days or such longer period as State may authorize.
- c. If State fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in the agreement.
- d. If Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this agreement is prohibited or if State is prohibited from paying for such work from the planned funding source.

Any termination of this agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

3. Minor modifications to the project details may be made with the written consent of the State's Bicycle and Pedestrian Program Manager. A minor modification is one that does not materially alter the objectives or products of the project. Budget modifications and major modifications to the agreement must be processed as an amendment to the agreement.

4. City acknowledges and agrees that State, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of City which are directly pertinent to the specific agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.

5. This agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this agreement shall not constitute a waiver by State of that or any other provision.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

The Oregon Transportation Commission approved this project on December 16, 1998, as part of the Fiscal Year 2000-2001. Local Assistance Bicycle and Pedestrian Program. The funds are included under Statewide Programs in the 1998-2001 Statewide Transportation Improvement Program.

Pursuant to a Letter of Authority dated January 28, 1999 the Technical Services Branch Manager authorized the Project Support Manager to execute agreements for local bicycle and pedestrian projects approved by the Transportation Commission up to \$100,000 per project to a total of \$1,000,000 per fiscal year.

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Misc. Contract Agreement No 17,248
City of Milwaukie

APPROVAL RECOMMENDED:

STATE OF OREGON,
by and through its
Department of Transportation

By *Levi Powell*
Bicycle and Pedestrian Program Mgr.

STATE OF OREGON
by and through its
Department of Transportation

By *[Signature]*
Project Support Manager

Date 3-30-99

Date 3-30-99

CITY OF _____
by and through its Elected Officials:

By _____

Date _____

By _____

Date _____

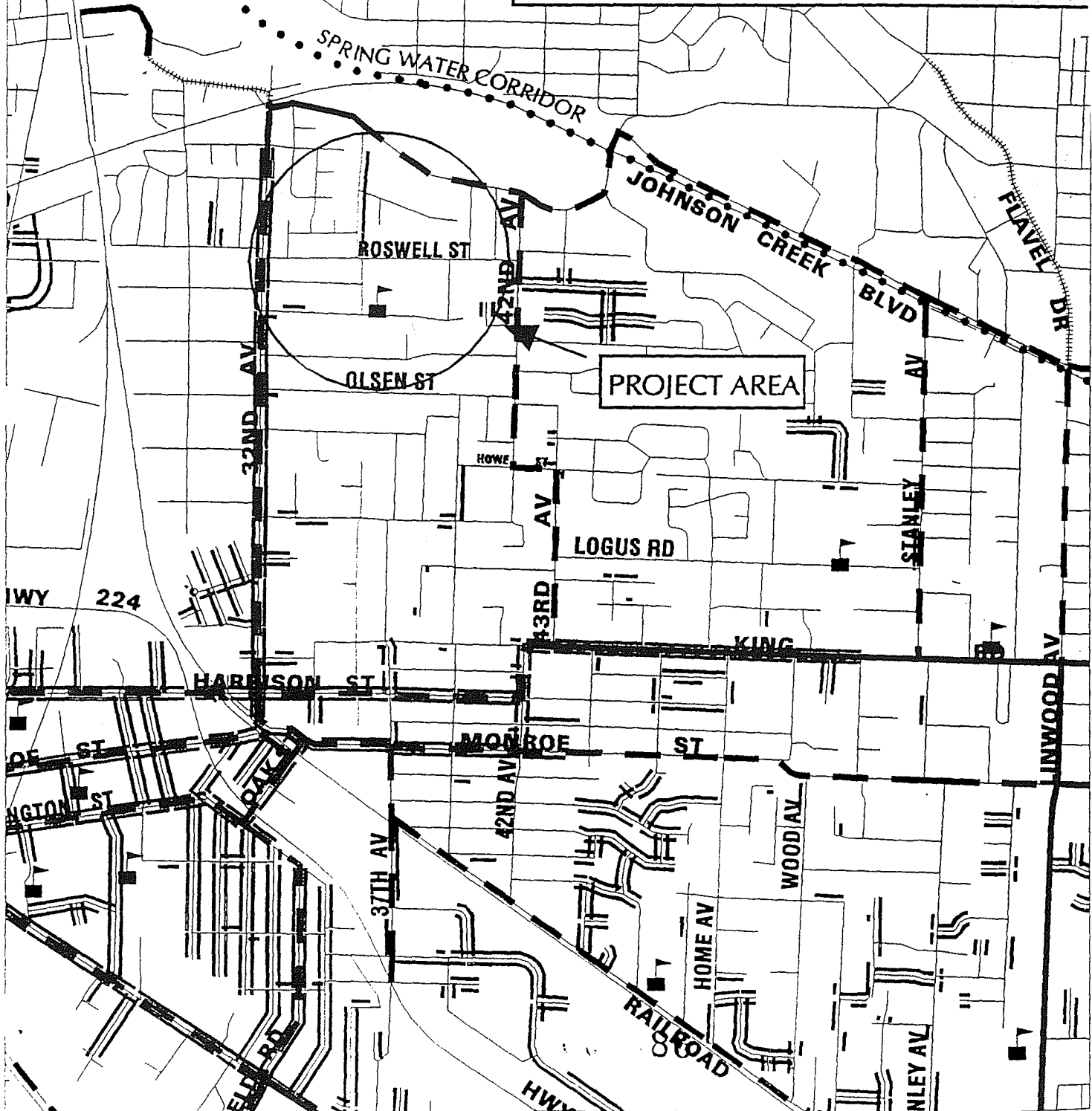
City Address:

City of Milwaukie
Attn: Jim Brink
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

Milwaukee
EXHIBIT A

Bicycle and Pedestrian
Grant Proposal VI. 10
Map

- EXISTING BIKEWAYS
- PROPOSED BIKEWAYS NETWORK
- PLANNED BIKEWAYS
- EXISTING TRAILS (PAVED)
- EXISTING WALKWAYS



City of Milwaukee Capital Improvement Plan

Fund: 22

Project Priority: 2000-2

Department: 0

Object: 7000

Project: Roswell St Sidewalk Grant

Neighborhood: Ardenwald

AREA MAP:

Project description:

Install approx 2500' of curb and sidewalk from 32nd Ave to 42nd Ave and associated storm drainage.

Need/justification:

Neighborhood enhancement and school trip safety

Benefits:

Improves pedestrian safety by providing sidewalks and improved storm drainage in the vicinity of Ardenwald Elementary school. This project was a top priority of the Ardenwald School Trip Safety Task Force.

Consequences of delaying/eliminating this project:

Failure to address top priority School Trip Safety need.

Project related to:

ODOT approved the City's Bike Grant application for sidewalk/curb improvements on Roswell St. ODOT sponsors the Bike Grant program and will fund up to \$100,000.

Comments:

GRANT=\$100K; STORM=\$68K; BIKE FUND=\$30K; STREET FUND=\$58K; RD-00-2/PROJECT ID 464; 2200-2.doc. Design funded in FY98-99.

Project Cost	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
Planning					
Design/engineering					
Land/equipment acquisition					
Construction	158,000	16,000			
Miscellaneous					
Contingency					
TOTALS	\$158,000	\$16,000	\$ 0	\$ 0	\$ 0
Funding Source	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
Grant	100,000				
SDC					
Fund balance/current yr rev	58,000	16,000			
Fees/charges					
Reserves					
Other					
TOTALS	\$158,000	\$16,000	\$ 0	\$ 0	\$ 0

DRAFT 4/28/99

Citizen's Utility Advisory Board
6:00 pm
April 14, 1999
Johnson Creek Facility Conference Room

I CALL TO ORDER

Vice-Chair Hatz called the meeting to order at 6:02 pm. Present were:

Lou Casale
Betty Chandler

Bob Hatz, Vice-Chair
Dennis Vanderpool

Absent:

Alan Fletcher, Chair (excused)
Carl Jacob (excused)

Staff present:

Jim Brink, Public Works Director
Jack Perry, Operations Supervisor
Connie Ware, Staff Assistant

II APPROVAL OF MINUTES

Vanderpool MOVED and Chandler SECONDED a motion to approve the minutes of March 3, 1999. Motion passed unanimously.

III DISCUSSION

A. Review of Financial Status of Storm Water Utility

Brink introduced the Sewer and Storm Operations Supervisor Jack Perry to the members, and explained his responsibilities over the two divisions.

Brink stated that, based on the budget analysis about a year ago, the storm utility has been expected to be "in the red" by Fiscal Year 99/00 if it were to sustain the same level of capital improvements completed over the past three years. Brink noted that the initial utility rate of \$4/mo./esu (equivalent service unit) was established in May of 1994, but not implemented until the beginning of the new fiscal year in July 1994. There have been no rate increases for this utility in the intervening years.

The Milwaukie storm system is essentially non-existent east of 42nd Avenue and north of King Road, with the exception of scattered drywells in problem areas. The Storm Water Master Plan has identified \$14.6 million in unmet storm system needs; Brink directed attention to the information distributed in the packet, pointing out that Storm capital is allocated to the most severe needs in priority. Fiscal year 99/00 will begin with little carry-over from the previous storm fund balance, leaving the

VII. A. 1-2

fund "in the red" as previously predicted if the current level of capital improvement spending is maintained and no increase to the storm water fee is approved.

The members asked questions about previous and currently scheduled storm projects. Brink explained using a city map to pinpoint areas under discussion. Vanderpool asked what impact the Endangered Species Act will have on the planned improvements. Brink explained the process as it is currently implemented, noting that Federal and State requirements may change those processes at some time in the future in response to the Act. There was further discussion about the city's topography and the improvements necessary to drain each basin. It was noted that storm improvements done during the past fiscal year functioned well; areas that generated annual complaints in the past did not generate any complaints this past winter.

Brink pointed out that when the utility was implemented, the City's storm improvement needs were known to be so extensive that 20 to 40 years would pass before all that are currently known could be addressed, primarily because the utility fee was earmarked for maintenance of existing structures and storm water quality, as well as the construction of new facilities.

There was discussion about the funding options outlined in the memo. Hatz asked if future annexations that are currently under consideration have been addressed in the Storm Water Master Plan. Brink pointed out the areas under consideration; the areas were discussed and the needs noted. The answer to Hatz' question is that those needs are not currently in the Capital Improvement Plan; while future residents would participate in the storm utility, the improvements needed for those areas are not currently in the Storm Water Master Plan. There was further discussion about grants and funding options.

Hatz asked Brink if a recommendation is needed from CUAB at this meeting. Brink suggested the CUAB could consider making a recommendation on the utility rate by the June meeting. Casale asked if the CUAB recommends a certain rate increase, could Council overturn the recommendation like they did for the sewer rate increase? Could an increase be taken to a vote of the people? Brink replied that he thought that would be a precedent that Council would not want to set. He noted that CUAB could choose to recommend that the new rate stand for a fixed number of years, but it would still be a recommendation, not a directive. He reminded the group that the present Council cannot legally bind a future Council, just as the current CUAB members cannot set forth a directive that binds future CUAB members.

III INFORMATION SHARING

There was some discussion about Council work sessions regarding future annexations.

Hatz commented on the new Stanley Avenue speed bumps, noting that they are not as sharp as he had expected. Brink pointed out that the design for the speed bumps on Stanley was the standard design for a 14' bump.

VI ADJOURN

The next meeting date was determined to be May 5th, and the subject will be the Storm line item budget.

Casale MOVED and Chandler SECONDED a motion to adjourn. The meeting was adjourned at 7:42 pm.

Minutes

PARB

April 5, 1999

6:30 PM to 7:30 PM

City of Milwaukie

City Hall, 2nd Floor Conference Room

10722 SE Main Street

Type of meeting: Regular**Attendees:** Don McCarty (excused at 6:50 PM), Sandra McCune, Sharon Van Horn, Darlene Walsh**Excused:** Rebecca Langdon**Guests:** Charles Bird, Edie Kerbaugh

Agenda topics

6:30 PM Meeting Call to Order Chair

Minutes Chair

Conclusions: Moved by Darlene Walsh and seconded by Don McCarty to approve the February 1, 1999 minutes as written. Passed unanimously.

Action items:	Person responsible:	Deadline:
Submit approved 2/1/99 minutes to City Council	Charlene Richards	4/9/99

Meeting Date and Time Chair

Conclusions: Moved by Darlene Walsh and seconded by Don McCarty to change the meeting date and time to the fourth Monday of every month starting at 7:00 PM.

Action items:	Person responsible:	Deadline:
Monday, April 26, 1999, first meeting with new date and time	Charlene Richards	4/26/99

Open Period Audience

Discussion: no comments

Election of Vice-Chair Chair

Conclusions: Held over to next meeting since Rebecca Langdon not in attendance. Also, hopefully we will have two new members at the next meeting.

Action items:	Person responsible:	Deadline:
Place on next PARB agenda	Charlene Richards	4/16/99

Wetlands Projects JoAnn Herrigel

Conclusions: Will schedule for a future date.

Action items:	Person responsible:	Deadline:
Reschedule for future date including Local Share acquisitions	Charlene Richards	TBA

VII. A. 2-2

Updates -- NCPRD & City		Kaffun & Richards
<p>Discussion: NCPRD – <u>Water Tower Park</u> The Clackamas High School Key Club is meeting with Thom Kaffun to discuss the play equipment. The equipment will be installed in August. Darlene requested that Thom remind Kristen Love from the Key Club to call her about possible grant money for the project. The play equipment is currently funded at 90% of the total equipment layout. The basketball element of the park has been moved out from under the tower due to liability issues. There will be one half court. Under the tower will be picnic tables with game boards. The District is requesting not to have to provide the half-street improvements on Harvey due to possible lack of funding. There are no restrooms for neighborhood parks. If there is a summer recreation program located at the park in the future, a portable restroom will be provided. There is a water fountain included. <u>District Budget</u> The proposed budget is looking at cutting one of the two summer recreation teams. The NCPRD District Advisory Board is meeting weekly on Thursday evenings at the Milwaukie Center to discuss budget. <u>Tualatin Hills Parks and Recreation District System Development Charges</u> Discussed the current lawsuit and potential impact on the NCPRD.</p> <p>City – Staff will be coming forward with a recommendation on funding levels for the Metro Local Share acquisition projects. There may be a need to move funding from one project to another.</p>		
Discuss and Give Direction to PARB rep on NCPRD CIP Criteria		Chair
<p>Conclusions: Sharon Van Horn reported that the CIP committee finalized its recommendation regarding criteria for future CIP funding priorities. She will report at next meeting.</p>		
Action items:	Person responsible:	Deadline:
Report on CIP Criteria	Sharon Van Horn	4/26/99
Other – Skateboard Park		Chair
<p>Conclusions: Sharon Van Horn reported that the skateboard park initiated by Oregon City is still a possibility. Oregon City, Gladstone and Milwaukie representatives met. Sharon attended. The group is moving forward with developing a skateboard design. Sharon requested the City participate in the design project cost, \$2,500 per City. Once the design is completed, they will use mock ups of the design to take around to do fundraising. With Milwaukie Together, they are looking at a skateboard exhibition during Festival Daze as a fundraiser. Sharon will keep us informed..</p>		
Action items:	Person responsible:	Deadline:
Request City participation in the design phase funding.	Charlene Richards	4/26/99
Next meeting -- agenda topics, date, time & location		Chair
<p>Conclusions: Implement the new fourth Monday meeting date in April resulting in two meetings in April. PARB will discuss canceling any summer meetings at their May meeting.</p>		
Action items:	Person responsible:	Deadline:
Next meeting 4/26/99, 7:00 PM	Charlene Richards	4/16/99
7:30 PM	Adjourn	
Resource persons:	Thom Kaffun, NCPRD, & Charlene Richards, City of Milwaukie	

DRAFT

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, APRIL 27, 1999

COMMISSIONERS PRESENT

Donald Hammang, Vice-Chair
Judith Borden
Barbara Cartmill
Tracy Cook
Mike Miller

STAFF PRESENT

Jim Crumley,
Inter. Planning Dir.
John Gessner,
Associate Planner
Janet Wright,
Assistant Planner
Gary Firestone,
City Attorney
Shirley Richardson,
Hearings Reporter

COMMISSIONERS ABSENT

Howard Stewart

1.0 CALL TO ORDER

Vice-Chair Hammang called the meeting to order at 6:00 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 INFORMATION ITEMS -- City Council Minutes, April 6, 1999

4.0 PLANNING COMMISSION MINUTES -- April 13, 1999

Mike Miller moved to approve the minutes of April 13, 1999, as presented.
Tracy Cook seconded. MOTION CARRIED 3-0 with two abstentions. Judith Borden and Barbara Cartmill were not present at that meeting.
Ayes: Cook, Hammang, Miller; Nays, 0.

5.0 PUBLIC COMMENTS

Speaking: Jim Howell, 3325 NE 45th Portland, OR

Mr. Howell stated that he was here tonight representing Association of Oregon Rail and Transit Advocates. He passed out information on a proposal for Tri-Met

VII. A. 3-2

CITY OF MILWAUKIE PLANNING COMMISSION
Minutes of April 27, 1999
Page 2

to acquire and use the existing rail bridge across the Willamette River between Lake Oswego and Milwaukie for a transit shuttle.

The South Willamette River study was concluded and no site was identified for a new highway bridge. The recommendation from Metro MPAC is that no new bridge be built across the river.

Not considered in the study were the existing railroad and bridge, which is capable of efficiently carrying thousands of daily commuters. This section of track, owned by Union Pacific Railroad, is called "the Forgotten Bridge" and is currently used for freight. If Tri-Met (or other public body) acquired the line, passenger service could be added. This would make transit more attractive than automobile and would reduce traffic on McLoughlin Blvd. and the Sellwood Bridge.

He concluded that he wanted to make the Planning Commission aware of this proposal. The Transit Center planned for Milwaukie would be an asset to the shuttle. Consideration should be given to a transit site behind the Milwaukie Junior High School, along the tracks to accommodate this as a transit connection.

Vice-Chair Hammang asked for the location of the bridge. **Mr. Howell** stated that this bridge crosses the Willamette River and was built the same time as the Hawthorne Bridge. There is a connection and it could be modified to also provide bicycle and pedestrian traffic if it were in public ownership. He feels that the Union Pacific Railroad would be willing to turn this line over to a public agency. As long as the freight operation could be maintained, it may be possible to get the bridge at little or no cost.

Judith Borden asked what the Association plans to do in the future. **Mr. Howell** stated that the next step would be to convince Milwaukie and Lake Oswego to get Tri-Met and METRO to consider this proposal. Once the line is acquired, funds will be needed to make improvements to the bridge. Funding is available from the Federal Government to upgrade the bridge.

Speaking: Art Lewellen, 3205 SE 8th Street, Portland

Mr. Lewellen stated that he is here before the Commission to make a proposal regarding the Regional Town Center plans. He passed out drawings and maps that describe his design proposal.

DRAFT

CITY OF MILWAUKIE PLANNING COMMISSION
 Minutes of April 27, 1999
 Page 3

He is proposing that Monroe and Jefferson Streets be closed to McLoughlin and level the parking. By putting the parking next to the highway, it will preserve the view to the River. Having buildings next to the River will only obstruct the views. He suggested leveling up the surface parking and lowering the highway so the view is unobstructed.

The proposal has been amended to create a parking structure underneath the 3-block stretch. With parking underneath it keeps the upper surface level and allows for a pedestrian overpass over the lowered highway.

6.0 PUBLIC HEARINGS

6.1 Applicant: Howard Thompson
 Owner: Howard Thompson
 Location: 3406 SE Olsen Street
 Proposal: Minor Land Partition to create 3 lots and a Non-Conforming Use application to continue the use of an existing shop for an auto restoration business on lot 1.
 File Number: MLP-98-06/NCU-98-04
 NDA: Ardenwald

Vice-Chair Hammang opened the public hearing on File Number MLP-98-06 and NCU-98-04. This is a request to allow a Minor Land Partition to create 2 lots and a Non-Conforming Use Application to continue the use of an existing shop building for an auto restoration business. Criteria to be addressed are found in Section 7.32.040 of the Subdivision Ordinance; Section 302 and Section 1000 of the Milwaukie Zoning Ordinance.

Vice-Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. He asked if any member of the Planning Commission visited the site; five 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

Janet Wright reviewed the Staff Report with the Commission. An overhead was shown of the subject site and surrounding area. Pictures were also shown of the site. She noted that the Application had been revised for the creation of two lots,

VII. A. 3-4

CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of April 27, 1999

Page 4

not three, and to continue the non-conforming use of the auto restoration business. This Application was submitted prior to the adoption of the new partitioning criteria on November 17, 1998, and must be reviewed under the prior criteria.

Staff contends that the partition of the property substantially alters the property enough that the business application should not be allowed to continue. The area around property is intensely residential. With the proposed additional residential lot, this increases the residential uses in the area and puts pressure on the business to conform to view, noise, and DEQ issues, etc.

Staff recommends approval of the minor land partition, and recommends that the non-conforming use of the auto restoration business be denied.

CORRESPONDENCE RECEIVED BY STAFF

Janet Wright stated that no additional correspondence has been received; however, she did receive a call from Michelle Greeley-Roberts, Chairperson of the Ardenwald Neighborhood Association, who stated that they are in support of Staff's recommendation.

QUESTIONS FROM THE COMMISSIONERS

Judith Borden asked what types of complaints have been received on this auto restoration use. **Janet Wright** stated that most of the neighborhood does not like the look of the business. Many cars are parked at the site in various states of repair. Complaints have been received about noise, cars parked on the site, equipment, site appearance, etc.

When the non-conforming use was approved, the Applicant was required to construct a fence to shield the view of the cars. Cars are reported to be parked outside the fence and there are more cars on the site than was allowed in the Non-Conforming Use approval.

Judith Borden noted that one complaint listed was about the expansion of the business. She asked how this expansion impacted more complaints. **Janet Wright** explained that the expansion of the business meant more cars. The number of cars on site, along with the noise, is a complaint of the neighbors.

Mike Miller noted that the Application is proposing two driveways, side-by-side. He asked if there is a concern about the impact of the two driveways and the

possibility of a third driveway. **Janet Wright** stated that there were no concerns expressed by Public Works.

Mike Miller asked if an Environmental DEQ report will be required before building permits are issued. **Janet Wright** stated that this could be required as a condition of the building permit.

APPLICANT PRESENTATION

Speaking: Howard Thompson, 4310 SE Franklin Street, Milwaukie

Mr. Thompson stated that he is asking to build a house on his property on Olsen Street. He has operated his auto repair shop at this site for the last two years. This business is located on the southeast corner of his property.

In December 1996, he rented the auto-repair shop from Barbara Shulz, who had a legal business, Harold Bottoms Auto Repair.

- January 10, 1997 Applied for Business License, paid \$35 fee, and was told that his business license would be mailed to him.
- May 9, 1997 A letter was received stating that an auto repair shop was not permitted in the R-7 Zoning District signed by Dan Bartlett.

Mr. Thompson then contacted a former Mayor for the City of Milwaukie, Mr. Bill Hupp. He indicated that the shop had been in operation for 40 years. Bill Hupp and himself met with Senior Planner Dan Pava. It was found that a business license had been issued in 1994/95 and that a letter had been sent to Mr. Bottom stating that he had not renewed his 1996 license.

- January 7, 1998 Again applied for a business license and paid a \$35 fee.
- January 21, 1998 A letter was received from Dan Pava stating that an auto repair business is a legal non-conforming use at this site. There was a restriction that this non-conforming use was limited to the quonset hut and the immediate surrounding area in the southeast corner of the lot. Further, that the six-foot high fence be built no later than June 30, 1998.

A contractor was hired to build the fence at \$4,000. **Mr. Thompson** then contacted Susan Heiser, Senior Planner, to get the exact location of the fence. He was told that the fence needed to be located 20-feet back from the right-of-way.

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Paul Roeger assured him that the 20-foot setback was correct. The contractor was instructed to build the fence in that location.

May 18, 1998 Susan Heiser, Greg Malby, and myself met to confirm the location of the fence. The City asked that the fence be moved 30-feet from its location. He agreed and moved the fence. Later, he received a Revised Notice of Director's Determination that indicates where the non-conforming use is located on the property.

After re-siting the fence, **Mr. Thompson** met with Susan Heiser on his property to confirm the location. Bill Hupp was present at this meeting. Mr. Thompson asked Susan Heiser what could be done with the vacant property on the southwest corner of his lot. She informed him that anything permitted in the R-7 Zoning was legal. Mr. Thompson asked about a new house for himself and Susan Heiser informed him that he would have to apply for a Minor Land Partition and a flag lot. This would be an administrative process and there would be a pre-application meeting. The pre-application meeting was scheduled and held.

September 3, 1998 Met with Janet Wright at the pre-application appointment. He was told that he needed to apply for a Minor Land Partition at the cost of \$980.

October 9, 1998 Application submitted with check for \$980.

November 5, 1998 Letter from Janet Wright deeming the Application complete and stating the need to submit an application for a non-conforming use approval. He thought this was approved on May 18, 1998.

Mr. Thompson contacted Janet Wright and was told that the shop would have to stop doing business and removed before he could get approval to build a new home.

November 13, 1998 Paid \$1,605 for a non-conforming use approval.

December 14, 1998 Letter from Janet Wright stating that the Application was complete.

Mr. Thompson stated that it was never his intent to close his business or tear down his shop. He has spent a lot of time and money to comply with the City's conditions. He

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feels that the staff has no set rules to go by since each planner has changed conditions of his business. He is asking for a house to live in and to continue to operate his business. It has been suggested several times by Janet Wright that he tear down the house that exists on the property and close the business. He does not feel that she can make that decision for him. Susan Heiser originally told him that the decision was administrative to build another house on the property, dividing it into three lots.

When he came to the first Planning Commission meeting, he withdrew the Application for three lots and reapplied for two lots. He stated that he only applied for the third lot originally because he felt he was paying the \$980 for the Minor Land Partition and he could leave the third lot vacant. This is when he was told he was changing the non-conforming use by the way he was accessing the shop.

Mr. Thompson stated that he is here tonight to ask for one flag lot to construct a new house. He asked how the use of his auto repair shop is changing by his adding a house that conforms to legal zoning for this property. A new house will not be detrimental to the neighborhood and will screen the view of the repair shop from the neighbors. He does not understand why he has to pay the non-conforming use fee as his lot is in conformance to the zone. He told the Commission that he would just like to know how he can continue the use of the business and build a new home.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN FAVOR

Speaking: Bill Hupp, 2626 SE Washington, Milwaukie OR 97222

Mr. Hupp stated that he was a member of City Council for ten years and served two terms as Mayor for the City of Milwaukie. He has lived in Milwaukie since 1957 and has had a business in downtown Milwaukie for 20 years.

Mr. Hupp voiced concern about the confusion in processes that this Applicant has endured with this Application. There has been a number of discrepancies that Mr. Thompson has had to endure. Howard Thompson was born and raised in the City of Milwaukie. He has married and his dream is to own his own business. The garage that was purchased has been in operation for 40 years, many of which Mr. Hupp stated that he had been a customer. Considering this information, records were updated and a license was issued.

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Mr. Hupp stated that this was a pre-existing business. Mr. Thompson would like to build a home and live on his property. He should not have to tear down the business; let him live his dream.

Mr. Hupp then read into the record Milwaukie Mission Statement from the Citizens Handbook, which quoted Mike Richardson, Darkhorse Comics..."I could operate my business anywhere in the world I chose. I chose Milwaukie. The sense of community and can-do attitude makes it a great place to do business." The Vision Statement of the City Council states, "Milwaukie is a good place to live and work which is clean and safe with a government that is responsive and provides quality service. The City of Milwaukie is committed to achieving and maintaining the history and the future that defines Milwaukie and distinguishes it from other areas, a living safe environment including preservation and enhancement of built and natural areas, public and private partnership to maintain business and individual opportunities."

Mr. Hupp reiterated that he is very concerned about the discrepancies in this Application. He was in attendance at the last meeting. After the hearing had been closed, testimony was given by an adjacent neighbor. Mr. Hupp voiced concern that he was not allowed to testify. In conclusion, Mr. Hupp asked the Commission to take into consideration the process this Applicant has gone through when they decide whether he can have his new home and business too.

QUESTIONS FROM THE COMMISSIONERS -- None.

Speaking: David Webb 1209 14th Street, West Linn.

Mr. Webb stated that he is a builder. Mr. Thompson contacted him about his situation. He has done partitioning and subdividing in Milwaukie over the years and he helped Mr. Thompson draw up his site proposal. He met with City staff and he felt there was a bias against this Application, without justification. He asked if there were letters or remarks from people that warranted this difficulty. A remark was made that the neighbors felt the property would be devalued if this lot were allowed.

Mr. Webb stated that he has been an appraiser and real estate broker for 40 years. He does not feel the property value will be devalued by having a \$170,000 home next to this business. The market would not be able to find three comparable sales to substantiate devalue of the property.

QUESTIONS FROM THE COMMISSIONERS -- None.

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Speaking: Bill Hupp, 2626 SE Washington, Milwaukie OR 97222

Mr. Hupp asked how this Application, which was originally presented as an administrative process, is now a whole new ball game. Why doesn't the City do everything in their power to help their citizens?

QUESTIONS FROM THE COMMISSIONERS -- None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION

Speaking: Leona Goldsmith, 3411 SE Olsen, Milwaukie

Ms. Goldsmith stated that her property is zoned for houses, not business. She would like to see this area stay that way. Mr. Thompson has other businesses, at other locations. She is not in opposition to his building a home. She is in opposition to the business.

QUESTIONS FROM THE COMMISSIONERS

Barbara Cartmill asked if the business was there when she purchased her property? **Ms. Goldsmith** stated that yes it was, but when the business was sold, it should have fallen under the grandfather law. The grandfather law should have been discontinued a year later. There was another business there on the street that was a mess, but it has been improved. This property can be cleaned up too.

Speaking: Philip Nelson, 3739 SE Olsen Street

Mr. Nelson is member of Ardenwald Neighborhood Association. The Association concurs with staff's finding for approval and denial. This is the Applicant's property, his business, and his decision on what to do. However, nothing has been said about the effect on the neighborhood or the residents. They have fought for a long time to not have flag lots. They are stuck between a rock and a hard place; they either get a flaglot, which will be the first, or they get a non-conforming business in a neighborhood designed for residential purpose.

This business has been here for years, but it is time that the residents and neighborhoods take priority over business. This is a residential area. The Council had the opportunity to close down this area and restrict it, but they chose to allow

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the business to expand. He does not want to see more traffic on this street. He feels this business is where a house should be. He complimented the owner on the work that had been done in cleaning up the business.

Mr. Nelson stated that he agrees with staff; the structure of the property will change. Once divided, the essence of this property changes. It is only a matter of time and someone else down the street will want to do the same thing. This will set precedence.

QUESTIONS FROM THE COMMISSIONERS -- None.

ADDITIONAL COMMENTS FROM STAFF

Janet Wright stated that the non-conforming use approval in May, 1988, was approved for the parcel as a whole. Staff's interpretation of the non-conforming use criteria is that the subdivision, even though the new tentative plan reduced from 3 lots to 2 lots, it alters the property, thereby affecting the previously approved non-conforming use.

Gary Firestone stated that the legal standard in Section 802 of the Milwaukie Zoning Ordinance, provides that, "A non-conforming use may be continued but shall not be altered unless the alteration is approved by the Planning Commission." The issue is whether the use is being altered. Use is defined as, "The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained."

Staff's position is that by changing where the lot boundary is located, it is changing the arrangement of the use." It is the Planning Commission's responsibility to interpret the code and determine whether they agree with staff's interpretation.

QUESTIONS FOR CLARIFICATION

Tracy Cook asked if the Applicant would be living in the newly constructed house? **Mr. Thompson** replied yes.

APPLICANT CLOSING COMMENTS

Speaking: Howard Thompson, 3406 SE Olsen Street, Milwaukie

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Mr. Thompson stated that if he lived on the site in a new home, he would be able to take better control of the aesthetics of the property and the business. He plans to continue to clean up and upgrade the image of the business. He is more than willing to work with the neighbors and their concerns about the way this site looks.

Mr. Thompson stated that at this point he has not done improvements to the repair shop building because he was afraid it would be considered a change in the use. Staff told him that improvements to the repair shop would change the use. He does not want to do anything that will cause him to lose his license. He has offered to re-front the building and make various improvements. It is his understanding that he can only maintain what is existing.

Improvements done include painting the house, construction of a fence, and roofing repairs. He is afraid to do more, in fear of losing his license. Building a home and living on the site will enable him to do a better job of maintaining and improving his property and business.

QUESTIONS FROM THE COMMISSIONERS

Barbara Cartmill asked if the conditional use permit was explained to Mr. Thompson when he purchased the business. **Gary Firestone** explained that there was no determination made before the purchase of the property. Mr. Thompson was given a non-conforming use determination after the purchase and this determination set the perimeters of the non-conforming use.

Mike Miller asked if the Applicant checked to see if the business was in conformance with City regulations before it was purchased. **Mr. Thompson** stated that he rented the shop from the owner before purchase. This shop building was used as a rental. Barbara Shulz, the previous owner, told him that there was a license for the business and that it needed to be renewed. The City stated that they had no record; however, later it was determined that there was a license. Ms. Schulz purchased it in 1973, and before that time, this building was rented out to an auto repair shop.

Mr. Thompson stated that both Dan Pava and Susan Heiser had indicated that the area for the flag lot is not non-conforming. The area around the shop was required to be fenced and was determined to be the non-conforming area. He does not understand how this all works.

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Mr. Webb indicated that the non-conforming use determination restricted the use to the south one-third of the property.

DELIBERATION AMONG COMMISSIONERS

Vice-Chair Hammang closed the public portion of the hearing and opened the meeting to discussion among the Commissioners.

Judith Borden asked if the auto repair shop is a lawful business and if there were no Application, would Mr. Thompson be allowed to continue the business as it exists today? **Gary Firestone** stated that this is a lawful business and Mr. Thompson could continue that business. If it is found that the alteration changes the business, the non-conforming use only continues if the Application is withdrawn.

Tracy Cook asked if Mr. Thompson could build a new house on his property if there was no Minor Land Partition. **Jim Crumley** stated that there can be only one primary use per lot; the house could not be built. **Gary Firestone** stated that there is a possibility of removing the existing house on the lot, and rebuilding a new home. It may have to go through the non-conforming process because it will have two primary uses; repair shop and one house. As long as the lot stays in tact, there is no issue of non-conforming use alteration. **Jim Crumley** stated that the question is whether or not the Applicant should be allowed to modify the non-conforming use by reducing the area of the lot. This is an intensification of the non-conforming use.

Judith Borden asked if the non-conforming use applies only to a portion of the property; not the entire site. **Gary Firestone** stated that this is part of the question of interpretation of what is a non-conforming use. The definition of use can be interpreted as how the property is arranged. This can be interpreted as a change in the arrangement of the property. The non-conforming use portion was a part of the entire lot. The lot is being rearranged. It can also be interpreted that the use is limited to the area of the auto repair shop.

Mike Miller asked if the lot was sold, would the non-conforming use change. **Gary Firestone** stated that the non-conforming use does not change with the sale of the lot. It use can be continued as long as the use is not discontinued for a period of time.

Barbara Cartmill asked for clarification of the Determination of Non-conforming Use. It states in this document that the auto repair business shall be limited to the one-third southeast portion of the lot. **Gary Firestone** stated that the determination explains what exactly the use is and the restrictions or limits of that use. This can be interpreted to say that this is the non-conforming use and everything else is conforming. It can be interpreted that this is a non-conforming use on the lot. By changing the residence on the lot, it brings an additional residence closer to the non-conforming use. This could be seen as a change in the arrangement. There are some conditions that could be tied to ownership of the lots and the business, but the Applicant would have to agree.

Vice-Chair Hammang asked where this Application was in terms of the 120-day rule? **Janet Wright** stated that Mr. Thompson has signed a waiver to that rule.

Mike Miller noted that there were 12 documents submitted tonight. He would like to have more time to review the documents before making a decision. He suggested that the hearing be continued.

Vice-Chair Hammang re-opened the hearing to allow additional testimony and deliberations.

Mike Miller moved to continue the hearing on File Numbers MLP-98-06 and NCU-98-04, to May 11, 1999, to allow time for the Commissioners to review the information received tonight. **Barbara Cartmill** seconded. MOTION CARRIED 5-0.

Ayes: Borden, Cartmill, Cook, Hammang, Miller; Nays, none.

Recess was taken at 8:50 p.m. and the meeting reconvened at 8:55 p.m.

- 6.2 Applicant: Clackamas County Corrections
Owner: State of Oregon
Location: 9000 and 9002 SE McBrod
Proposal: Request to modify a previously approved Community Service Overlay to allow offenders in crime categories 9 and 10 be housed at the McBrod facility.
File Number: CSO-99-01
NDA: Historic Milwaukie

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Vice-Chair Hammang opened the public hearing on File Number CSO-99-01, a request to modify a previously approved Community Service Overlay (CSO-91-04). Criteria to be addressed are found in Section 321 - Community Service Overlay, and Section 1000 - Administrative Provisions of the Milwaukie Zoning Ordinance.

Vice-Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare. **Barbara Cartmill** explained that she works for Clackamas County. She does not work for or have any dealings with the Clackamas County Correctional Facilities and asked if any member of the Planning Commission objected to her voting on this issue. There were no objections stated from the Commissioners. 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

Janet Wright reviewed the Staff Report with the Commission. An overhead was shown of the subject site and surrounding area. The Applicant is asking for a modification to a previously approved Community Service Overlay (CSO-91-04). This proposal specifically excluded category 9 and 10 crime offenders from being housed in the existing facilities at 9000 and 9200 SE McBrod Avenue. They are asking that the previous CSO be amended to allow 11 of the 114 beds approved to be targeted for offenders in the 9 and 10 categories.

CORRESPONDENCE RECEIVED BY STAFF

Janet Wright stated that two neighborhood referrals were received and have been made available to the Commissioners. Several calls were received, mostly to get more information.

QUESTIONS FROM THE COMMISSIONERS -- None.

APPLICANT PRESENTATION

Speaking: Mark Rassmussen, 224 Frances Street, Molalla

DRAFT

Mr. Rasmussen introduced Steve Bracy, Manager of the Residential Center on McBrod. He is the Director of Community Corrections. In 1987, he was director and assistant director of the facilities at this location. In 1992, when the facility was built it was their decision to ask for specifications and limitations on level 9,10, and 11 offenders. In 1989, with sentencing guidelines, these categories were sent to prison. There was no need to deal with this population in their facilities.

Now these people are getting out of prison and the County's ability to deal with them are restricted. If they cannot use this facility, the prisoners will be housed on McLoughlin Blvd. in motels and hotels. Clackamas County Corrections would like to provide this service to this population.

Clackamas County has been there since 1980. In 1968, there was a security facility on these premises. An agreement has been made with OLCC (property owner) and Clackamas County (building owner) agreeing on the 10% bed space limitation. This limitation will assure that these offenders will not overwhelm the facility at any one time. They have no problem with reporting to Community Development what offenders are on the premises.

QUESTIONS FROM THE COMMISSIONERS

Mike Miller asked the male/female ratio. **Mr. Rasmussen** stated that there are currently 114 beds. Twelve of the beds in one facility are dedicated as female bed space. The other facility has a section that can be dedicated to females, but is all male right now.

Mike Miller asked if the residents of these facilities are all from Clackamas County or are they from all over the state. **Mr. Rasmussen** stated that all of the residents are from Clackamas County. The Probation officer places the offender in the facility.

Mike Miller asked if this is the only facility that Clackamas County operates? **Mr. Rasmussen** stated that Clackamas County only has these two facilities.

Judith Borden asked if this Overlay change would effect offenders currently living in the community? Will they come from the hotels and motels in the community to the security facility? **Mr. Rasmussen** stated that only the offenders who are having problems in their community location will be transferred to the facility.

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Mike Miller asked what would be the transition period from not having these level offenders to filling the 11 beds requested? Would lower-level inmates be taken out to make room for the higher level offenders? **Mr. Rassmussen** stated that these are issues that need to be worked out with OLCC, the beds would not be filled immediately. They will be filtered in over time. Probably the 10% will be capped within six months.

TESTIMONY IN FAVOR

Speaking: Ed Zumwalt, 1088 SE 29th, Milwaukie

Mr. Zumwalt stated that Mr. Rassmussen and Mr. Bracy attended the Historic Milwaukie NDA meeting and this issue was discussed. The general feeling is against this application; however, he feels that the excellent presentation answered all questions and eased concerns. After the presentation, the vote was unanimous for the application.

QUESTIONS OR COMMENTS

Speaking: Mark Husbett, 659 SE Andover Place, Portland

Mr. Husbett asked for more details on the characteristics of the classification of these level 9 & 10 criminal activities. He would like to know what they mean and what type of behavior elements will be in the community. **Mr. Rassmussen** handed Mr. Husbett information defining these types of criminal activities.

Mr. Husbett then read into the records the statutes of Murder, Manslaughter I, Rape I, Sodomy I, Sexual Penetration I, Assault I, Kidnapping I, Arson I, Burglary I, Robbery I, and Kidnapping II.

Mr. Husbett asked how the work-release program works. If approved, what is the communication with the immediate community as to who these people are and how they can be identified. Other questions asked:

- Is this attracting more of a criminal element to the community than would otherwise be there?
- How many inmates come from Milwaukie?
- What is the success of the program and how can you guarantee success with these higher level criminal categories. What is track record of other facilities?

- How are these individuals supervised differently than at hotels and motels?
- Where are the current motels and hotel that house these criminals and how does this effect zoning?

TESTIMONY IN OPPOSITION

Speaking: Mark Husbett, 659 SE Andover Place, Portland

Mr. Husbett stated that he is in opposition to increasing the categories of level 9 and 10 at these facilities. This is an unfortunate situation, but to change the categories will be introducing a higher level of criminals to his part of the community and the community in general.

Milwaukie is making plans for zoning for the downtown area. If criminals are being placed in the hotels and motels in the downtown area, how will the zoning be affected? Would the Commissioners who vote for this application need to declare a potential conflict of interest? **Gary Firestone** stated that any commissioner could consider new information. If the information raises a conflict of interest in their minds, then the conflict of interest should be declared at that time.

Mr. Husbett stated that people moved into this community because of zoning. This community character should not be changed to attract a certain element.

ADDITIONAL COMMENTS FROM STAFF -- None.

QUESTIONS FOR CLARIFICATION -- None.

APPLICANT CLOSING COMMENTS

Speaking: Mark Rassmussen, 324 Francis Street, Mollala

Mr. Rassmussen stated that prior to 1968-1992, these category offenders were in state and county facilities. During that period of time, there was no significant increase based on the fact that these offenders were there. After evaluating complaints over a period of nine years, it found there were only 50 negative reports. This is relatively small compared to criminal activity elsewhere in Milwaukie. This is a safer environment than most people would suggest.

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These people are already in this area, in this community. This facility is the best way to manage this population. About 65% of the people who complete the program are out over a two-year period. People who are on probation have about an 11% re-offend rate; those on parole, about 33% re-offend.

Speaking: Steve Bracy, 6308 SE Furnberg, Milwaukie

How does program work? This is a supervised program that is staffed 24hrs/7days a week by certified corrections officers. There is counseling staff at both buildings; seven at the 80-bed facility and three at the smaller 34-bed facility. These counselors help the inmates and residents address personal problems and community needs. All leaves from the facility are authorized; a count is taken every hour to determine residency. There must be an out-on-work or approved form of pass to leave the building. Alcohol and drug testing are done randomly at the facility. There is a 98 % clean rate.

What kind of notice is given about what offenders are in the area? Currently there is no notice as to who is in the facility. There is a condition of this application that both the Police and Community Development Department be notified of who is at the facility. Clackamas County Corrections has no problem sharing this information, even to neighborhood associations if they so request. He invited anyone who is interested to come in and look through their card/picture file to see who is there.

Are we bringing a higher criminal element into the neighborhood? Yes, bringing in this criminal element is upping the risk. Currently there is no structured place for this population. This facility will provide the structure and try to get them back on a positive track.

How many are from Milwaukie? A lion's share of the population is from the Oregon City/Milwaukie corridor. A high portion of people under supervision is under 97222 Zip Code.

What is the success rate and impact on the community? There is a consistent successful rate of 70%. How housing 9 & 10 level inmates will impact the community, he does not know. After a period of time, they can go back and get data. He does not feel there will be an impact.

How are these individuals supervised differently than if in a hotel? When an offender is on parole, an assessment is done to determine level of risk to re-

offend. That level of risk is then used to determine level of supervision. The level of supervision in this facility is complete supervision.

QUESTIONS FROM THE COMMISSIONERS

Vice-Chair Hammang asked if this was a locked facility? **Mr. Bracy** stated that the facility is locked. It is locked so no one can get in the doors. This is a minimum-security facility.

Mike Miller asked what is the maximum time an inmate would spend at this facility? **Mr. Bracy** stated that the average time is a year or less; anything over a year is a prison sentence..

DELIBERATION AMONG COMMISSIONERS

Vice-Chair Hammang closed the public portion of the hearing and opened the meeting to discussion among the Commissioners.

Tracy Cook stated that she would rather see these offenders in this facility rather than the hotels and motels in the community.

Mike Miller stated that he does not want Milwaukie to be known as the housing facility for Clackamas County Corrections. If there is ever a request for expansion, he will be opposed. He hopes that other facilities will be placed in other areas. He asked that the Applicant work with the neighborhood to inform them of the sex offenders in the area.

Tracy Cook concurred that this facility should not be expanded.

Tracy Cook moved to approve CSO-99-01, a request to amend a previously approved Community Service Overlay (CSO-91-04) based on the report Findings and Conditions of Approval, deleting Condition 3, contained in Exhibit 1.

Barbara Cartmill seconded. MOTION CARRIED 5-0.

Ayes: Borden, Cartmill, Cook, Hammang, Miller; Nays 0.

- 6.3 Applicant: Clackamas County Service District No. 1
Owner: Clackamas County
Location: 11525 SE McLoughlin Blvd.
Proposal: Install order control devises at the Kellogg Creek Treatment Plant.
File Number: CSO-99-02/CU-99-01/MC-99-01

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NDA: Island Station

Vice-Chair Hammang opened the public hearing on File Number CSO-09-02, CU-99-01, and MC-99-01, to allow the installation of odor control devises at the Kellogg Creek Treatment Plant. Criteria to be addressed are found in Sections 311, 320, 321, and 325 of the Milwaukie Zoning Ordinance.

Vice-Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare. **Barbara Cartmill** explained that she works for Clackamas County. She does not work for or have any dealings with the Clackamas County Service District #1 and asked if any member of the Planning Commission objected to her voting on this issue. There were no objections stated from the Commissioners. 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; five 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 reviewed the Staff Report with the Commission. An overhead was shown of the subject site and surrounding area. Clackamas County is seeking approval to construct odor control improvements at the Kellogg Creek Treatment Plant. The proposal requires three separate applications; Willamette Greenway, Community Service Overlay, and McLoughlin Boulevard Overlay.

Discussions with the Applicant resulted in some changes in the Conditions of Approval. John Gessner reviewed those changes with the Commission.

CORRESPONDENCE RECEIVED BY STAFF

Letters were received and passed out to the Commissioners from:

- Letter from Judith Duncan to the Planning Commission Re: Kellogg Creek Treatment Plant proposal to install odor control devises at the Plant.
- Letter from Molly Hanthorn, Land Use Chair for Island Station NDA
- Letter from Janet Koch to Community Development Department

QUESTIONS FROM THE COMMISSIONERS -- None.

APPLICANT PRESENTATION

Speaking: Ted Kyle, Capital Program Management, 16770 SE 82nd Drive, Clackamas,
Suite 200

Mr. Kyle introduced Randy Rosane, project manager for the project. To fix the odor problem additional facilities must be built. The director made a commitment to the Island Station Neighborhood Association to have this problem fixed in five years; that was two years ago.

This project will not increase the capacity of the plant to treat wastewater. It will not affect the useful life of the plant. This job is being done for one purpose only, to treat the odor problems. The proposed system has had the best performance record so far for treating a broad spectrum of odors.

Randy Rosane stated that the NCC controls are beneath the 100-year flood plan. If there were a flood, it would impact the operation of the plant. These controls will be moved above ground and enclosed it in a structure. A drawing was shown detailing the improvement. Another drawing was shown of other areas of improvement. A picture was shown of the biofilters indicating what they will look like when they are completed. Landscaping improvements are being planned that will buffer the view from the south.

The biofilter medium is a combination of wood chips and bark dust material. It supports organic life that eats odors. **Mr. Kyle** thanked the Island Station Neighborhood and the Historical Milwaukie NDA for meeting with them and coordinating with them on their efforts. The Neighborhood Association has requested that the Plant work with them on the digester gas incinerator storage project and they look forward to working with them.

It was asked if the cost would be wasted if the plant goes away? Any relief from the odors would be worth the cost. **Mr. Kyle** stated that they will re-coop the cost and the investment will be well worthwhile.

Mr. Kyle stated that he has read the Staff Report and concurs with its findings and conditions. There is a concern about Finding #6, which indicates that this project may extend the life of the plant. This is not true, it is not intended to increase the life of the Plant and it will not increase capacity.

VII. A. 3-22

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QUESTIONS FROM THE COMMISSIONERS

Vice-Chair Hammang asked what percentage of order reduction is to be realized. **Mr. Kyle** stated that he did not have that information. This project will deal with the waste odor by an organic process. He cannot promise it will get rid of all order, if not, they will continue to look to a process that will.

Mike Miller asked what was the overall cost of the project? **Mr. Kyle** stated that the cost is about \$3 million.

Mike Miller voiced concern about the 40-year old trees being replaced. He asked if all the trees in the fenced area (20 trees) will be removed? **Mr. Rosane** stated that all of the trees that will be removed, would be replaced.

Mike Miller asked if the fence that presently borders McLoughlin Boulevard will be moved closer to the street? **Mr. Rosane** stated that the fence location will remain the same, just extended to the south and brought around to the west side of the existing berm.

Barbara Cartmill asked when the project would be finished? **Mr. Rosane** stated that the project should be done by January.

TESTIMONY IN FAVOR

Speaking: Ed Zumwalt, 1088 SW 29th, Milwaukie

Mr. Zumwalt stated that he is the co-chair of the Historic Milwaukie Neighborhood Association. On April 14th, the Neighborhood Association met with representatives from the Clackamas County Service District #1 and gave a great presentation of the project. The Association was impressed with the project. He believes they are doing the best they can

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION

Speaking: Janet Koch, 1962 SE Eagle Street, Milwaukie

Ms. Koch stated that she has submitted a written objection to the proposal. It is said that the project will be an enhancement to the neighborhood. The area where the berm will be placed is up against the embankment of the railroad tracks.

In the last expansion of the Treatment Plant, the neighborhood tried to mitigate, but were told they would not be impacted. They are impacted visually and by the odor.

Ms. Koch stated that she is the closest to the incinerator. She has made numerous phone calls voicing concern about the shaking and rattling. She was told to call the odor control line. She asked why her calls to the Plant received no response?

Ms. Koch stated that she has structural problems. She is not sure if this construction is causing the damage. She is continually subjected to noises and rumbling and she has made several objections. No response has been returned to her.

She is here tonight to personally object to this project. She does not feel any further expansion should be approved. She also voiced concern about replacing the incinerator before finding out what will take its place.

QUESTIONS FROM THE COMMISSIONERS -- None.

ADDITIONAL COMMENTS FROM STAFF

John Gessner reported that the biofilters will be 4-feet above grade and 6-feet below grade. There will be potential view from McLoughlin Boulevard that will need view mitigation. The ducting itself will be running above grade. The ducting may also need view mitigation.

John Gessner pointed out the incinerator on the site map. It is bounded by several large trees. The neighborhood has voiced concerns about the gas incinerator and storage. The Planning Commission has the authority by the CSO process to impose reasonable conditions to insure that the use is compatible with existing uses, such as building location, setbacks, heights, minimize impacts of noise and lights.

Staff has encouraged the Applicant to consolidate future improvements so the Commission would have full understanding of the project.

VII. A. 3-24

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QUESTIONS FOR CLARIFICATION

Tracy Cook asked Staff if Finding #6 was a concern about the extension of the Treatment Plant? **John Gessner** stated that this is an acknowledgment of some of the concerns of the neighborhood. Staff is not making any determination for the Commission in this regard, only reflecting what was heard from the community.

Vice-Chair Hammang asked if the rumbling that is heard by Ms. Koch is from the turbulence created from the burner exhaust fans? **Mr. Kyle** stated that it probably is the case.

APPLICANT CLOSING COMMENTS

Speaking: Ted Kyle, Capital Program Management, 16770 SE 82nd Drive, Clackamas, Suite 200

Mr. Kyle stated that the odor would not get better unless this project is done. This proposal does not expand the Plant; in fact, it prevents expansion because it uses the land that was designated for expansion to the south. It was concluded in 1996 that expansion of this site was not in the district's interest. This decision was adopted by the County Commissioners.

Randy Rosane stated that the exposed area of the biofilters would be about four feet above ground. The berm area in the back will be about four feet above ground. Basically, the view of the biofilters will be blocked. The ducting will be about 4-5 feet above ground. I will not work underground. The blower station piping will be below ground. There will not be much that can be seen from McLoughlin Boulevard due to the hedges and trees blocking the view.

QUESTIONS FROM THE COMMISSIONERS

Vice-Chair Hammang asked about the noise concerns expressed by Ms. Koch. **Mr. Kyle** stated that this noise is a rumbling sound that happens when the gas ignites. A new process is being reviewed for a new burner that is quieter and contained within the stack itself. This new process is still being reviewed.

Vice-Chair Hammang asked if the Plant is responsive to neighborhood concerns? **Kyle** stated that they try to be as responsive as possible. Their policy is to be a good neighbor.

DELIBERATION AMONG COMMISSIONERS

Vice-Chair Hammang closed the public portion of the hearing and opened the meeting to discussion among the Commissioners.

Mike Miller stated that this project includes an expansion of the plant that takes away from the waterfront view and creates a closer proximity to the Island Station neighborhood. All of the neighborhoods should be able to review this plan before a decision is made. He would feel more comfortable to delay the decision because there are too many unknowns. The Commission is being asked to approve a proposal that is not yet complete.

Vice-Chair Hammang stated that he doesn't understand findings and conditions or their implications. He would prefer a drawing that is a rendering of the facilities. He feels as if he is filling out a blank check.

Tracy Cook stated that she, too, would like more information.

Mike Miller stated that he does not feel he can support the perception of the Plant being expanded.

Vice-Chair Hammang re-opened the hearing to allow additional testimony and deliberations.

Tracy Cook moved to continue the hearing on CSO-99-02, CU-99-01, and MC-99-01 for Clackamas County Service District Number 1 until May 25, 1999, to allow staff and the Applicant time to prepare more information and to invite more neighborhoods to respond to the Application. **Tracy Cook** seconded. MOTION CARRIED 4-0 with one abstention. **Barbara Cartmill** did not vote.
Ayes: Borden, Cook, Hammang, Miller; Nays, none.

7.0 WORKSESSION -- None.

8.0 DISCUSSION ITEMS -- None.

9.0 OLD BUSINESS -- None.

VII. A. 3-26

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10.0 OTHER BUSINESS

10.1 Historical Resources Commission Report -- No report.

10.2 Community Development Director Report -- None.

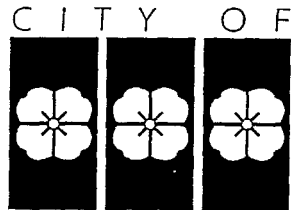
11.0 Next Meeting -- May 11, 1998

11.1 MLP-98-06/NCU-98-04

Mike Miller moved to adjourn the meeting of April 27, 1999. Tracy Cook seconded.
MOTION PASSED UNANIMOUSLY. The meeting adjourned at 10:17 p.m.

Donald Hammang, Vice-Chair

Shirley Richardson, Hearings Reporter



MILWAUKIE

MEMORANDUM

May 7, 1999

TO: Mayor and City Council

THRU: Dan R. Bartlett, City Manager
Martha Bennett, Assistant City Manager Community Development *M/B*

FROM: Jim Brink, Public Works Director *JB*

SUBJECT: 1998-1999 Capital Improvement Program (CIP) Projects Summary

Action Requested: None. Information only.

Discussion:

1. The 1998-1999 CIP is nearing completion. Three projects are still in progress (Replace Waterline on Waverly Dr/Lava Dr), Waverly Dr Sewer LID, and Reconstruct Brookside Sewer Liftstation). Eighteen (18) projects are completed and four (4) projects are shifted to a future year (see attached spreadsheet).
2. Several projects were added to the FY99 CIP budget. The majority of the added projects are carryover projects from FY98 such as the Telemetry Improvement project and the 1998 CDBG Sidewalk project. New projects included the Waverly Dr Sewer LID, the Jackson St Repair, the 17th Ave Sidewalk Improvement, the Lake Rd Sidewalk Improvement and the Home Ave Speed Humps. The first three projects involved cost share by others, the Lake Rd sidewalk was a School Trip Safety project, and the Home Ave speed humps were an Neighborhood Traffic Management project.
3. The total original contract amount of all completed projects is \$1,134,904.00. The final cost of all completed projects is \$1,135,168.40. The difference between original contract and actual is -\$264.43. The budgeted amount of completed projects including the proposed supplemental is \$1,186,206. The difference between budget and actual is \$51,038.
4. The project with the largest final cost greater than original approved cost was the Telemetry Improvement project. The final cost is 6.4% or \$23,500 greater than the original contract amount of \$368,247. The increase was caused by work required to repair or replace inoperative or incompatible equipment, work required to totalize flow at the Island Station and Home/Monroe lift stations, and work required to provide 6 additional reports.

Budget/1999CIPSummaryMemo.doc
5-7-99

1998-1999 CIP SUMMARY							
	Proj #	Project Name	Final Cost	Original Approved Amount	Over/Under/Even	Diff	Remarks
SEWER	PROJECTS IN FY99 CIP/BUDGET						
	SE-99-1	30th Ave Sewer Improvement	24000.00	24000.00	E	0.00	Completed
	SE-99-3	Brookside Lift Station		174500.00		TBD	In progress; \$90,000 programmed for FY2000
	SE-99-2	Plum Dr/Sequoia St Improvement					Delayed to FY2001 to allow funding for Waverly Dr Sewer LID; repair of maintenance problem spot can be safely postponed
	NEW PROJECTS						
	SE-99-4	Waverly Dr LID		65000.00		TBD	In progress; City Council approved 1-4-99; 75% citizen cost share
	SE-98-3	Telemetry Improvement	41545.83	35511.83	O	-6034.00	Completed; Carryover from project approved and started in FY98
WATER	PROJECTS IN FY99 CIP/BUDGET						
	WT-99-1B	Replace Waterline on JCB	121000.00	129620.00	U	8620.00	Completed
	WT-99-2A	Replace Waterline on 43rd Ave/Roswell St	51579.50	51800.00	U	220.50	Completed
	WT-99-2B	Replace Waterline on Guilford Dr	91287.02	92106.92	U	819.90	Completed
	WT-99-3	Replace Waterline on Waverly Dr/Lava Dr		116504.00		TBD	In progress
	WT-99-1A	Portland Intertie Improvement					Delayed to FY2000 pending Portland Parks Bureau approval of site
	NEW PROJECTS						
	WT-98-2	Telemetry Improvement	136353.42	118887.42	O	-17466.00	Completed; Carryover from project approved and started in FY98
	WT-98-4	CRW Intertie Improvement	9138.00	9138.00	E	0.00	Completed; Carryover from project approved and started in FY98
	STORM	PROJECTS IN FY99 CIP/BUDGET					
ST-99-1		Brookside Storm Improvement	210079.00	228556.00	U	18477.00	Completed
RD-99-3		Stanley Ave Sidewalk Improvement	14760.00	14760.00	E	0.00	Completed
ST-99-3		42nd Ave Storm Improvement					Delayed to FY2000 as part of 1999 CDBG Sidewalk #1 project; 80% funded by others
ST-99-5		Storage Facility for Vactor					Deleted; project not needed
NEW PROJECTS							
ST-98-5		Johnson Creek Blvd Storm Improvement	58235.00	60000.00	U	1765.00	Carryover from project approved in FY98; City match provided to Portland in May 1999
RD-98-5		1998 CDBG Sidewalk Improvement	22733.00	22733.00	E	0.00	Completed; Carryover from project approved and started in FY98; \$23,000 spent to date
STREET		PROJECTS IN FY99 CIP/BUDGET					
	RD-99-5	1998-1999 Overlay	162129.00	153849.20	O	-8279.80	Completed; added paving of Drefshill St following completion of sewer project in FY98

	RD-99-6	Madison St Sidewalk Improvement	18973.20	21562.00	U	2588.80	Completed
	RD-99-3	Stanley Ave Sidewalk Improvement	83066.63	79216.40	O	-3850.23	Completed
	RD-99-1	Roswell St LID					Delayed to FY 2001 to allow funding of Stanley Ave Sidewalk Improvement project
	NEW PROJECTS						
	RD-99-8	Jackson St Repair	23344.16	23344.16	E	0.00	Completed; City Manager approved 9-14-98; Joint project with Tri-Met; Tri-Met paid 75% (\$17,499) of the total project cost
	RD-99-5	Lake Rd Sidewalk Improvement	16715.60	16450.00	U	-265.60	Completed; City Manager approved on 8-26-98; Sschool Trip Safety project Rowe Jr High
	RD-99-9	17th Ave Sidewalk Improvement	6521.00	6521.00	E	0.00	Completed; City Council approved 10-6-98
	RD-98-5	1998 CDBG Sidewalk Improvement	5683.64	5683.64	E	0.00	Completed; Carryover from project approved and started in FY98
	RD-00-3	NTMP (Home Ave)	3900.00	3900.00	E	0.00	Completed; took advantage of low unit price on Stanley Ave speed humps
BIKE	PROJECTS IN FY99 CIP/BUDGET						
	RD-99-3	Stanley Ave Sidewalk Improvement	20000.00	20000.00	E	0.00	Completed
	RD-99-4	CDBG Ramp Improvement	13860.00	17000.00	E	3140.00	Completed
		Total:	1,134,904.00	1,490,643.57		-264.43	
TBD: To be determined							
Budget/CIP/1999cipSummary							
5/3/99							