

**MILWAUKIE CITY COUNCIL
REGULAR SESSION
NATIONAL NIGHT OUT
AUGUST 3, 1999**

The one thousand eight hundred and twentieth meeting of the Milwaukie City Council was called to order by Mayor Tomei at 6:15 p.m. at the Island Station Neighborhood District Association National Night Out Event in Kellogg Creek Park, 19th Avenue and Eagle Street. The following Councilors were present:

Rob Kappa
Mary King

Larry Lancaster
Jeff Marshall

Also present:

Dan Bartlett,
City Manager
Martha Bennett,
Assistant City Manager
Alice Rouyer,
Planning Director

Michelle Gregory,
Neighborhood Services Coordinator
Grady Wheeler,
Information Specialist
Brent Collier,
Police Chief

PROCLAMATIONS, COMMENDATIONS AND SPECIAL REPORTS

National Night Out

Mayor Tomei read a proclamation naming Tuesday, August 3, 1999, as *National Night Out* in the City of Milwaukie.

CONSENT AGENDA

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

1. City Council Minutes of July 19 and 20, 1999; and
2. Resolution No. 32-1999: A Resolution of the City Council of the City of Milwaukie, Oregon, Determining the Second Work Session and Second Regular Session of August Will Be Held on August 30 and 31, 1999, Respectively.

Motion passed unanimously.

AUDIENCE PARTICIPATION

Walt Huber, 2100 SE Sparrow, asked if the City could take some action regarding what he believed were unnecessary train whistles. **Bartlett** said staff would contact Willamette and Pacific to make the company of resident complaints.

Sandy McCune, 11353 SE 33rd Avenue, spoke on behalf of the Milwaukie Park and Recreation Board. She was attending the National Nigh Out neighborhood event to gather information from residents about areas suitable for future park development

OTHER BUSINESS

Vision and Mission Statements

Councilor Marshall requested that City Council engage in a process that would expedite the adoption of revised Vision and Mission statements. All of the Neighborhood District Associations Visions, Board and Commission goals and work plans, and Council Goals and Strategic Plans have been completed, so he felt the Council had enough information to move forward as quickly as possible. He was concerned that decisions are being made without an adopted vision.

Councilor Kappa agreed that Council needed to move forward on the Vision and Mission Statements because there were regional issues that needed to be addressed. He understood that a work session was scheduled with the Planning Commission later in the month.

Bartlett said staff would provide a preliminary outline by the work session on August 30. He suggested that the communication work session with Mike Swanson might evolve into a vision and mission statement discussion.

ADJOURN

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

The meeting adjourned at 6:25 p.m.



Pat DuVal, Recorder

**CITY OF MILWAUKIE
CITY COUNCIL AGENDA
NATIONAL NIGHT OUT
AUGUST 3, 1999**

ISLAND STATION NEIGHBORHOOD

Kellogg Creek Park
19th Avenue & Eagle Street

1820th MEETING

REGULAR SESSION - 6:00 p.m.

**I. CALL TO ORDER
Pledge of Allegiance**

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

National Night Out Proclamation (Mayor Tomei)

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

City Council Minutes of July 19 & 20, 1999

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

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

None scheduled.

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

None scheduled.

VII. INFORMATION

A. Board and Commission Minutes

- 1. Ledding Library Board, June 28, 1999;**
- 2. Planning Commission, July 13, 1999; and**
- 3. Riverfront Board, July 12, 1999**

- B. Boyd Street ODOT Tree Pruning/Removal**
- C. Departmental Monthly Reports**

VIII.ADJOURNMENT

EXECUTIVE SESSION

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

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



II. 1

To: Mayor Tomei and Milwaukie City Council
Through: Dan Bartlett, City Manager *[Signature]*
From: Brent W. Collier, Chief of Police *[Signature]*
Date: July 14, 1999
Subject: National Night Out Proclamation

Action Requested:

Adoption of the attached proclamation declaring August 3rd, 1999 as "National Night Out" in the City of Milwaukie.

Summary:

August 3rd, 1999 is recognized as National Night Out. National Night Out is an important nationwide crime and drug prevention event sponsored by the National Association of Town Watch. In its sixteenth year, it is an opportunity for citizens to join their neighbors and members of the police department in activities which foster police/community cooperation and crime and drug prevention awareness.

PROCLAMATION NO. _____

A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, RECOGNIZING "NATIONAL NIGHT OUT" IN THE CITY OF MILWAUKIE.

WHEREAS, the National Association of Town Watch (NATW) is sponsoring a unique, nationwide crime and drug prevention program on August 3rd, 1999 called "National Night Out"; and

WHEREAS, the "16th Annual National Night Out" provides a unique opportunity for Milwaukie to join forces with thousands of other communities across the country in promoting cooperative, police-community partnership efforts; and

WHEREAS, Milwaukie Police Department plays a vital role in promoting crime and drug prevention efforts and is supporting "National Night Out 1999" locally; and

WHEREAS, it is essential that all citizens of Milwaukie be aware of the importance of crime prevention programs and impact that their participation can have on reducing crime, drugs and violence in Milwaukie; and

WHEREAS, police-community partnerships and neighborhood safety and awareness and cooperation are important themes of the "National Night Out" program;

NOW, THEREFORE, WE, MILWAUKIE CITY COUNTY, do hereby call upon all citizens of Milwaukie to join Milwaukie Police Department and the National Association of Town Watch in supporting the "16th Annual National Night Out" on August 3, 1999.

FURTHER, LET IT BE RESOLVED THAT, WE, MILWAUKIE CITY COUNCIL, do hereby proclaim Tuesday, August 3, 1999 as "NATIONAL NIGHT OUT" in Milwaukie.

Introduced and adopted by the City Council on July 20, 1999.

Carolyn Tomei, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:

O'Donnell, Ramis, Crew, Corrigan & Bachrach

CITY OF MILWAUKIE
CITY COUNCIL WORK SESSION
JULY 19, 1999

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

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

Staff present: Assistant City Manager Richards and Interim Public Works Director Swanson.

Information Sharing

1. The group generally discussed the "Audience Participation" portion of the Council agenda and comments that were read into the July 6, 1999, meeting record.
2. **Councilor Kappa** discussed the Environmental Species Act (ESA) and its relationship to transportation and land use planning. Project costs will likely increase to meet federally-required mitigation requirements. There is concern that Metro's 2040 Plan density targets may also be impacted, and he strongly recommended that Milwaukie be actively involved in any discussions.
3. **Councilor Kappa** reviewed Metro Policy Advisory Committee's (MPAC) outreach plans with cities and counties.
4. **Councilor King** discussed the need for the Riverfront Board and the Milwaukie Downtown Development Association (MDDA) to coordinate its efforts in order to come out with a good downtown redevelopment product.
5. The group discussed Mayor Tomei's written response to Cayo's letter submitted after the July 6, 1999, Council meeting.
6. **Councilor Lancaster** was concerned that TCI was making system improvements in the public right-of-way without notifying affected property owners. Many residents have been maintaining the right-of-way and are coming home from work to find that plantings were removed. **Richards** said staff has talked to TCI about contacting its contractors.
7. **Councilor Lancaster** asked why the property insurance premiums had increased. **Richards** said she would get a staff response.

III. 2

8. **Councilor Lancaster** discussed how the Council could help the Planning Commission achieve its work plan targets. **Richards** said a work session is scheduled with the Commission on August 16 to talk about this type of issue.
9. **Councilor Kappa** said many residents are concerned about the volume of heavy trucks on City streets and recommended increased enforcement on such streets as Lake Road and Washington. Truck volume and weight is creating ruts in the pavement. The group agreed it wanted an update from Chief Collier on training and officers' progress toward enforcement. The Council discussed the Traffic Safety and Transportation Board's (TSTB) role in this and other regional issues.
10. The group discussed upcoming work sessions with the appointed advisory boards and commissions.
11. **Councilor Lancaster** asked if there had been a response from the ACLU regarding the Council's questions about Municipal Code Chapter 2.04.290.B that came up during discussion of the draft communication agreement. **Councilor Kappa** reported that the ACLU had not contacted him. The group discussed the feasibility of having the City Attorney prepare an opinion.
12. **Councilor Lancaster** was concerned with how the City was communicating with the local police force and referred to the dispatch services issue.

Open Community Forum

Keith Wright, 5066 SE Rainbow Lane, spoke regarding the City's construction contracts. He urged the City to consider adding a bid specification that a contractor had to be a state certified training agent. The benefits would be increased commitment to the community by supporting apprenticeship programs. These programs help strengthen the economy and result in higher quality and more efficient construction. Awarding contracts to the lowest bidder does not necessarily result in greater future benefits for the community. A state certified training agent is registered with the State of Oregon. He indicated he was a business agent for the Brick Layers Union.

The group was interested in looking at this type of specification, and **Wright** said he would provide the City Council with additional information and a sample bid specification from the City of Portland.

Councilor Kappa commented that former Councilor Knudson was involved with a building trades apprenticeship program.

Councilor Lancaster asked if there was an additional overhead cost for this type of training program.

Wright responded the expense would likely be reflected in additional overhead. Most of the trades provide this type of program which also promotes apprenticeship and training of women and minorities. He agreed to forward additional information to City Manager Bartlett.

Councilor Lancaster believed a void was developing in the skilled trades and felt Wright's suggestion might be in the City's interest.

Councilor King agreed this suggestion carried social responsibility considerations.

Councilor Marshall was concerned about creating a union/non-union issue.

David Aschenbrenner spoke representing himself and wanted to clarify the issue of the Traffic Safety and Transportation Board's (TSTB) motions. He specifically addressed the motion having to do with the Board's reviewing all traffic control device requests. He explained the Board wanted status reports from staff on issues that affected it. He did not believe the intent was for the TSTB to review all requests since that would probably slow the process. The Board feels it needs this type of information when citizens ask about the status of their requests. It is not a matter of looking over staff's shoulder; it is more an issue of being better informed about the types of requests that are being processed. He added that these were his views and not necessarily those of the Board.

Councilor Marshall added that this information would also help the Board get sense of patterns and trends to help make decisions on future actions.

Aschenbrenner also explained that the motions were coming before the City Council in this manner because of the time lapse between the meeting, the Board's approving the minutes, and distribution in the Council packet. This was intended to be informational since most motions do not require Council action.

Traffic Safety and Transportation Board (TSTB) Motions

Swanson discussed the June 14 Traffic Safety and Transportation Board (TSTB) motions. One of the motions had to do with the 32nd Avenue project and the three proposed raised crosswalks. The Board strongly recommended that staff identify additional fiscal year 1999/2000 funding for additional speed humps on 32nd Avenue from Johnson Creek Blvd. to Harrison Street. Staff had explained there were funds for three raised crosswalks in FY 1999/2000, and additional funding for traffic calming projects would have to be considered the following year.

III. 4

The group discussed the Ardenwald NDA vote on this issue, and **Richards** indicated the NDA concurred with the TSTB.

Councilor King was sure the Ardenwald NDA would be pleased with three raised crosswalks.

Councilor Kappa said it seemed from his reading of the minutes that there was a confusion between speed humps and raised cross walks.

Swanson said three raised crosswalks were scheduled, but the issue of the full project with six speed humps or none at all needed to be resolved. The rest of the street improvement project is ready to begin, so eliminating the three raised crosswalks may be the only solution unless the traffic calming issue is resolved.

Richards, Ardenwald NDA liaison, said the membership made a motion that it would only support the full project.

Councilor Marshall expressed concern that ongoing conflicts result in nothing getting done. He asked the cost of each speed hump.

Swanson believed the cost was about \$4,000 each depending on the installation method. Staff made project adjustments so the raised crosswalks could be included, but, because the parties involved have not resolved the issue, the project is currently moving forward without them. The crosswalks can be included if the Council gives that direction within the next few days.

It was moved by Councilor Marshall and seconded by Councilor King to include three raised crosswalks in the 32nd Avenue project.

Mayor Tomei agreed that it would be an injustice not to include the three raised crosswalks, but at the same time, she was concerned that the City Council would be accused of not listening to the neighborhood. Council's immediate concern is the children's safety, but the Ardenwald NDA is not scheduled for a general membership meeting until September. The proposed crosswalks will certainly slow traffic and are located where children cross 32nd Avenue to get to Ardenwald Elementary School.

Councilor Kappa supported staff's recommendation that it continue to work with the NDA prior to finalizing the project.

Swanson felt the situation was confusing because there was a lot going discussion going on outside of the normal NDA and TSTB meetings. He understood from M. Bennett that the project does not include the raised crosswalks because the "full project vs. three" issue has not been resolved. If the City Council directs staff to include the three raised crosswalks, then it will happen. It seemed reasonable for the City to commit to looking at additional traffic control devices in future budgets.

Councilor Lancaster asked why there was an all or nothing position? He suspected the neighborhood felt that if it did not hold out for the full project now that funding would be a long time coming for the remainder of the project.

Swanson understood Stone's point to be that the improvements should not be embarked upon unless it was for the full project. Staff identified a certain amount of dollars and what could be done with that amount of money. Each party has its point, but there needs to be a resolution.

Councilor King believed the need was the greatest where the children cross 32nd Avenue to get to and from Ardenwald Elementary School.

Richards said the Ardenwald NDA motion was to support the full project.

Councilor Kappa understood there was some confusion about terminology and how speed bumps, speed humps, and raised crosswalks compared.

Swanson said a raised crosswalk is about five-feet wide and elevated about four inches above the level of the road.

Councilor King asked if the Ardenwald NDA executive board could meet and vote on the issue.

Richards responded that the board could meet and vote, but it would not have the same weight as the entire NDA voting on the issue.

Councilor Marshall believed the City Council needed to make the decision. He supported the raised crosswalk with speed humps at appropriately engineered distances. This would be a positive step toward both ensuring child safety and also evaluating of the traffic calming device. At the very least, the proposed project would help slow traffic.

Councilor Lancaster felt, based on clear traffic engineering guidelines, the City should take action to have a positive impact on the neighborhood. If three raised crosswalks can be installed now, then why wait? The City has the money now, so he believed the changes should be made. He added that this was a heavy pedestrian neighborhood.

III. 6

Councilor Kappa thought it was important to install the raised crosswalks and treat speed humps separately.

The City Council directed staff to move forward with the three raised crosswalks with the stipulation that it will look at the feasibility of installing additional speed humps in next fiscal year.

Swanson said the TSTB has completed its work on the Neighborhood Traffic Management Plan (NTMP), and it will be before the City Council for adoption on August 17.

The next TSTB motion related to marking the 40- and 44-foot Johnson Creek Blvd. rights-of-way. **Swanson** said the marking will be done, and the City of Portland will meet with residents to help them interpret what the markings mean.

Swanson pointed out a draft letter for the Mayor's signature explaining that the City Council reviews minutes of all boards and commissions and that it will not necessarily change its procedure for one board.

The group discussed the Johnson Creek Blvd. marking process.

Councilor Marshall did not wish to act on any more of the motions because it did not seem to be good management. It appeared the Board was trying to change the process without asking the Council. He recommended the Board prepare a proposal for Council consideration if it wished to change the process.

Councilor Lancaster understood from Aschenbrenner that the motion update was for information only, and the City Council was not expected to respond to each one.

The group agreed that there should be more than one motion per page and that the TSTB should consider the tone of the document.

Swanson summarized that the City Council did not have a problem if the TSTB wanted to transmit information outside the regular minutes.

Councilor Marshall urged that the City Council charge the Board with involving itself with regional issues.

Councilor Lancaster discussed the Metro South Corridor Transportation information. He was annoyed that this seemed to be a whole new study at the cost of \$1.67 million. Metro is putting up \$1.5 million with the difference being made by local matches. He believed this study could be based on previously-collected data.

Councilor Kappa said that was a Regional Transportation System (RTP) issue.

Councilor Lancaster suggested the TSTB do some research to find out this new study impacts the City of Milwaukie.

Councilor Marshall suggested that the TSTB get involved in the McLoughlin Boulevard Corridor issue to find out how it fits with riverfront/downtown development plans.

Swanson summarized Council direction: involve the TSTB with the south element of the RTP to determine how it impacts the City of Milwaukie and find out why it costs so much. The TSTB members also had questions about planning group appointments. He asked Council to clarify its direction on the McLoughlin Boulevard issue.

Councilor Marshall said he hoped the TSTB would look at all the regional transportation issues that impact Milwaukie neighborhoods. Involve the Board with the RTP, McLoughlin Boulevard, truck traffic, bus service, heavy rail, and citizen education. He wanted the Board to look at issues broader than speed humps.

Councilor Kappa said Milwaukie needs to know how the RTP will impact the community. He recommended the TSTB monitor timelines and provide the Council with any necessary feedback including points at which Council needed to make an official comment. The Endangered Species Act will impact the City, and he wanted information on how much that would cost. Milwaukie and North Clackamas County need to be at the table when decisions are made at Metro.

The group discussed work session circumstances under which it was appropriate to invite audience members to the table to provide input on issues.

Swanson pointed out the TSTB's schedule was restrictive in that it meets only once a month.

Mayor Tomei asked if it would be more feasible to form subcommittees.

Swanson recommended he work with the TSTB and M. Bennett to prepare a proposal for Council consideration in August.

Councilor Kappa understood that the RTP was scheduled for Metro Council adoption about January 2000, and perhaps the Council could consider appointing a short-term, specialized board dedicated to this project. He felt strongly that McLoughlin Boulevard and the riverfront project should be assigned the highest priority.

III. 8

Council Team Building Session

Swanson reviewed the ICMA publication "*Working Together*" and asked Council what schedule it wanted to pursue.

The group discussed including staff, boards and commissions, and neighborhood representatives. **Swanson** sensed that the Council wanted to expand the teambuilding sessions. The group was willing to use the ICMA training manual.

Based on Councilor Lancaster's recommendation, the group agreed to focus first on the executive management team, and then bring in the NDA and advisory board chairs. They also acknowledged the need to train key community people in addition to addressing how the City Council interacts both publicly and privately.

The group agreed to tentatively schedule the first full-day session for September 18 with a second session on October 9 with NDA and board and commission representatives.

Council Photos

The group agreed that Contemporary Images would take the Council photos.

Audience Participation and Speaking at Work Sessions

The group agreed that work session audience participation should be discussed in the teambuilding sessions. **Richards** summarized the discussion: the Council will determine as a group if individuals or small interest groups would be included on the agenda. The decision would not be up to one Councilmember. They also agreed it will be important to publicize the process under which people would have to operate.

Tree Removal on Boyd Street

Councilor King was concerned that the State of Oregon was taking a Boyd Street resident to court because his very large tree interfered with microwave transmissions. **Richards** said she would do some research on the issue.

Oregon Natural Step

Councilor King was interested in having Oregon Natural Step make a brief work session presentation. The group agreed that two members could attend an upcoming breakfast to determine if the organization should be asked to address Council at a work session.

Vision and Mission Statements

The group discussed the process involved in revisiting the City's vision and mission statements.

Mayor Tomei announced that the City Council would meet in executive session pursuant to ORS 192.660 (f) and (h) to discuss exempt public records and real property transactions.

The work session ended at 8:30 p.m.

Pat DuVal, Recorder

MILWAUKIE CITY COUNCIL
REGULAR SESSION
JULY 20, 1999

The one thousand eight hundred and nineteenth 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

Jeff Marshall

Also present:

Charlene Richards,
Assistant City Manager
Jim Coleman,
City Attorney
Mike Swanson,
Acting Public Works
Director

Alice Rouyer,
Planning Director
JoAnn Herrigel,
Program Services Coordinator

CONSENT AGENDA

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

1. City Council Minutes of July 6, 1999;
2. Professional Services Agreement with Montgomery Watson to Complete a Water Master Plan;
3. Sunrise Water Authority Representation; and
4. Resolution No. 29-1999: A Resolution of the City Council of the City of Milwaukie, Oregon, Determining the First Regular Session of August Will Be Held on August 3, 1998, at the Island Station Neighborhood District Association's National Night Out Event.

Motion passed unanimously among the members present.

AUDIENCE PARTICIPATION

Richard Cayo, 4203 SE Johnson Creek Blvd., completed the letter to Council he began reading at the July 6, 1999 meeting. He suggested that terminating Bartlett, Richards, Bennett, and Gregory would save the City over \$352,000 annually. He further recommended hiring a professional City Manager and paying the Neighborhood District Association (NDA) presidents a monthly salary of up to \$2,000 to attract qualified people. One of the NDA presidents would be elected as chairman of the board, and the City Council would not have to work for next to nothing. This would make life better for the taxpayers because of the

III.

savings. Citizens tell their problems to the City Council and by the time the word gets down to the people who really do the work the project does not resemble the original request. If citizens could get rid of one layer of government, the City Council and the staff that does not accomplish much for the amount of money it is paid, they would be that much better off. How much does the City Attorney make? Maybe the work done by City employees should be contracted. He suggested all of the salaries and total compensation package for each employee be published annually in *The Pilot*.

Linda Hatlelid, 8617 SE 36th Avenue, read a response to Martha Bennett's information to Council dated June 23, 1999. She urged the City Council to support the Traffic Safety and Transportation Board (TSTB) recommendation to mark the both 40- and 44-foot boundaries of the proposed Johnson Creek Blvd. improvements. Marking these would definitely indicate how this four-foot difference would impact people's properties. It would also clarify the boundary issues pertaining to the properties at 42nd and 43rd Avenues. During phases 1 and 2, officials indicated that unstable soil conditions could be addressed with simple engineering solutions, and she asked why that had changed. It seemed to her that the issues could be dealt with more effectively in the 40-foot right-of-way. People need to know exactly how these boundaries will affect their properties. They do not need more work sessions and neighborhood meetings. Why procrastinate by scheduling more meetings? The NDA, TSTB, and property owners all support the 40-foot right-of-way. Only City of Milwaukie staff supports the 44-foot right-of-way. She respectfully suggested that a survey crew be directed to mark the boundaries as promised.

PUBLIC HEARING

Waste Management Internal Merger Request -- Resolution

Mayor Tomei called the public testimony portion of the hearing to order at 6:05 p.m.

The purpose of the hearing was to consider public comment on the proposed merger of Waste Management of Oregon, Inc. with USA Waste of Oregon, Inc. She reviewed the conduct of the hearing.

Staff Report: **Herrigel** presented the staff report in which the City Council was requested to adopt a resolution consenting to the merger. In August 1998, Waste Management notified the City of its parent corporation's intent to merge with USA Waste, Inc., and legal counsel advised that local consent was not necessary. On June 29, 1999, the City was notified by Waste Management, Inc. that it intended to merge with Waste Management of Oregon, Inc., a City of Milwaukie franchise holder. This merger request does require Council action pursuant to the City's solid waste ordinance number 1752. Staff met with the

Waste Management administrative team and was assured that the merger of local companies would not result in any negative impacts to Milwaukie residents. The newly merged company would operate under the terms and conditions of the current solid waste franchise.

Councilor King asked, since this is such a huge corporation, if the haulers would continue to charge the same fees.

Herrigel responded that each hauler in Milwaukie charges the same rate. The current franchise is not due for negotiation until 2004. The City of Portland is considering a limit on the number of customers any one hauler could serve.

Correspondence: None.

Public Comment: None.

Closure of Public Hearing: **Mayor Tomei** closed the public testimony portion of the hearing on the proposed Waste Management/USA Waste merger at 6:15 p.m.

Discussion and Decision by Council: **It was moved by Councilor Kappa and seconded by Councilor Marshall to adopt the resolution consenting to the merger of Waste Management of Oregon, Inc. with USA Waste of Oregon, Inc. Motion passed unanimously among the members present.**

RESOLUTION NO. 30-1999:

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF MILWAUKIE, OREGON, CONSENTING TO THE MERGER OF WASTE MANAGEMENT OF OREGON, INC. WITH USA WASTE OR OREGON, INC.

OTHER BUSINESS

Consider Order Remanding the Appeal of a Planning Commission Decision for MLP-98-06/NCU-98-04 Located at 3406 SE Olsen Street

Rouyer presented the staff report in which the City Council was requested to adopt an order remanding the appeal of a Planning Commission decision for a minor land partition (MLP-98-06) and non-conforming use NCU-98-04 located at 3406 SE Olsen Street. The City Attorney drafted the order to reflect the Council's July 6, 1999 direction.

Councilor Kappa referred to staff report VI.A.2, second paragraph: "*The matter is remanded because the Council wants the Planning Commission*

III. 13

to have the opportunity to evaluate the merits ..." He did not believe the word "evaluate" accurately reflected the Council's intent.

Coleman suggested replacing "evaluate" with "consider."

Councilor Kappa felt that would be more appropriate and referred to staff report page VI.A.3, Remand Instructions -- "*The site is to be considered as a whole.*"

Rouyer suggested Council's intent could be further clarified in a cover memo to the Planning Commission, and **Councilor Kappa** agreed .

Mayor Tomei stated her intent to vote against adoption of the order because she felt the Planning Commission made the correct decision.

It was moved by Councilor Marshall and seconded by Councilor Kappa to adopt an order remanding the appeal of a Planning Commission decision for a minor land partition (MLP-98-06) and non-conforming use NCU-98-04 located at 3406 SE Olsen Street. Motion passed 3 – 1 with the following vote: Councilor Kappa, Councilor King, and Councilor Marshall aye; and Mayor Tomei nay.

Traffic Safety and Transportation Board (TSTB) Mini Grant Letter of Support

Swanson presented the staff report in which the City Council was requested to authorize the Mayor to sign a letter supporting the Traffic Safety and Transportation Board's application to the Alliance for Community Traffic Safety for a mini grant.

The grant, not to exceed \$4,000, would be used to support community-based traffic safety efforts. The project, done in partnership with Clackamas Fire District #1, must be completed by September 30, 2000. The Fire Department is currently working on a "Helmets Are Cool!" campaign. Elements of the grant proposal include using a series of existing public service announcements, assisting with the "Helmets Are Cool" campaign, and purchasing and distributing helmets to children who cannot afford them. One of the grant application requirements is a letter of support from the governing body.

It was Council consensus for the Mayor to sign the letter of support.

Property Acquisition

Richards presented the staff report in which the City Council was requested to approve a resolution authorizing the City Manager and City

Attorney to negotiate the purchase of property for future park development to serve the Lewelling Neighborhood. This would meet the City Council goal of purchasing park property in under-served neighborhoods.

It was moved by Councilor Marshall and seconded by Councilor King to approve the resolution authorizing the City Manager and City Attorney to negotiate the purchase of property for future park development to serve the Lewelling Neighborhood. Motion passed unanimously.

RESOLUTION NO. 31-1999:

**A RESOLUTION OF THE CITY COUNCIL OF THE COM,
OREGON, DECLARING THE NEED TO ACQUIRE PROPERTY
FOR THE PURPOSE OF ASSEMBLING LOTS FOR PARK
IMPROVEMENTS.**

INFORMATION

1. **Richards** corrected a comment she made to the City Council at its July 19, 1999 work session. The Ardenwald Neighborhood District Association (NDA) did not make a formal motion on the proposed 32nd Avenue raised crosswalk and speed hump issue. The attendees did not feel they had enough information to make a decision.
2. **Councilor Kappa** suggested the City Council consider appointing a group of prominent Milwaukie-area residents to consider short term focus issues such as street improvement funding.
3. **Mayor Tomei** announced that the August 3 regular session would be at the Island Station NDA National Night Out event at Kellogg Creek Park at 19th Avenue and Eagle.
4. **Councilor Kappa** said some of the Audience Participation comments alluding to changes in the way the City conducts its business would require a Charter amendment.

ADJOURN

It was moved by Councilor Marshall and seconded by Councilor Kappa to adjourn the meeting. Motion passed unanimously among the members present.

The meeting adjourned at 6:30 p.m.

III. 15

Pat DuVal, Recorder



Ledding Library Board

June Minutes

6/28/99

6:30 PM

Ledding Library, Fiction Room

Meeting called by: Sue Trotter

Attendees: Attendees: Pat Healy, Anna O'Guinn, Sue Trotter, and Ed Zumwalt.

Absent: Kim Wilber

Staff: Cynthia Sturgis

Agenda topics

Approval of minutes

Discussion: Approved as written.

Librarian's report

Cynthia reported that the Friends raised over \$3300 from their book sale during Milwaukie Daze. The Dynix acquisitions module has been installed at Ledding Library, and staff is being trained for ordering books electronically. Don Leamy has resigned from the Library Board for family reasons. He will continue volunteering at the library.

A letter from Dr. Adam W. Lis was passed around. Dr. Lis was thanking and complimenting the library staff for providing good service and reading for his son Adam Lis, Jr. who recently won the National Geographic Award for his knowledge about world geography. Adam has been a regular patron of Ledding Library since he started preschool storytime nine years ago.

Sue stressed that meeting attendance is of utmost importance in order to have a quorum. With the present 2 vacant positions, the Board may not be able to meet a quorum.

Action item. The Board requested that Cynthia remind Charlene and Pat Duval that we now have 2 vacancies.

Deadline:

This week

VII. A. 1-2

Future's Committee

Discussion: After Don Leamy's resignation, the Board needs to appoint a new representative to the Future's Committee. Ed Zumwalt was appointed and Pat Healy will be the alternate representative.

Cynthia reported that she has a copy of Ledding Library's findings from the survey done by the Future's Committee. It is in the format of a large spreadsheet (32 pages)

Action:

Deadline:

Budget update

Discussion Sue reported that the Board and staff request for reinstating \$80,000 to next year's budget was approved by the Council. The request for carpeting was not approved.

Action:

Deadline:

Board planning

Discussion: Sue handed out copies of an outline of key issues that she drew out of the 1992 Long Range Plan, Council goals, the A.L.A. handbook for conducting long range plans, and the trustee handbook from the State Library. After a lengthy discussion, the board members came to a consensus for most issues. Sue will edit changes for the next meeting.

Action: Sue will edit the outline of issues and give to library staff for input.

Deadline:

Cynthia will include the edited version in the July packet.

Sue: this week

Advocacy

Discussion: Cynthia reported that an article about summer events for children was included in the June Pilot. Sue plans to write an article about donating money for memorial books.

Action: Sue asked that library staff make a list of occasions that could be used for patrons wishing to donate money to the library for books.

Deadline:

before the
July
meeting

DRAFT

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
WEDNESDAY, JULY 13, 1999

COMMISSIONERS PRESENT

Donald Hammang, Chair
Judith Borden, Vice-Chair
Barbara Cartmill
Tracy Cook
Mike Miller
Doug Ouderkirk
Howard Steward

STAFF PRESENT

Alice Rouyer,
Planning Director
John Gessner,
Associate Planner
Gary Firestone,
City Attorney
Shirley Richardson,
Hearings Reporter

COMMISSIONERS ABSENT

None

1.0 CALL TO ORDER

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

2.0 PROCEDURAL QUESTIONS -- None.

3.0 INFORMATION ITEMS -- City Council Minutes, June 1, and June 15, 1999

4.0 PLANNING COMMISSION MINUTES -- June 8, 1999

Judith Borden moved to approve the minutes of June 8, 1999, as presented.

Doug Ouderkirk seconded. MOTION CARRIED 5-0.

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

5.0 PUBLIC COMMENTS -- None.

6.0 PUBLIC HEARINGS

6.1 Applicant: William Hoesly
Property Owner: William Hoesly
Proposal: Create four buildable lots (as flag lots) from one existing parcel, a variance is also required
File Number: S-98-03/VR-98-13
NDA: Hector Campbell

VII. A. 2-2

CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of July 13, 1999

Page 2

Chair Hammang announced that Applications S-99-03 and VR-98-13 for property located south of Monroe, westerly of Home Avenue, and easterly of Garrett Drive, made by William Hoesly have been withdrawn.

- 6.2 Applicant: William Hoesly
 Property Owner: William Hoesly
 Proposal: Create five-lot subdivision on 1+ acres, and is requesting a lot width variance
 File Number: S-98-04/VR-98-14
 NDA: Lewelling

Chair Hammang opened the public hearing on Subdivision request S-98-04 and Variance Request VR-98-14 to allow for the development of a 5-lot subdivision at 5515 SE King Street. He announced that Staff has requested a continuance for this hearing to allow the applicant and staff to continue to work on an acceptable plan. A waiver of the 120-day processing statute was signed and submitted.

Tracy Cook moved to continue S-98-04 and VR-98-14 to a date uncertain. **Mike Miller** seconded. MOTION CARRIED 6-0.

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

- 6.3 Applicant: City of Milwaukie -- JoAnn Herrigel
 Property Owner: City of Milwaukie
 Proposal: Requesting approval of a Natural Resource Review for approval of a Management Plan for the Willow Place natural area
 File Number: NR-99-02
 NDA: Lake Road

Chair Hammang opened the public hearing on Natural Resource Review NR-99-02 to approve a Management Plan for the Willow Place natural area. The criteria to be addressed is found in Section 322 of the Milwaukie Zoning Ordinance

Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare. **Chair Hammang** noted that he has donated work and time to help with cleanup on this site. He has participated in many work parties with the neighbors clearing brush, blackberries, and planting vegetation over the past two years. He has worked as a consultant to provide mechanical, biological, and botanical advice on issues relating to site management and other issues. There are

no monetary gains associated with this project. There were no other conflicts of interest or ex-parte contacts declared. **Chair Hammang** asked if any member of the Planning Commission visited the site; six hands were raised. **Mike Miller** declared that he spoke to several people as he visited the site last night. None of his conversations were about the hearing tonight. **Chair Hammang** stated that he, too, spoke to people on the site. No other Commissioner 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. The Applicant is seeking approval of a natural resource management plan for the city-owned Willow Place Natural Area. An e-mail was sent to all Commissioners updating the application. Overheads were shown of the subject site and surrounding area.

Improvements to the site involve the identification of resources, and specification of permitted uses. The Natural Resource Plan allows for on-going maintenance and use of the property without the requirement to come before the Commission for specific approval of every action.

Staff has found the application to be consistent with the Comprehensive Plan and Natural Resources policies concerning preservation and maintenance of wetlands and habitat. All activities of the management plan comply with the specific development standards of Milwaukie Zoning Ordinance, Section 322.7.

Maintenance projects include removal of invasive plants, removal as needed of dead or diseased trees and plants, the application of herbicide where necessary, and control of invasive grasses. Short-term activities involve an access and use policy, internal access and pedestrian use, site signage, removals of wetland fill encroachments, maintenance of Ryan Avenue berm, and a habitat management plan. The long-term aspects address removal of the Ryan Avenue berm, purchase northerly and easterly neighboring properties, and excavated fill for portions of the Ryan Avenue right-of-way.

VII. A. 2.4

CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of July 13, 1999

Page 4

QUESTIONS FROM THE COMMISSIONERS

Mike Miller asked if any City employee has a herbicide applicator license? He voiced concern about the volunteers and the liability of the use of herbicides in the water and vegetated area.

CORRESPONDENCE RECEIVED BY STAFF -- None.

APPLICANT PRESENTATION

Speaking: JoAnn Herrigel, City of Milwaukie Program Services Coordinator

Ms. Herrigel stated that this process began as a Grant from Metro to enhance the Willow Place site. She came before the Planning Commission last October to request approval of a planting plan. Since that time, many ideas have been suggested for improvements to the site, not only from the neighbors, but staff and volunteers. Ideas range from cleaning up the site to establishing pathways towards the pond.

At this time, she only has permission to plant vegetation. The Management Plan being addressed tonight does not address additional plants. Since she had permission to do restoration and enhance the plants on the site from the last approval, there was no need to add this to the Management Plan. This may need to be amended because the idea is to continue to introduce new native plants to the site on an as-needed basis.

Neighborhood opinion is very important to this site. The Staff Report has been reviewed and JoAnn is in agreement with the conditions and findings. There are two options submitted for pathways. The wetland is working and being used as a wildlife habitat. Neighbors have commented that they would prefer less traffic on the site, preferring a passive recreation site where pedestrians can come and sit and enjoy the wildlife. They would prefer no picnic tables, or recreational activities on the site. Replacing the blackberries with native species will enhance the existing habitat.

Removal of the soil on the site will require a DSL permit. This permit has been submitted. An Erosion Control Permit will be needed as well. In addition, there is concern about the outfall in the southeast corner of the site. Currently, there is not much water on this portion of the site. Consideration will have to be given to the location of a sewer line located within the berm when final decisions are made.

CITY OF MILWAUKIE PLANNING COMMISSION
 Minutes of July 13, 1999
 Page 5

There are two trees that are impacted by removal of the soil. Both trees are Cherry trees. Removal of these trees will not be detrimental to the site. Removal will ultimately benefit the site. It is possible that one of the trees may be saved.

Ms. Herrigel summarized the e-mail sent to the Commissioners. A copy was provided to the Commissioners at tonight's meeting. She commented that care will be taken with the herbicide applications. Licensed applicators will be used and the herbicides will be spot applications to the base of invasive plants, no spraying. The only volunteers used so far have been people associated with the Wetlands Conservancy group. Vegetation removed from the site will be taken to McFarlands to be used for mulching.

QUESTIONS FROM THE COMMISSIONERS

Doug Oude asked there is a historical boundary to which soils should be removed? **Herrigel** stated that there will be a demarcation between the upland soil and the existing wetland soil. The intent is to create an adequate soil base to maintain plants proposed for the site. They may have to dig down to find the wetland soil, but the intent is to make this more of a natural incline, fill in some of the ditches, and open up more spatial areas.

TESTIMONY IN FAVOR

Speaking: Mr. [Name], 3006 SE Washington Street, Milwaukie

Mr. [Name] stated that he is one of the volunteers on this project. He feels this is a very positive development of management plan concepts for conservation of natural resource sites. The work is not complete but the intention is good and the direction is correct. This is not done for profit, but hopefully something good for the community. Community involvement is connected very closely with these types of sites.

When the project began, there was great concern about what neighbors were doing to improve the site. Through this process, a common community ownership will be developed.

Mr. Hughes stated that he was not in favor of herbicides, however, he will be one of the people spraying the herbicides. The intent and strategy of the herbicides are to eliminate the introduced species. A natural habitat is sound and stable. This site has been severely disturbed. This location may have been a Christmas tree

VII. A. 2-6

CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of July 13, 1999

Page 6

farm at one time. The rest of the property was used for grazing cows or sheep. The Blackberries have infected the entire site. Herbicides are the only way to get rid of the Blackberries so that a stable natural system can begin to grow. The Blackberries will be cut mechanically to the ground. When the shoots come up in the summer, spot herbicides can be applied until the plants are killed back to the roots.

The long-term goal of this site is to provide a shade or tree canopy. Plants that were installed earlier this spring were to design a sufficient structure. Shade shrub plants will suppress the Blackberries. Herbicides will not be needed for very long. Reed Canary Grass and Purple Loosestrife will take control over the wetland area if not removed.

QUESTIONS FROM THE COMMISSIONERS

Doug Ouderkirk asked if the herbicide usage will be monitored? **Mr. Hughes** stated that the site is almost dry; it is a seasonal wetland. The herbicides are applied in the upland areas, not in the water. Applications will be made to the Reed Canary Grass and Purple Loosestrife at the end of August when it is sufficiently dry. Crossbow will be used for the Blackberries and English Ivy and Roundup will be used for the Morning Glory, Purple Loose Drive, and Reed Canary Grass. Only one or two treatments will be necessary. Herbicides are not warranted in the upland areas.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF

John Gessner asked that the Commissioners review the findings and Conditions of Approval as provided in the Staff Report. Staff is recommending that the Application be approved. A provision can be drafted to allow restoration planting in an additional condition of approval.

QUESTIONS FOR CLARIFICATIONS

Doug Ouderkirk asked if the Management Plan should be changed to include the restoration planting? Discussion followed on whether the previous approval was based on spending all of the \$5,000 awarded in a Metro grant. Once the \$5,000 is spent there is no further authorization for spending. It was explained that once the

DRAFT

CITY OF MILWAUKIE PLANNING COMMISSION
Minutes of July 13, 1999
Page 7

Management Plan is approved, this would be the governing document. A new condition would include restoration planting in the Management Plan.

Mike Miller asked if the fire lane turn-around at the end of Pennywood is public or privately owned? **Ms. Herrigel** stated that it is right-of-way and maintained on both sides by the City.

APPLICANT'S CLOSING COMMENTS -- None.

DELIBERATION AMONG COMMISSIONERS

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

It was the consensus of the Commission that the continuation of restoration plants should be included in the Management Plan. Staff was asked to draft a condition to include this provision.

CONDITION # 9: The Plan shall be amended to include provisions for restoration of native species. Technical information that may apply will be worked out at the Staff level.

Mike Miller complimented JoAnn Herrigel on a well-managed project. This will be a very nice asset to the community.

Howard Steward moved to approve NR-99-02 Willow Place Natural Resource Management Plan at 13014 SE Freeman Road and adopt the staff recommended Findings and Conditions of Approval, with the additional condition added tonight. **Tracy Cook** seconded. MOTION CARRIED 7-0.
Ayes: Hammang, Borden, Cartmill, Cook, Miller, Ouderkirk, Steward
Nays: None.

7.0 WORKSESSION -- None.

8.0 DISCUSSION ITEMS

8.1 Reliable Credit Site

VII. A. 2.8

CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of July 13, 1999

Page 8

Tracy Cook asked if Reliable Credit could be asked to clean and maintain the property site? **John Gessner** stated that the application is in Planning Review. There are active building permits and staff is working with a design specialist. Staff will be asked that Code Enforcement review the site.

8.2 Teenagers Loitering Downtown

Tracy Cook noted that there are a lot of teenagers loitering in the downtown area. She asked if anything could be done about this? **Gary Firestone** explained that loitering is outside the purview of the Planning Commission unless they are engaged in activity that could be considered a land use.

8.3 Design Review Committee

Tracy Cook stated that she has received many questions about a Design Review Committee and provisions for design review. **Alice Rouyer** stated that the design review and work program issues will be discussed later in the meeting.

9.0 OLD BUSINESS -- None.

10.0 OTHER BUSINESS / UPDATES

10.1 **Historical Resources Commission Report** -- **Chair Hammang** gave a brief report of the Historical Resources Commission meeting. Membership is down and the Committee is recruiting new people. Discussion centered on the proposed Riverfront/Downtown Improvement concepts for McLoughlin Blvd. Improvements and Milwaukie Marina Proposal. There will be an open house on the Riverfront Design in the fall.

Chair Hammang announced that the Neighborhood Associations are working on an oral history project. There were discussions on what constitutes a historic building; when a building becomes historic, and what historic buildings are being considered for addition to the inventory.

10.2 **Community Development Director Report**

Natural Resource Overlay Zone Code. **Alice Rouyer** submitted a copy of the Natural Resource Overlay Zone Code Section. Every item regulated under this Code must come to the Planning Commission for decision. This does not give

DRAFT

staff discretion to make decisions for any Natural Resource reviews. There are cases where in the future it may be worthwhile to consider giving staff authority to make some decisions within certain parameters of activities that do not fall under the exemptions in the Code.

It was asked that Staff draft an amendment to the Code provisions to address these exceptions. This issue will be considered in conjunction with the Title 3 compliance project of the Metro Functional Plan.

Compliance with Title III. Alice Rouyer indicated that Title 3 deals with development setbacks from natural resource areas. Title 3 will need to be incorporated into Milwaukie's code. Staff is working on this project to bring this code into compliance.

Assistant Planner Position. Alice Rouyer reported that Janet Wright is no longer with the City of Milwaukie. She has taken a position in Mill City, Oregon. The position will be opened on Monday, July 19, 1999.

Commission Calendar. Alice Rouyer stated that the July 27, 1999, meeting will be entirely devoted to the Work Program and Commission Goals.

A joint Planning Commission/City Council Worksession is scheduled for August 16, 1999. This will be an opportunity for the Commission to discuss their goals with the Council. An update on the Urban Forestry Program will also be discussed at this meeting.

She suggested that there be no Commission meeting on August 24, 1999, since there are two meetings already scheduled for August. There is no Commission business scheduled for that date. It was the consensus of the Commission to cancel the meeting of August 24, 1999.

On September 20, 1999, another joint Planning Commission/City Council worksession is scheduled. Project consultants and staff will present the Title 3 project concepts.

Training. Alice Rouyer reported that a Land Use Seminar is being put on by the Oregon Planning Institute. She invited the Commissioners to consider attending this training opportunity.

VII. A. 2-10

CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of July 13, 1999

Page 10

11.0 NEXT MEETING -- July 27, 1999

Judith Borden moved to adjourn the meeting of July 13, 1999. **Mike Miller** seconded. MOTION PASSED UNANIMOUSLY. The meeting adjourned at 8:07 p.m.

Donald Hammang, Chair

Shirley Richardson, Hearings Reporter

**RIVERFRONT BOARD
JULY 12, 1999**

Chairperson Bernard called the meeting to order at 6:55 p.m. in the City Hall Conference Room.

Board members present: Bernard, Loaiza, Martin, Verbout, and Wall.

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

Approval of Minutes

It was moved by Martin and seconded by Wall to approve the minutes of the June 7, 1999 meeting. Motion passed unanimously among the members present.

Festival Daze Poll

Bartlett reviewed the tabulations including thirteen from the web page and 152 from the Festival Daze poll. The responses gathered at the July 11 Farmers' Market had not been tabulated.

Information kiosks were located at the Ledding Library, City Hall, and 21st and Jackson during Festival Daze. The options in the poll featured the parkway, cap, and waterway. The Kellogg Lake Marina scheme was available in all options for Festival Daze. Based on participant's votes, the waterway ranked the highest followed by the parkway, cap, and boulevard. A weighted average resulted in the following: 2.66; cap 2.17; waterway, 2.15; and parkway, 2.02. The report also included people's comments.

Bartlett suggested between now and the August meeting that Crandall refine the schemes down to two options. The project also needs to move forward on the streetscape, downtown, and design review plans, so the documents can be adopted by the end of the year. Without those, the City cannot communicate streetscape and design elements to applicants. The Board will likely want to get Atlas Engineering involved in actually designing the riverfront activities.

Martin asked what two options Bartlett believed Crandall should pursue.

Bartlett said the study data shows that the boulevard, waterway, and cap all scored relatively close together. He thought the Board might consider putting forward the boulevard and waterway, but it was key that it was the Board's recommendation, not his, of what should go forward.

VII. A. 3-2

Bernard commented that ODOT was already paying for the boulevard, so that element will be done anyway. He suggested eliminating it as a distinct option but keeping it as an element of all the plans.

Martin felt the cap and waterway designs lacked sufficient detail. At one time, the group had talked about bringing the water above ground that has been culverted. He did not see that in any of the plans yet.

Verbout understood there were two narrow areas of focus, the waterway design in the middle of the City and the cap and marina design that was concentrated on the south end of town. He also understood the group was looking for a more balanced approach that integrated all of the design elements. There was a concern at the last meeting that the north end needed to be connected, and Crandall responded the connection issue was the focus and sets direction. The Board has not yet looked at how it is organized as a whole.

Bartlett added that the details of daylighting the creeks could happen in any of the broader schemes.

Martin thought the marina was "pie-in-the-sky" idea, and there were other elements that could be built without the marina. He suggested a third alternative that emphasized greenspace, residential, and retail. The schemes need to consider other assets such as the transit mall, but he did not feel the project had reached that point. He felt it was too conceptual at this time, and it was difficult for him to support an alternative without seeing the details. He felt he was being pulled toward the marina, but he was not sure that was the alternative he liked.

Verbout heard Crandall selling the waterway alternative. Each of the four alternatives has a boat marina which frees up more park space on the river. He discussed Gary Michael's suggestions for treating the elevation changes in the waterway scheme by ponding natural springwater instead of bringing river water into the City. That concept might be more in character with what Martin hopes to promote. Crandall's main concern is reconciling a connection to the river.

Bartlett suggested the Board ask Crandall for more detail.

Verbout wanted to see the larger context and get a sense of where the City is going. He was interested in the Jr. High School site and how it figured as a prominent feature. All the Board has looked at so far was how to cross McLoughlin Boulevard and get to the river. He believed the community as a whole was the greater issue.

Martin provided a project detail draft for the record. He developed the list because he was frustrated with the lack of concreteness from Crandall.

Wall asked where the project was on its timeline because it seemed that dates were slipping.

Bartlett said the project was about a month off. The next major community events will be in September and October. He believed the timeline was overly-optimistic in that it planned for more work taking place during the summer.

Bernard asked if Crandall was drawing up a plan that included the Jr. High School site and the transit center.

Bartlett said the transit center was included in the initial downtown plan. Conceptual plans for the Jr. High School site would be a contract addition that Council has already authorized. People seem to feel they cannot judge these alternatives without knowing how the Jr. High School site fits.

Verbout understood that Crandall did not want to go a lot further with some of the schemes, cost estimates and ramifications, and political impacts without some kind of resolution. The Board said earlier in the process that it wanted to see a wider range of choices, and, as a result, the marina/cap alternative was added. Crandall seems to want the Board to narrow the options so he can focus on one of the schemes in depth.

Bartlett said it will be necessary to work on the streetscape and design documents in order to meet the budget timelines of the current phase.

Martin said he was looking for resolution. There are certain points such as the marina, cap, waterfront, and Kellogg Creek that could be done, but he felt it was important to understand how all of the pieces fit into the whole. The Jr. High site is very important. Councilor Kappa has also discussed bringing in a campus element with an educational institution.

Verbout added that the Festival Daze comments show a polarization. Some people feel the project is much too expensive, but others really like some of the alternatives for their boldness. There is no middle, pragmatic approach to the geography, and he was concerned there was no clear signal from the public. In terms of the waterway alternative, the City could find an intensely negative public outpouring, and it may be extremely expensive and un-doable.

Martin was concerned that a very expensive project would preclude other things happening downtown. He did not want to see the entire project die because people would vote against a marina.

VII. A. 3-4

Bartlett said that was the issue. The intent of the original proposal was not to completely solve the McLoughlin Boulevard problem. There is a solution somewhere between the boulevard and parkway and/or ODOT's minimalist scheme. That project is in the Regional Transportation Plan, and funding is available.

Verbout said the Board has become so fixated on crossing the street, that contact seems to have been lost with the rest of the community. All of the other nice things about the City are being neglected.

Martin urged convincing ODOT that Milwaukie needs at least a boulevard plan and landscaping.

Verbout thought the rowing idea was a good community building block. He believed the Board should see a more complete resolution of two schemes that included the larger City context.

Bartlett felt Crandall needed to come to a point at which he could expand upon a scheme that is do-able that would result in a downtown plan at the end of the study. He noted some residents believe money is being wasted on another study. The project needs to move toward something tangible based on a good action plan.

Verbout agreed. People's comments had to do with very sensible issues like streets and schools.

Wall said it was important that the Board did not become isolated from the rest of the public. Otherwise, it will be easy for people to make comments about spending money on something that is more relevant to their daily lives.

Martin thought it was important to tell people about an early core project and what can be planned around it.

Bartlett understood that Crandall should be told to expand upon the schemes to show the impact on the broader downtown. He needs to show how the transit center, Jr. High School site, and redevelopment plan fill out the broader project.

Verbout added that he had some prejudice against the waterway plan, but people seem to be reacting favorably. Perhaps some sense of that alternative needed to be maintained and was right for the community. Abstractly, Verbout did not like the waterfront alternative because it was too strong, but in some other form, it might be what people really want.

Bartlett pointed out that the Festival Days survey was not scientific.

The group discussed the feasibility of polling the community and agreed it might be difficult to get opinions on a high level of detail.

Verbout was concerned about the public outreach element which was a major concern in the consultant selection.

Bartlett said the plan will go out to all the Neighborhood District Associations (NDA), churches, and other community organizations. At this time, the plan could feasibly create mental overload in the community. The drawings and underlying profile do not really express what the alternatives mean to the City.

Verbout also questioned which alternative would express the natural evolution of the City. Does the plan fit with local geology and topography, or is it construction?

Martin felt, in addition to major construction, there were a lot of smaller elements that could be accomplished sooner to offer a positive, cumulative benefit.

Bartlett said Crandall would do some rough cost estimates in addition to talking with Fish and Wildlife and Corps of Engineers.

Martin did not agree with Crandall's position that apartments needed an amenity. Good housing and convenient access to public transportation also attract people.

Loiaza said Crandall advised the Board to think big and not worry about the details at this phase of the project.

Martin believed that details will make the project work. He added that Elk Rock Island needed to be considered.

Verbout was concerned that the strategy of focusing on one or two big elements was not quite right. He suggested the scale might not be right. Perhaps the plan should focus on six small projects instead of one or two huge ones. Big, bold moves may not be appropriate, and he suggested fountains, parks, and ponds. The money could be more effective if the projects were not so grandiose.

Martin discussed the pedestrian and bike access in the area of Portland's RiverPlace making the space more friendly. He asked if the Willamette River could accommodate another marina.

Bartlett commented the 1979 study says it cannot.

Loiaza said there are lots of boats already on the river, and he felt the Willamette could absorb another marina.

VII. A. 3-6

Verbout said marinas seem to mostly provide storage, and users pay rent. Oregon City, for example, has only a small marina and sandwich shop. He believed most of the crowding and congestion resulted from people bringing their boats from home. There is a whole range of activities that could take place at a marina that would attract people. He felt the recorded Festival Daze comment that marinas were "elitist" was not accurate.

Wall asked why the Kellogg Lake marina was included in each of the alternatives.

Bartlett responded that Crandall realized the Kellogg Lake marina element was feasible in all options.

Wall was thinking in terms of a semi-realistic element as opposed to the waterway alternative. These alternatives present the waterway with the addition of the marina.

Verbout said there are two concepts relating to the waterway, one of which constructing a dam at the roadway. It was also necessary to elevate the water so the drop is not so severe.

Bartlett said the pedestrian underpass at the boulevard did not show up in the poll. Arambula concluded at one of the meetings that the underpass could be wide enough to accommodate the Jr. High Creek and create a water feature.

Verbout added that variations on the waterway had come out at the last meeting that included scaling the waterway back to one block. These schemes are all about connections and have some development ramifications. It seemed to him that the problem was too great a decision to focus on only one alternative without knowing more about the rest of the plan.

Loaiza did not believe the Board had enough choices to make a decision.

Martin agreed and added the project was not partitioned correctly; i.e., big job and all the rest.

Loaiza found it difficult to focus on one area only without taking Main Street and the Jr. High School site into consideration.

Verbout felt Crandall had talked about what strategies were involved with each scheme. He felt the Board was more concerned about the City context.

Bartlett commented that the narrowed plans will be reviewed by the Milwaukie Downtown Development Association (MDDA), Historic Milwaukie Neighborhood District Association (NDA), and at the larger stakeholder meetings. The City will be looking for either compatible or competing concepts from which the Council will make the final determination on what will take place over the next 20 years.

Wall asked, from a timing standpoint, when could the Board expect more information from groups like the MDDA and NDA.

Bartlett said, to a degree, each group has been involved, and the goal will be to have Crandall developing a plan in the next two months.

Wall asked how realistic it was to expect that Crandall would address Board members' concerns relating to the larger context.

Bartlett did not believe it was realistic without a change in direction. Crandall would need direction immediately if that is the expectation.

Bernard saw that Crandall has taken three or four ideas and made them into one. He believed what Crandall needed to do was back them out, separate them, and then show what happens around each. That could bring the number of realistic choices up to eight. There are MDDA members who have money and are waiting for direction on what will happen both downtown and at the Jr. High School site. Some of them are big stakeholders waiting to find out what the streetscape and design plans are going to be.

Bartlett added that stakeholders are asking what kinds of uses the City wants where because they have the resources. Some have indicated they would take their money elsewhere if the City did not move ahead more expeditiously.

Verbout has heard the Board say it wants to see more plans. He was not opposed to the marina, but he felt the plan should be presented as a series of smaller projects that might interest more property owners. Leave the marina at Kellogg Lake in whatever shape it takes, and approach the plan as a series of small projects in the context of the City. He recommended letting go of the grandiose waterway, cap, and bridges. Give the City a range of smaller, more viable projects.

Loaiza did not feel it was feasible to move all that dirt to bring the water through the downtown. He believed the marina was an option, and projects could be built around it. He suggested a park and amphitheater for musicals, concerts, and other entertainment. People would love this feature, and the expense would not be too great. It could be further enhanced by pedestrian and bike access and greenway connections, but those types of amenities have not really been discussed yet. He did not feel there were enough choices.

VII. A. 3-8

Wall said there has been a lot of talk about making connections, but it is not clear what the goal is. What are we connecting to on the waterfront?

Verbout recalled discussions about pedestrian paths near the railroad tracks and water running through the City.

Wall said there has been discussion of these elements, but there has been no focus.

Loaiza said water is the connection, and Milwaukie has the water to do it. These types of projects would be less expensive and provide greater exposure.

Verbout supported incremental projects that would improve the whole City context without spending all the money of one big project every ten years. Development opportunities could take place along side these incremental projects. The Library pond is an example of a great Milwaukie setting.

Martin added that the Library was only two blocks from the river. The creeks could be brought to the surface and greenways developed around them.

Loaiza felt, as a Board member, that he wanted to leave a legacy of green and nature.

Bernard said the issue was who will pay for the projects.

Verbout understood that Crandall was talking about public projects that would spark private investment and allow the community to grow. He believed the Board was looking for a more wide-angle vision. All of what Crandall has put forward to date has been viable, but the Board wants to see more.

Bartlett heard the Board saying it wanted Crandall to break the plan down into incremental projects and not focus on a mega project.

Bernard suggested a phased proposal that could include, for example, the Kellogg Lake marina as the first major element. Then move toward bringing the creek into downtown without tearing down two City blocks. That is not something that is economically feasible. The transit center is also an important draw.

Martin did not think the transit center excluded other things and was a matter of design. It could be an attractor.

Bernard added he wanted to be the first one to build a condo on his downtown property. He knew of others who were thinking along the same lines.

Loaiza went back to the "elitist" comment about marinas. The Lake Oswego rowing club works with the City parks and recreation department to provide low-cost classes and rentals. Milwaukie could partner with North Clackamas Parks and Recreation District to develop a similar program. He noted that a recent *Oregonian* article on rowing resulted in his club's getting over 20 calls for lessons. The existing clubs have people on waiting lists.

Martin liked the idea of rowing, but he equated marinas to power boats and more cars and boat trailers.

Loaiza believed they could co-exist, and, in fact, a successful marina would need a mix of both.

Bernard suggested that power boats be restricted to the river with Kellogg Lake being reserved for non-power craft such as shells and canoes. He understood the Board was asking that Crandall divide out the smaller projects instead of asking for a decision on very large projects.

Verbout said the City knows that the boulevard design is a given. The Board also seemed amenable to some kind of marina on the water.

Wall pointed out that the marina was originally his idea.

Verbout continued that Crandall was presenting the depressed roadway, pedestrian underpass, the cap, and the waterway. He understood the group to say that it did not necessarily see the endeavor in that way.

Bartlett said he would let Crandall know that he needed to start taking the project toward these smaller elements, so the group can say what it wants and look at prioritization. The Board can also ask for the drawbacks and ramifications of each of these elements.

Wall felt that if Crandall was being asked for more detail then it needed to be determined what assumption he is to make about McLoughlin Boulevard.

Verbout believed that Crandall was given the idea that McLoughlin Boulevard was the City's single, greatest dilemma. Crandall wrestled with that issue so much, it seemed as if other things were neglected. He felt the Board needed to communicate that it could not make an informed decision without looking at the larger context. Some of the schemes imply that large amounts of effort and capital will go toward one resolution.

Bartlett said the City has to let ODOT know what it wants, or Milwaukie will only get ODOT's design with some trees. ODOT planners need to get input before they get too far into their planning process. The City will say this is the design it wants and if necessary come up with the difference.

VII. A. 3-10

Verbout said from this discussion, it sounded as if there will be a bridge and marina at Kellogg Lake. There will be some kind of crossing in each of the schemes whether it is an underpass or a cap. The other options are the boulevard and parkway schemes with protected pedestrian crossings. The waterway design would be a major commitment that ODOT might not be willing to make.

Loaiza asked if McLoughlin could still go underground with the Kellogg Lake marina. If he were to choose at this point in time, he would vote for the cap and marina scheme if the elevation is sufficient.

Verbout requested a budget breakdown. The resolution will determine where the money will be spent along with limiting projects in the rest of the City.

Wall suggested an elimination process. He stated he was never in favor of the waterway plan because it is so pie-in-the-sky. It is exciting and bold, but it is not the real world. He asked if Crandall was wasting his time providing detail on the waterway concept.

Verbout said he would lean somewhat toward the waterway scheme based on Festival Daze input. It is fun to think about, but the waterway design polarizes people.

Bartlett said he could ask Crandall to cost out the waterway scheme but was concerned with the expense of doing so.

Wall said the waterway was a fantasy and waste of time, and the Board needed to look at the real world. It detracts from the scope of what the Board really needs to be considering.

Verbout felt he needed to be practical because the Board represents a pragmatic community.

It was moved by Wall and seconded by Martin to eliminate the waterway concept.

Verbout suggested that water in the downtown take on a different, more moderate form. Dredging out two blocks of downtown Milwaukie was too bold. The intent is good, but the form is not to scale with Milwaukie.

Loaiza added there were other waterways available which could be enhanced. He was concerned with the scope of the project and how it would be funded. There may or may not be a private enterprise willing to pay it.

Bernard discussed Tualatin's man-made lake. The City could certainly develop a water feature. The intent is to bring water into the downtown and make it accessible to people.

Loaiza called for the question.

The motion to eliminate the Alternative C -- the waterway design passed unanimously among the members present.

Bernard said the plan needed to be expanded by including the Jr. High School site and transit center.

Verbout recommended calling these a series of distributed projects which are more focused and limited in nature.

Bernard recommended the Board consider the parkway scheme since it takes out two City blocks and includes a creek on Monroe.

Verbout observed that everyone disregarded Alternative A. It is an ODOT scheme, and no one surveyed found it had any redeeming qualities. He suggested striking the boulevard before the parkway scheme. It had a higher ranking in the opinion poll. The parkway design has a wider median, and the concern was whether the necessary property came from the river or the City side of McLoughlin Boulevard. As he recalled, it was consensus that it be taken from the City side.

The group discussed the desirability of a street like Avenue A in Lake Oswego.

It was moved by Verbout to eliminate Alternative A.

Bennett explained that Crandall proposed the 18-foot landscaped median in all options.

Verbout understood the cap was only in Alternative B. He never personally cared for the pedestrian underpass. That was the portion he wanted to eliminate was the pedestrian underpass.

Verbout rephrased the motion to eliminate the pedestrian underpass and Alternative A and Wall seconded. Motion passed 4 - 1 with the following vote: Bernard, Martin, Verbout, and Wall aye; Loaiza nay.

VII. A. 3-12

Bartlett summarized the Board's direction:

- Provide more work on the cap and parkway alternatives;
- Provide more detail on the Jr. High site and additional information on smaller projects throughout the City such as streams, creeks, ponds and other natural features that will make things happen;
- Get the downtown and riverfront plans moving toward identification of implementable components.

Loaiza recommended including not only retail businesses but also restaurants, condos, hotels, and shops. These people are the experts, and he wanted to see more options along the waterfront.

Verbout believed the City needed to embrace all residents including children, seniors, and the disabled. Find out what needs and wants are going unfulfilled in the community.

Bartlett said staff will meet with Crandall to get a contract status report. He may have some rough cost estimates by the next meeting on several of the alternatives including the waterway.

Martin felt the group had touched on the points of his development proposal that included making a greener place to live, creating a natural habitat, rehabilitating the shoreline, and enhancing the wildlife values of Johnson and Kellogg Creeks. Mitigation is a major issue with the Corps of Engineers, so that will need to be addressed. He discussed small community housing and surfacing the creeks. He has heard Crandall discuss a downtown residential community, and he believes that is very important. He was not convinced an attractor was needed to develop a small residential community. The transit center itself is important and needs to be promoted for its value in getting people to and from downtown Portland. Dark Horse Comics does have potential to act as a catalyst for an artistic community focussing on graphics and electronic media. Councilor Kappa also proposed a Portland State University or community college extension at the Jr. High School site. All of those people are interested. He felt these were more tangible than Crandall's plan. Finally, he wanted the sewage treatment plant moved.

Wall also felt it should be explained to those residents who liked the bold waterway scheme that it was eliminated because it was wrong for a beginning project. The vote was not indicative of the Board's not wanting the project in the future.

Next Meeting: To be scheduled pending information from Crandall.

Loiza wanted the record to show that Bernard had done a marvelous job as Board Chair.

The meeting was adjourned at 8:30 p.m.

Pat DuVal, Recorder



To: Mayor and City Council

Through: Dan Bartlett, City Manager *DB*
Martha Bennett, Assistant City Manager *MAB*

From: Alice Rouyer, Planning Director *AR*

Subject: 3024 Boyd Street; ODOT Tree Pruning/Removal

Date: July 26, 1999

Action Requested

None. Information only.

Background

This memo is in response to the City Council inquiry about the Oregon Department of Transportation requirement for a large tree removal at 3024 SE Boyd Street. ODOT has been working with property owners Robin and Michael Baden to request that they either trim or remove a large tree on their property. The tree is situated in an area which conflicts with state and federal law enforcement wireless communication transmitters located in Milwaukie and Mount Scott. The Council had requested that staff contact the property owners and the state to determine if any of existing City regulations apply to the property.

Since the tree is located on private property rather than city right-of-way, tree pruning and removal is not regulated by the City's existing tree ordinance. Likewise, the pruning or removal of an individual tree on private property would not necessarily be prohibited or regulated by the latest draft urban forestry ordinance, unless the tree is deemed "significant" and is included in the significant tree inventory. Since this ordinance is not yet adopted, the degree of regulation imposed for tree removal and tree pruning on private property is still subject to more discussion.

In the mean time, I have contacted Ross Yamasaki at ODOT to inform him that the city has an interest in a successful resolution of this matter. He reiterated that ODOT has arborists evaluating pruning options which would result in the least amount of impact to the tree while removing the barrier to communication transmitters. ODOT staff is also working with the property owners to fairly compensate them for any loss to property values as a result of the tree trimming or removal. I have been trying unsuccessfully to reach the property owners all week to inform them that the city's existing regulations do not apply to their site. I will keep trying.

If I can answer any more questions, you may contact me at (503) 786-7654.



VII. C. 1

TO: Milwaukie City Council
VIA: Dan Bartlett, City Manager *DB*
FROM: Martha Bennett, Assistant City Manager *MB*
SUBJECT: July Community Development Report
DATE: July 22, 1999 for August 3, 1999 City Council Meeting

Action Requested

None. This memo is for information only.

Background

This report includes activity for most of the divisions of Community Development for the past four weeks. The building division activity is reported for the month of June.

Community Development

- Continued work with Metro and Tri Met on the South Corridor Transportation options study.
- Worked with the City of Happy Valley to revise the fee schedule for building inspection services. The fee revision will be submitted to the City Council for consideration on August 17.
- Began recruitment of a new Public Works Director. This position opens on August 2.

Future Community Development Activities

- Continue to support the Downtown/Riverfront effort.
- Work with ODOT, the City of Portland, and Clackamas County to resolve questions related to Johnson Creek Boulevard, Phase III. A community open house/work session is scheduled for October 12, at 6:00 p.m. at Ardenwald Elementary School. We are coordinating this open house with the Ardenwald/Johnson Creek Neighborhood Association.

Planning Division

- Planner Janet Wright left on July 6 for a position with the City of Mill City, Oregon. An Associate Planner position is open and should be filled by late September. In the interim, staff will be hiring a part-time temporary planner and graduate school intern.

COMMUNITY DEVELOPMENT DEPARTMENT
Planning • Public Works • Facilities
6101 SE Johnson Creek Blvd., Milwaukie, Oregon 97206
PHONE: (503) 786-7600 • FAX: (503) 774-8236

VII. C. 2

- The City Council heard the appeal of the minor land partition and non-conforming use application of Howard Thompson and remanded the case to the Planning Commission for further deliberation.
- Planning Commission approved a Natural Resource Management Plan for the Willow Place wetland area in the Lake Road neighborhood on July 13, 1999.
- Planning Commission will hold a work session on July 27, 1999 to refine goals and discuss the 1999 Planning Division work program. This meeting is in preparation for the joint City Council/Planning Commission work session on August 16.

Future Planning Activity

- Staff is making progress on the City Tree Ordinance/Urban Forestry program. City Attorney and staff are reviewing the draft Ordinance. Staff will provide an update and project schedule to the Council and Planning Commission on August 16.
- Based on the Council's direction in April 1999, the City Attorney's Office has prepared an annexation ordinance that is consistent with the latest Metro regulations and Oregon Revised Statutes. Planning Commission will consider the new ordinance on August 10 with Council consideration scheduled for September 7.

Engineering Division Activity

- Provided project management and inspection for four major capital projects: Waverley/Lava water and sewer line projects; Brookside lift station; 1999 Waterline replacement (phase I); and 1999-2000 street paving project.
- Designed several projects, including the 42nd Avenue sidewalk projects, the Wood and Monroe storm project, and the Phase II waterline replacement project.
- Completed negotiations with Walker Macy for the Water Master Plan. The award of contract was approved by the City Council on July 20.
- Worked with the TSTB to complete recommended revisions to the Neighborhood Traffic Management Program for Council consideration on August 17.

Future Engineering Activity

- Seeking Council approval of new Surface Water rules and regulations at the August 17 Council meeting.
- Continued work on the 42nd Avenue sidewalk projects, the Wood and Monroe storm project, and the Phase II waterline replacement project.

Building Division Activity

- During the month of June, the Building Division issued 27 commercial building permits, 9 residential permits, and 47 "other" permits. The "other" permits include erosion control, plumbing and mechanical permits. This level of building activity generated approximately \$23,000 in revenue. A total of 19 building permit applications are currently in plan review.
- Twelve building permit applications are in plan review.
- On July 1, State surcharges for Building Permits increase from 5% to 7%.

- The Building Division has been working with RIM to purge, image, and store building records.

Future Building Activity

- Staff will begin working with Information Services and Planning to begin automating permit tracking now that the new fiscal year has begun.
- The Milwaukie High School grandstand project was submitted on July 12, 1999.

Street Division

- Completed the sweeping of approximately 268 miles of city streets and 45 miles for Happy Valley, hot patched 34 pot holes and 18 utility cuts, completed 24 infra-red repairs, continuing our crack sealing program, installed new signs per request for City and Happy Valley, repaired damaged signs, various shoulder rock repairs and responded to 22 citizen requests. The County work crews have completed many jobs for the Storm, Sewer, Water, Street and Facility Divisions.
- Began replacement of school zone signs with the strong yellow-green signs.
- Continued working with engineering on the CDBG and NTMP projects. Started our 99/2000 paving project. The paving project should be complete by the first week in August.

Street Division future activities

- Continuing the sweeping schedule to include Happy Valley, patching of potholes, shoulder rock repairs, infra-red pavement repairs, crack sealing, sign replacement and installation, assisting Happy Valley with their needs, and training of street crew on using the new sign inventory program. Also, work with Engineering on the completion of the NTMP project (27th Ave speed humps), and the CDBG sidewalk project.

Water Division

- Completed the Johnson Creek water line; project was on time and under the bid cost.
- Completed Waverly Drive and Lava Drive water line project. Clean up of the project is underway.
- Conducted 1 dig-in water service, 1 drop-in water service, changed out 4 water meters, 115 utility locates, 2 fire hydrants repaired, 1 main break repaired, 5 water services repaired, and 125 turn offs on turn off days, and responded to 6 citizen requests.
- Completed 203 service requests. These consisted of final reads, leak investigation, rereads, turn-ons, turn-offs, and other miscellaneous calls.
- Located, mapped, exercise and updated the records for 772 valves in the system.

VII. C. 4

Future Water activities

- Designing the Phase II 1999-2000 Waterline project for SE Olsen, SE Floss and 36th. The project will be out to bid in September.
- Upgrading the water system controls has been completed by Technical Systems Incorporated. A demonstration and request for acceptance will be on the September 7, 1999 at City Council meeting.

Sewer Division

- Working with TSI/PGE on power and phase fail alarms.
- Pulled/Cleaned and televised the Housing Authority's sewer lines and bolted down manholes and installed manhole shields.
- Overseeing Brookside liftstation installation
- Installed additional fall protection at the Home & Monroe lift station
- Televised the Waverly sewer project and 54th Court sewer.
- Cleaning and televising Area 2

Storm Division

- Raising drywells: 4203 Covell, 9660 Howe, 4703 Monroe, 4233 Howe, 11630 Stanley.
- Installed a G-2 curb inlet catchbasin on 30th and repaired pipe and backfilled a sinkhole on 30th.
- Mowed and cut weeds at the Willow Park detention pond.
- Completing the NPDES permit report for 1998/1999.
- Working with the Building Division reviewing erosion control plans and monitoring construction sites for erosion control compliance.



To: Mayor and City Council
Through: Dan Bartlett, City Manager *Dan*
From: Pat DuVal, Records and Information Manager *Pat*
Subject: Monthly Activity Report for June 1999
Date: July 16, 1999

Action Requested

None. This report is for information only and summarizes the activities of the Records and Information Management (RIM) division.

Staffing Activity, Training, Certifications, and Appointments

- PageMaker advanced;
- Windows intermediate; and
- Excel intermediate and advanced.

Records Management

- Backfile Scanning Project for June included Building Permits and a portion of the Land Use Applications; document preparation accomplished with RIM administrative staff and three contract workers that included:
 - Building Permits: 84 boxes; 22,916 documents; 34,085 images;
 - Land Use Applications: 29 boxes; 6,555 documents; 21,066 images.
- Continued Oregon Association of Municipal Recorders Records (OAMR) Manual Committee; and
- Continued OAMR Fall Conference vital records training session.

Special Teams

- Lake Road Neighborhood District Association liaison;
- Payroll Problem Solving Team;
- Safety Committee; and
- Finance/RIM monthly staff meetings.

VII. C. 6

Administration

- Supported 2 regular Council meetings and 2 work sessions: agenda packets, notices, and minutes;
- Supported 1 Riverfront Board Meeting: agenda packet, notices, and minutes; and
- Supported 1 Traffic Safety and Transportation Board (TSTB) work session: agenda packet.
- Processed 1 ordinance, 5 resolutions, 3 contracts and agreements, 1 traffic regulation, and 3 vehicle registrations;
- Prepared FY 1999 - 2000 departmental budget spreadsheets;
- Assisted M. Swanson with SB 122 materials;
- Updated active data files; and
- Created new data files for City Council and Boards and Commissions including formatting for labels and merge documents;

Community Development/Planning

- Supported 1 Planning Commission meeting: packets and notices;
- Supported 1 Historic Resources Commission meeting: packets and notices; and
- Set up 2 planning application files and prepared referrals.

Community Development/Public Works

- Completed 5 records inspection requests;
- Supported 1 Citizens Utility Advisory Board (CUAB) and 1 Traffic Safety and Transportation Board (TSTB) meeting: packet, notices, and minutes; and
- Set up two construction project files and continued administration of five in-progress projects.

Fleet and Facilities

- Processed 77 requests for vehicle maintenance and 51 work orders for Clackamas Fire District #1;
- Processed 65 repair orders for Public Works, Happy Valley, and Milwaukie Police;
- Processed 13 and completed 8 facilities maintenance requests and participated in monthly "walk through " of City facilities;
- Completed training on Qquest software to track repair orders, inventory, etc.
- Closed out FY 1998 - 1999 fleet and facilities books;
- Organized purchase order and receiving books for FY 1999 - 2000; and
- Set up timekeeping process for summer help.

Municipal Court

- Scheduled and attended 2 court sessions;
- Entered 303 citations and 455 infractions;
- Scheduled 41 trials;
- Processed 1,820 after-court entries;
- Sent 273 abstracts to DMV;
- Processed 728 bills;
- Sent \$124,000 to collections; and
- Continued to evaluate improved receipting process with Finance.

Police Department

- Processed 64 false alarm permit letters and accepted 7 new applications;
- Assisted with 39 background checks;
- Processed 346 reports and 88 subpoenas;
- Prepared 37 letters for abandoned and towed vehicles;
- Responded to 55 insurance requests;
- Processed 43 vehicle releases and 15 validations; and
- Scheduled 38 room reservations and 2 cancellations.

Front Counter Activity Tracking: RIM front counter staff had direct contact, either on the phone or in person, with 4,411 customers during the month of June.

Facility	Department	Calls	Walk-ins	Monthly Totals
City Hall	Court	208	133	341
	Water	277	270	547
	Business licenses	24	14	38
	Finance	16	4	20
	Administration	27	16	43
	Neighborhood Services	32	13	45
	PSB	39	16	55
	JCB	90	43	133
	Other	105	61	166
Combined customer contacts				1388
Johnson Creek	Planning	229	147	376
	PW Admin	59	30	89
	Fleet/Facilities	50	18	68
	Operations	131	48	179
	Building	153	110	263
	Permits	157	106	263
	Engineering	117	64	181
	PSB	3	0	3
	City Hall	54	4	58
	Other	91	22	113
	Interoffice	126	45	171
	Radio	83		83
Combined customer contacts				1847
Public Safety Building				
		672	504	1176

STATISTICS FOR THE MONTH OF
MAY 1999

OFFENSE/ACTIVITY	APRIL 1998	MAY 1999	JAN MAY 1998	JAN MAY 1999
PART I OFFENSES	72	70	508	356
PART II OFFENSES	57	64	308	282
1 PART III ACTIVITY	347	0	1972	551
2 OFFICER ASSISTANCE	99	0	687	0
TOTAL	575	134	3475	1189

CLEARANCES

PART I OFFENSES	8	25	86	70
PERCENT of CLEARANCES	11%	36%	17%	20%
PART II OFFENSES	45	41	169	162
PERCENT of CLEARANCES	79%	64%	55%	57%
TOTAL	53	66	255	232
PERCENT of CLEARANCES	41%	49%	31%	36%

ARRESTS

ADULTS	79	86	353	363
JUVENILE	16	18	153	67
TOTAL	95	104	506	430
MISDEAMEANOR	40	53	286	220
*FELONY	32	27	159	138
**TRAFFIC	0	2	1	2
DUII	21	22	58	70
TOTAL	93	104	504	430

TRAFFIC ACCIDENTS

INJURY ACCIDENTS	2	2	7	13
NON-INJURY	13	12	100	65
TOTAL	15	14	107	78
FATAL ACCIDENTS	0	0	0	0
PERSONS INJURED	5	2	10	18
CITATIONS ISSUED	1	1	6	8

UNIFORM TRAFFIC CITATIONS

VBR (SPEEDING)	36	133	406	623
EQUIPMENT VIOLATIONS	20	26	121	197
DUII	21	25	58	73
REG/LIC VOL	3	36	48	200
DWS	31	47	150	222
OTHER	61	77	311	443
TOTAL	172	344	1094	1758
COURTESY NOTICES	12	37	125	170

MISCELLANEOUS

PARKING CITATIONS	0	0	24	2
RESIDENTIAL ALARMS	36	24	155	487
COMMERCIAL ALARMS	36	25	145	458
SCHOOL ALARMS	1	8	12	68
BANK ALARMS	0	2	3	10
TOTAL	73	59	339	1025

* Includes Felony Traffic Arrests **Infraction and Misdemeanor Traffic Arrests

1. Non-Criminal Activity

2. Number of Officers Required to Provide Back-up/Assistance to Primary Officer

STATISTICS FOR THE MONTH OF
JUNE 1999

OFFENSE/ACTIVITY	JUNE 1998	JUN 1999	JAN JUN 1998	JAN JUN 1999
PART I OFFENSES	70	105	578	461
PART II OFFENSES	64	29	372	311
1 PART III ACTIVITY	291	0	2263	551
2 OFFICER ASSISTANCE	22	0	709	0
TOTAL	447	134	3922	1323

CLEARANCES

PART I OFFENSES	14	19	100	89
PERCENT of CLEARANCES	20%	18%	17%	19%
PARTII OFFENSES	66	14	221	176
PERCENT of CLEARANCES	103%	48%	59%	57%
TOTAL	80	33	321	265
PERCENT of CLEARANCES	60%	25%	34%	34%

ARRESTS

ADULTS	70	74	423	437
JUVENILE	19	26	172	93
TOTAL	89	100	595	530
MISDEAMEANOR	46	69	332	289
*FELONY	30	15	189	153
**TRAFFIC	0	2	1	4
DUII	13	14	71	84
TOTAL	89	100	593	530

TRAFFIC ACCIDENTS

INJURY ACCIDENTS	2	1	9	14
NON-INJURY	16	15	116	80
TOTAL	18	16	125	94
FATAL ACCIDENTS	0	0	0	0
PERSONS INJURED	4	1	14	19
CITATIONS ISSUED	0	1	6	9

UNIFORM TRAFFIC CITATIONS

VBR (SPEEDING)	32	127	438	750
EQUIPMENT VIOLATIONS	10	41	131	238
DUII	13	14	71	87
REG/LIC VOL	5	33	53	233
DWS	43	33	193	255
OTHER	103	73	414	516
TOTAL	206	321	1300	2079
COURTESY NOTICES	35	48	160	218

MISCELLANEOUS

PARKING CITATIONS	0	0	24	2
RESIDENTIAL ALARMS	33	28	188	515
COMMERCIAL ALARMS	19	26	164	484
SCHOOL ALARMS	3	9	15	77
BANK ALARMS	1	2	4	12
TOTAL	56	65	395	1090

* Includes Felony Traffic Arrests **Infraction and Misdemeanor Traffic Arrests

1. Non-Criminal Activity

2. Number of Officers Required to Provide Back-up/Assistance to Primary Officer

STATISTICS FOR THE MONTH OF
MAY 1999

OFFENSE/ACTIVITY	APRIL 1998	MAY 1999	JAN MAY 1998	JAN MAY 1999
PART I OFFENSES	72	70	508	356
PART II OFFENSES	57	64	308	282
1 PART III ACTIVITY	347	0	1972	551
2 OFFICER ASSISTANCE	99	0	687	0
TOTAL	575	134	3475	1189

CLEARANCES

PART I OFFENSES	8	25	86	70
PERCENT of CLEARANCES	11%	36%	17%	20%
PART II OFFENSES	45	41	169	162
PERCENT of CLEARANCES	79%	64%	55%	57%
TOTAL	53	66	255	232
PERCENT of CLEARANCES	41%	49%	31%	36%

ARRESTS

ADULTS	79	86	353	363
JUVENILE	16	18	153	67
TOTAL	95	104	506	430
MISDEAMEANOR	40	53	286	220
*FELONY	32	27	159	138
**TRAFFIC	0	2	1	2
DUII	21	22	58	70
TOTAL	93	104	504	430

TRAFFIC ACCIDENTS

INJURY ACCIDENTS	2	2	7	13
NON-INJURY	13	12	100	65
TOTAL	15	14	107	78
FATAL ACCIDENTS	0	0	0	0
PERSONS INJURED	5	2	10	18
CITATIONS ISSUED	1	1	6	8

UNIFORM TRAFFIC CITATIONS

VBR (SPEEDING)	36	133	406	623
EQUIPMENT VIOLATIONS	20	26	121	197
DUII	21	25	58	73
REG/LIC VOL	3	36	48	200
DWS	31	47	150	222
OTHER	61	77	311	443
TOTAL	172	344	1094	1758
COURTESY NOTICES	12	37	125	170

MISCELLANEOUS

PARKING CITATIONS	0	0	24	2
RESIDENTIAL ALARMS	36	24	155	487
COMMERCIAL ALARMS	36	25	145	458
SCHOOL ALARMS	1	8	12	68
BANK ALARMS	0	2	3	10
TOTAL	73	59	339	1025

* Includes Felony Traffic Arrests **Infraction and Misdemeanor Traffic Arrests

1. Non-Criminal Activity

2. Number of Officers Required to Provide Back-up/Assistance to Primary Officer

07/27/99 MILWAUKIE POLICE DEPARTMENT

STATISTICS FOR THE MONTH OF
JUNE 1999

OFFENSE/ACTIVITY	JUNE 1998	JUN 1999	JAN JUN 1998	JAN JUN 1999
PART I OFFENSES	70	105	578	461
PART II OFFENSES	64	29	372	311
1 PART III ACTIVITY	291	0	2263	551
2 OFFICER ASSISTANCE	22	0	709	0
TOTAL	447	134	3922	1323

CLEARANCES

PART I OFFENSES	14	19	100	89
PERCENT of CLEARANCES	20%	18%	17%	19%
PARTII OFFENSES	66	14	221	176
PERCENT of CLEARANCES	103%	48%	59%	57%
TOTAL	80	33	321	265
PERCENT of CLEARANCES	60%	25%	34%	34%

ARRESTS

ADULTS	70	74	423	437
JUVENILE	19	26	172	93
TOTAL	89	100	595	530
MISDEAMEANOR	46	69	332	289
*FELONY	30	15	189	153
**TRAFFIC	0	2	1	4
DUII	13	14	71	84
TOTAL	89	100	593	530

TRAFFIC ACCIDENTS

INJURY ACCIDENTS	2	1	9	14
NON-INJURY	16	15	116	80
TOTAL	18	16	125	94
FATAL ACCIDENTS	0	0	0	0
PERSONS INJURED	4	1	14	19
CITATIONS ISSUED	0	1	6	9

UNIFORM TRAFFIC CITATIONS

VBR (SPEEDING)	32	127	438	750
EQUIPMENT VIOLATIONS	10	41	131	238
DUII	13	14	71	87
REG/LIC VOL	5	33	53	233
DWS	43	33	193	255
OTHER	103	73	414	516
TOTAL	206	321	1300	2079
COURTESY NOTICES	35	48	160	218

MISCELLANEOUS

PARKING CITATIONS	0	0	24	2
RESIDENTIAL ALARMS	33	28	188	515
COMMERCIAL ALARMS	19	26	164	484
SCHOOL ALARMS	3	9	15	77
BANK ALARMS	1	2	4	12
TOTAL	56	65	395	1090

* Includes Felony Traffic Arrests **Infraction and Misdemeanor Traffic Arrests

1. Non-Criminal Activity

2. Number of Officers Required to Provide Back-up/Assistance to Primary Officer

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

REVISED JULY 19, 1999

MILWAUKIE PUBLIC SAFETY BUILDING

Community Meeting Room
3200 SE Harrison Street

1819th MEETING

REGULAR SESSION - 6:00 p.m.

I. CALL TO ORDER
Pledge of Allegiance

II. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

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

- A. City Council Minutes of July 6, 1999**
- B. Professional Services Agreement with Montgomery Watson to Complete a Water Master Plan**
- C. Sunrise Water Authority**
- D. Resolution Changing the Location of the August 3, 1999 Council Meeting**

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.)*

Waste Management Internal Merger Request -- Resolution (Herrigel)

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

- A. Consider Order Remanding the Appeal of a Planning Commission Decision for MLP-98-06/NCU-98-04 Located at 3406 SE Olsen Street (Rouyer)**
- B. Traffic Safety and Transportation Board (TSTB) Mini Grant Letter of Support (Swanson)**
- C. Property Acquisition -- Resolution (Richards)**

VII. INFORMATION

- A. Planning Commission Minutes of June 8, 1999**
- B. North Clackamas Parks and Recreation District Information**
- C. SB 122 Update**

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.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DETERMINING THE FIRST REGULAR SESSION OF AUGUST WILL BE HELD ON AUGUST 3, 1999, AT THE ISLAND STATION NEIGHBORHOOD DISTRICT ASSOCIATION'S NATIONAL NIGHT OUT EVENT.

WHEREAS, the City Council has identified improved communications with the community as a high priority goal; and

WHEREAS, the Milwaukie City Council wishes to expand its outreach efforts by attending the Neighborhood District Associations meetings and events; and

WHEREAS, the Municipal Code Chapter 2.04.070 states that the City Council must provide notice of any changes to its regularly scheduled meeting times and locations;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Milwaukie, Oregon, that the first regular session of August 1999 will be called to order at 6:00 p.m. on August 3 at the Island Station Neighborhood District Association's National Night Out event at Kellogg Treatment Plant Park, 19th and Eagle Street.

Introduced and adopted by the City Council on July 20, 1999.

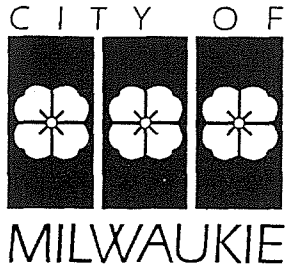
Carolyn Tomei, Mayor

ATTEST:



Pat DuVal, City Recorder

APPROVED AS TO FORM:

Ramis, Crew, Corrigan & Bachrach, LLP



Memo

To: Honorable Mayor and City Council
Through: Dan Bartlett, City Manager 
From: Charlene Richards, Assistant City Manager 
CC: PARB
Date: July 15, 1999
Re: Park Land Acquisition for Lewelling Neighborhood

Request:

Approve the attached resolution authorizing the City Manager and City Attorney to negotiate the purchase of property as described in Exhibit "A" of the resolution, for future park development to serve the Lewelling neighborhood.

Background:

For the last several years, the City Council has set as a top parks and recreation priority the purchase of property to provide neighborhood park services to the Lewelling neighborhood. The Lewelling neighborhood association has actively pursued the identification of property that could possibly be developed into a neighborhood park. Under the new Parks, Open Space and Trails Acquisition Program, effective July 1, 1999, the City Council authorized staff to pursue Early Acquisition Procedures should the City Manager become aware of property that could meet the neighborhood park needs of an underserved area such as the Lewelling neighborhood. To that end, the Open Spaces Acquisition Committee met and recommended that the City Manager consider negotiating to acquire property to service the Lewelling neighborhood. The City Manager authorized staff to pursue negotiations. The Council was presented the acquisition recommendation within 5 working days. The attached resolution formally directs staff to acquire the property identified in Exhibit "A."

Summary:

The attached resolution allows staff to move to acquire the property from a willing or unwilling seller.

CITY OF MILWAUKIE
RESOLUTION NO. ____-1999

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE NEED TO ACQUIRE PROPERTY FOR THE PURPOSE OF ASSEMBLING LOTS FOR PARK IMPROVEMENTS.

WHEREAS, the Milwaukie City Charter grants the City authority to acquire land for public purposes; and

WHEREAS, the City of Milwaukie is authorized by ORS 226.320 to purchase, acquire, take, use, enter upon and appropriate land and property within or without its corporate limits for the purpose of establishing or enlarging public recreation and accommodation facilities including parks, public squares, playgrounds, or comfort stations; and "

WHEREAS, the Parks and Recreation Board has determined that the Lewelling Neighborhood needs park land; and

WHEREAS, the Lewelling Neighborhood District Association Parks subcommittee submitted the property described in Exhibit "A" as property to be considered for acquisition for parkland in their neighborhood; and

WHEREAS, for the public purposes of improving park lands within the service area of the Lewelling Neighborhood within the City of Milwaukie for the health, safety, benefit and general welfare of the public, the City Council has deemed necessary the acquisition of certain properties; and

WHEREAS, following the Early Acquisition Opportunity Process of the Parks, Open Spaces and Trails Acquisition Program, Resolution No. 21-1999, the Opens Spaces Acquisition Committee, on July 1, 1999, reviewed the property described in Exhibit "A" and recommended acquisition based on the following findings: the property is located in a proposed target area, there is no adopted refinement map, there is a willing seller, there is need to purchase the property based on potential buyers and there is a high level of certainty that the property will be included in the refinement plan;

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

1. The City of Milwaukie City Council does hereby find and declare that the property described in Exhibit "A" is needed and required for construction, operation, maintenance, repair and improvement of park property located in the County of Clackamas, Oregon; and

2. The improvement of parks for which the real property and interest is described herein is required and is necessary in the public interest and the improvements to said property will be planned, designed, located and will be constructed in a manner that will be most compatible with the greatest public benefit and the least private injury or damage; and

3. The Milwaukie City Manager and the City's attorneys are authorized to attempt to agree with the owners and other persons in interest in the real property described herein as to the compensation to be paid for the appropriation of the property, and in the event that no satisfactory agreement can be reached, then the attorneys for the City of Milwaukie be and the same hereby are directed and authorized to commence and prosecute to final determination such proceedings as may be necessary to acquire the real property and interest therein and that upon the filing of such proceeding, possession of the real property and interest therein may be taken immediately; and

4. In any negotiations regarding the acquisition of the real property and interest therein as described above, the City Manager is authorized to attempt to agree with the property owners on compensation for the property not to exceed ten per-cent above the initial offer approved by Council.

Introduced and adopted by the City Council on this 20th day of July 1999.

CITY OF MILWAUKIE

By _____
Carolyn Tomei, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:

Ramis, Crew, Corrigan & Bachrach

u:\richardsc\w_myfile\parks\98-99\res lewelling 7-20-99.doc

Exhibit "A"

Part of the Hector Campbell Donation Land Claim in Section 30, Township 2 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows"

Beginning 20.00 feet North of the Southeast corner of the George Willis Donation Land Claim in said township and range, thence North 151.25 feet, thence East 288.00 feet to the center of Stanley Road; thence South 151.25 feet; thence West 288.42 feet to the place of beginning.

u:\richardsc\w_myfile\parks\99-00\lewelling exhibit a.doc

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

MILWAUKIE PUBLIC SAFETY BUILDING

Community Meeting Room
3200 SE Harrison Street

1819th MEETING

REGULAR SESSION - 6:00 p.m.

I. CALL TO ORDER

Pledge of Allegiance

II. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

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

A. City Council Minutes of July 6, 1999

B. Professional Services Agreement with Montgomery Watson to Complete a Water Master Plan

C. Sunrise Water Authority

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.)*

Waste Management Internal Merger Request -- Resolution (Herrigel)

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

A. Consider Order Remanding the Appeal of a Planning Commission Decision for MLP-98-06/NCU-98-04 Located at 3406 SE Olsen Street (Rouyer)

B. Traffic Safety and Transportation Board (TSTB) Mini Grant Letter of Support (Swanson)

C. Property Acquisition -- Resolution (Richards)

VII. INFORMATION

- A. Planning Commission Minutes of June 8, 1999**
- B. North Clackamas Parks and Recreation District Information**
- C. SB 122 Update**

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.

**MILWAUKIE CITY COUNCIL
REGULAR SESSION
JULY 6, 1999**

The one thousand eight hundred and eighteenth 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	Larry Lancaster
Mary King	Jeff Marshall

Also present:

Dan Bartlett, City Manager	Alice Rouyer, Planning Director
Jim Coleman, City Attorney	Janet Wright, Assistant Planner
Charlene Richards, Assistant City Manager	JoAnn Herrigel, Program Services Coordinator
Martha Bennett, Assistant City Manager	Steve Campbell, Code Compliance Specialist

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Milwaukie Downtown Development Association Report

Jim Bernard, Milwaukie Downtown Development Association (MDDA) President, 7615 SE 20th, Portland, introduced **Jack Elder** who was recently hired as the organization's Director.

Elder announced the Sunday Farmer's Market that would begin on July 11 in the Main Street public parking lot. The initial focus will be on farmer's market activities in addition to live entertainment. The MDDA Niche Committee is encouraging arts and entertainment business development in the downtown. Elder discussed the possibility of displaying loaned art on City properties in conjunction with Clackamas Community College programs.

CONSENT AGENDA

Councilor Marshall requested that item III.C -- *Response to Traffic Safety and Transportation Board June 14, 1999 Motions* be pulled from the Consent Agenda for discussion.

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

1. City Council Minutes of June 14 & 15, 1999; and
2. Reject Bids for North Drywell Improvement Phase 1 ST-00-01.

Motion passed unanimously.

AUDIENCE PARTICIPATION

Richard Cayo, 4203 SE Johnson Creek Blvd., spoke regarding his May 3, 1999, letter making certain observations on City management and the response he subsequently received. About four years ago, he had offered to loan the City three restored WW2 aircraft if a structure were provided. He maintained that the City had chosen to demolish a building on the riverfront that would have been ideal for such a museum. The building could have generated some revenue, and he believed whoever made the decision on the building should be held accountable.

Cayo referred to Bartlett's response that was included in the Council's June 1, 1999 packet. Generally, the memo stated that the riverfront/downtown plan was in its formative stages, therefore, it was premature to determine what types of attractions would be included in the development. Bartlett also recommended that Cayo contact the non-profit Bomber group since cities do not normally form museums although they may help facilitate development.

Irene Wertheimer, 8645 SE 36th Avenue, continued reading Cayo's correspondence. Cayo wanted a response to his question about why the building was demolished instead of being rented out pending a riverfront development decision. At a Council meeting, Bartlett stated that the building was dilapidated and contained hazardous materials. Cayo maintained that it was impossible to prove or disprove such a statement after a building has been demolished. He disagreed with Bartlett's statement because he saw no activity that suggested removal of contaminated soil. The building itself only needed some paint and a little repair to make it usable. Cayo believed a good building was lost for no reason.

Cayo's response then addressed the Council's 4 - 1 vote to approve light rail. He believed it was a pre-planned show because Council was worried about losing Metro funding. The majority of voters did not want light rail, but the Council voted for it anyway.

The next issue was the Safeway building and the City's leasing it with taxpayers' money. Cayo maintained that the idea of renting the building so it could be used for a future light rail transit station had to have come from the City Manager's office with Council approval. Cayo believed there should have been a clause stating that the lease would be terminated if light rail was not funded.

Donald Wertheimer, 8645 SE 36th Avenue, former Johnson Creek/Ardenwald Neighborhood Association President. He spoke to the issue of Johnson Creek Blvd. There was a lot of political pressure from Eastmoreland residents against putting the road in the gulch. Ardenwald was told time and again that there would be no traffic on Johnson Creek Blvd. and not to worry about it, but that is clearly not the case. The road itself is built on solid rock. Johnson Creek Blvd. is a collector street, and it is not possible to make it an arterial. There are some serious safety issues on that street. The residents have never wanted anything done to the street.

Robert Brinker, 4115 SE Johnson Creek Blvd., continued Cayo's comments on the Safeway site asking why the City was not subleasing the building so taxpayers could recover some of their losses. Cayo believed someone should be held accountable for this decision. The \$90,000 a year spent on leasing the building could better be spent filling potholes. Bartlett's response indicates that Tri-Met is interested in relocating the City Hall transit center to the site and notes that the cost of bringing the building up to code has discouraged potential renters. Cayo asked why the building has set idle for the past two years. He did not believe Tri-Met would come into an area with such limited ridership and bail the City out.

Florene Shipley, 8605 SE 36th Avenue, continued Cayo's comments. He believed that the City Council approved Bartlett's proposal based on the passage of light rail. There was no clause, however, making the continuation of the agreement contingent upon passage of light rail. On February 7, 1999, Cayo wrote a twelve-page letter to the Blue Ribbon Committee on Land Use offering property in exchange for a permit to build a six-foot fence to keep people off the rest of his property. To date, there has been no response from the City. Cayo felt it was foolish not to accept the offer because his attorney estimated the property value at about \$25,000. Bartlett's response indicated that Cayo's letter was provided during a Planning Commission hearing on the Functional Plan.

Rebecca Lillie, 4253 SE Johnson Creek Blvd., continued reading Cayo's comments. The property offer was made verbally to Assistant Planner Gessner and subsequently referred to Interim Planning Director Crumley. Crumley indicated he thought it was a good idea and said he would take care of it. To date, however, the City has not responded. Cayo had also talked to either a Paul or Jim and the Johnson Creek Facility receptionist, so, it was not accurate to say that no one knew anything about the offer. Since staff is being paid

astronomical wages to do a good job, Cayo was surprised that no one knew anything about his offer. At a recent Ardenwald Neighborhood District Association (NDA) meeting, former Public Works Director Brink tried to "sucker" the organization's president into signing a letter indicating that the residents approved of the Johnson Creek Blvd. improvements within a 44-foot right-of-way. It appears that Brink was given orders, possibly from the City Manager, to do this. He felt that, if the City Manager gave this kind of order, the City Council should replace him. Cayo noted that Assistant City Manager Bennett wrote a memo on the topic of communicating project plans with the neighborhoods as part of the service delivery model.

Brad Inman, 4253 SE Johnson Creek Blvd., continued reading Cayo's comments. After working with Linda Hatlelid on the Johnson Creek Blvd. improvement project, Cayo felt the City's response meant nothing. Hatlelid spent many hours working on this project, but staff has not worked with residents to keep the Johnson Creek Blvd. improvements within the existing 40-foot right-of-way. Apparently, Brink was fired in order to save someone else. Cayo was concerned about spending more tax dollars if the City were sued over this personnel issue. Cayo's correspondence went on to address the riverfront/downtown plan. He was appalled to learn that the City was paying a Portland firm between \$100,000 and \$200,000 to develop an idea of how to improve the riverfront/downtown area. He thought the idea of digging out the core downtown for a boat basin was ridiculous. Cayo thought perhaps Milwaukie Mayor Tomei and Portland Mayor Katz had gone to the same school to come up with these ideas. Disgusted with what he saw, Cayo directed his attorney to write a letter withdrawing his vintage aircraft offer.

Linda Hatlelid, 8617 SE 36th Avenue, spoke on behalf of Cayo. Bartlett's response indicated that the City Council approved a \$234,596 contract with Crandall Arambula to help the City clearly define its goals, take action, and influence people and events in a way that is consistent with its values. Cayo stated that the only thing in the response that answered his question was the amount of the consultant's contract. All Cayo saw was someone going from table to table at riverfront meetings asking people what they thought the riverfront/downtown should look like in the future. The idea of digging up three or four downtown City blocks and dumping the dirt into the Willamette River would result in a cesspool of treatment plant effluent. During Bartlett's ten years with Milwaukie, Cayo has seen a beautiful new Public Safety and Public Works Buildings constructed and City Hall and Ledding Library remodeled. Cayo saw the civil servants getting great working surroundings with no accountability. Taxpayers get all the bills, and the civil servants get everything. Cayo's comments went on to address the total annual compensation packages for Bartlett, \$114,024; Richards, \$90,336; M. Bennett, \$74,748; and Gregory, \$73,632.

Gene Hatlelid, 4277 SE Johnson Creek Blvd., continued Cayo's comments. This comes to a grand total of \$352,770 annually, or \$3,527,700 over a ten-year period. Cayo asked what taxpayers were getting for their money. Six months ago, Cayo talked to his neighbor Roger Haas who complained about the fact that 36th Avenue residents south of Johnson Creek had asked for two speed bumps which they would pay for themselves. Apparently, the City had lost the paperwork. This was brought to staff's attention, but nothing was done about it. A June 1999 City newsletter article stated that the City Council and City Manager spent a three-day "bonding" retreat at Skamania Lodge in Washington State. Now the taxpayers get slapped with a reported \$5,000 bill for this out-of-state event. Cayo thought the hard-earned tax dollars should at least be kept in Oregon. He also understood that the City Manager has been allowed to make out his own report card each year, and he was concerned this set a precedent. Cayo expressed a fear that the public, made up mostly of older, retired people, was slowly being bled to death. Everyday needs and problems are neither being addressed nor solved. Cayo felt that, if citizens were so lazy that they allowed this to continue, then they are getting what they deserve.

Analiese Hummel did not wish to enter her address into the record, although she believed it was in every file in the City, and also advised that she wanted to be addressed respectfully as Ms. Hummel. She added that discouraging tactics do not work on her because she was taught by a master. She spoke to the issue of truck traffic on Monroe Street that increases daily, and no one pays any attention. Eighty-three cents from each dollar goes out of state to corporations and fast food restaurants. We need to keep this money at home. She told the City Council that she got a late water bill, and it used the words "delinquent" and "penalty." She thought "delinquent" was crime related, and a "penalty" was something given to criminals. Hummel continued Cayo's comments. He believed citizens were getting what they deserved and hoped they would continue to be financially raped until they are lying in the street bleeding to death. Then the City can say what a good job it is doing.

Michelle Roberts, 13709 SE Laurie Avenue. She thanked staff for moving the waiver of the appeal fees forward and requested the Rasmussen's be refunded the money they paid for their appeal. That appeal was fully supported by the Neighborhood District Association (NDA), and it met the waiver criteria.

Darlene Walsh, 3108 SE Kelvin Street, recognized staff members Michelle Gregory, JoAnn Herrigel, and Charlene Richards for their assistance to the Ardenwald neighborhood.

PUBLIC HEARING

Appeal a Planning Commission Decision – MLP-98-06/NCU-09-04

Mayor Tomei called public testimony portion of the hearing to order at 6:55 p.m.

The purpose of the hearing was to consider the appeal of the Milwaukie Planning Commission's May 11, 1999 decision. The Ardenwald NDA filed an appeal challenging the Planning Commission's approval and articulated reasons for the appeal. She reviewed conduct of the hearing.

Coleman explained the state mandates that local jurisdictions must complete the application process, including this hearing, in 120 days. The rule provides for quick processing and deliberation on this type of application.

Site Visits: All Councilmembers had visited the site.

Ex Parte Contacts or Conflicts of Interest: **Councilor Kappa** announced that he had attended the Planning Commission meeting during which this application was first considered. He attended the Commission meeting for the purpose of observing the group's process, and was not at the meeting to hear comments relating to this application. At that meeting, he did hear a portion of the public testimony. He had some concerns whether the City Council should be hearing this case. The applicant stated he wanted to remove his three-lot application and apply for a new MLP. Councilor Kappa asked if the applicant had filed a new application or if this was a revision. He understood that a new application would be considered under the current flaglot criteria.

Coleman referred to staff report page V.A.2 and Commissioner Miller's motion. The minutes of the January 12, 1999, Planning Commission meeting describe the discussion, and the motion was "*to continue Minor Land Partition MLP-98-07/NCU-98-04 to allow the applicant time to revisit the application with the Community Development Staff. Further, that a 120-day waiver will be signed by the applicant.*" That motion carried 6 - 0. Coleman interpreted this to be a continuance of the two application numbers and a revision to the existing application. He believed the minutes later showed that the applications came back to the Planning Commission under the same numbers. He did not see anything in the municipal code that would have prevented the Commission from taking this procedural step. There is a provision in Section 1012 which allows the Planning Commission a recess to get additional information, and Coleman considered a continuation and recess to be the same, and there is authority within the code for the Commission to take the step it did. He did not see a problem with the City Council continuing this hearing under the same application numbers.

Councilor Kappa said the minutes on staff report page V.A.41 reflect that Planning Director Heiser stated the applicant would need a written withdrawal letter and explained that any new application would be under the requirements of the new partitioning standards.

Coleman said, if there had been a withdrawal, then there would have been a different MLP application number. The Planning Commission construed this to be a revision to the existing application and not a different application.

Challenges to Impartiality: There were no challenges to any Councilmember's impartiality or ability to participate in the decision.

Jurisdictional Issues: There were no objections to the Council's jurisdiction to consider the matter.

Staff Report: **Wright** presented the staff report in which the City Council was requested to deny the Ardenwald Neighborhood District Association's appeal. She indicated the site on a map. The applicant originally submitted a three-lot partition request. At the January 12, 1999, Planning Commission meeting, the applicant requested that his application be revised to a two-lot partition because he was concerned about losing his business on the site. The applicant did sign the 120-day extension. On April 27, 1999, the Planning Commission held a second public hearing on a revised tentative plan submitted by the applicant that provided for a two-lot partition. The flaglot criteria in effect at the time the application was made did allow for the "pole" to be included in the overall square footage. The lot was 6,750 square feet plus the 2,152 square feet of the pole. Parcel 1 was 25,000 square feet. A fenced auto repair business was located on another portion of the property.

The Planning Commission approved the applicant's minor land partition on May 11, 1999, and ruled that the nonconforming use was not affected. The use had previously been approved in a location delineated by a director's decision. The Planning Commission determined that the actual minor land partition, because it had been delineated into a specific site on the property, would not be affected by the nonconforming use. Staff requested that the City Council affirm the Planning Commission's decision to approve the minor land partition and allow the continuance of the nonconforming use at the site.

Councilor King referred to staff report page V.A.26 and asked the location of the new house.

Wright indicated the location of the new house on proposed Lot 2. She also pointed out the business that was located within a fenced area.

Councilor Kappa referred to section 802 and asked for a definition of the term "detriment to surrounding properties".

Wright said that normally would refer to noise, odors, unsightliness, and nuisances.

Councilor Kappa asked if the restrictions placed on the property by then Acting Community Development Director Swanson was intended to address those issues.

Wright said the restrictions were intended to address those neighborhood issues including parked cars, car parts, and containers.

Correspondence: None.

Appellant Testimony: **Darlene Walsh**, 3108 SE Kelvin Street, Ardenwald Neighborhood District Association (NDA) Chair. The neighborhood submitted the appeal based on the confusion over the minor land partition and the nonconforming use. One issue was the effect on the neighborhood and what the people thought would positively or negatively impact their livability. She had made a commitment to educate herself on the language relating to this application, she was concerned the information was too technical for the neighborhood to develop a reasonable response based on the criteria.

When she reviewed the information, Walsh had difficulty determining who was in charge, who said what, and who made the decisions based on what criteria. The decision on the nonconforming use was an example of this. She referred to the chronology on staff report page V.A.9, the business licensing process, and the grandfathering-in of Thompson's auto repair business. She interpreted from this information that the business was allowed to continue because there were few complaints from the neighborhood about its operation. As she continued to read through the chronology, she found the number of complaints increasing as residents looked for ways to better their neighborhood. She discussed the director's determination approving continuation of a nonconforming use and asked if there should have been an opportunity for public comment.

During the May Planning Commission meeting, a question arose about how the boundary of the nonconforming use was determined and who made that decision. She requested that the City Council direct staff to determine what process was undertaken to arrive at that decision. She understood that some of the actions were driven by litigation concerns, and she was there to represent

the neighborhood in opposing the applications. She was also concerned about Bartlett's response to resident correspondence in which he stated that the Planning Commission makes these types of decisions. She believed the residents were getting the run around as far as who does what and how to get their questions and concerns answered.

Walsh agreed that the area did look much better, but an auto repair business does not belong in the middle of a neighborhood. Residents get frustrated when they work to create a neighborhood vision and then are told that something like taking care of this Olsen Street property is not possible. She believed the entire process needed to be reviewed and told Council that residents feel frustrated when they do not get clear explanations to their questions. She had read that Thompson might reside on the property, and that would make her feel better. The NDA was distressed at how it was treated at the last Planning Commission meeting and was also concerned that decisions were made based on the possibility of legal recourse.

Councilor Kappa asked Walsh if the NDA was appealing the Planning Commission decision or the process itself.

Walsh said her original intent was to appeal the decision. Now she believed the process was confusing and slanted toward an employee whose job was to do City planning and make those types of administrative decisions. The NDA was not involved in the decision-making process. She summarized by saying that the appeal was based on the City's nonconforming use policies.

Mayor Tomei reminded those speaking before the City Council to address the criteria.

Testimony in Support of the Appeal: **Sara Newson**, 3337 SE Olsen Street. She felt the residents did everything they knew how to do but felt frustrated because they got rail-roaded in the process. Her question was who was in charge of all the decisions when people wrote their letters. Why are residents' feelings and opinions not considered? Residents are in the cross hairs, and the trigger is back.

Philip Nelson, 3739 SE Olsen Street. Testifying to the criteria will be hard, because the neighborhood does not have enough information. He referred to staff report page V.A.15, the January 6, 1999, staff report. There was a notation that staff recommended denial due to the significant impact to the surrounding residential area. Staff's conclusion was denial of the request for continued nonconforming use. He then referred to staff report page V.A.56 in which it was stated that Wright reported the City received one letter opposing the application. From what Nelson read, residents, the NDA, and staff have all expressed their opposition. He did not understand why, when all of these parties expressed

opposition, no one listened. He believed the criteria were full of loopholes. Administrative decisions can be made without caring what the neighborhood, the people, and the voters want. What criteria can the neighborhood use? The neighborhood comes before the Council and says it does not want this application approved. Staff made a mistake by letting it happen and is only trying to cover up its error. The use was grandfathered-in because the paperwork was lost. Administratively, the lot was divided into two portions apparently in order to keep the business and add density through increased housing. This is not what the neighborhood wants. He felt going before the Planning Commission was a waste of time. The NDA has opposed the applications for some time, but the issue has gone unresolved for more than a year. Someone has made some bad decisions, but no one wants to be accountable.

Jeanne Fisher Lee, 3622 SE Olsen Street. She lives on Olsen Street but did not submit correspondence. The community is very important to her, and feelings do come into the issue. The bottom line, however, is that the sidewalks created a traffic problem, and the street is now more dangerous than before. She was concerned that one flaglot will lead to another. The neighborhood is congested with people and cars, and residents feel smothered by the new sidewalk. The once friendly, happy neighborhood is now tense and worried about traffic. The sidewalk made it more dangerous instead of safer for the children. Olsen Street is in an old, well-established neighborhood that cannot accommodate more traffic.

Michelle Roberts, 13709 SE Laurie Avenue, Milwaukie. The issue that concerned her the most was whether the application had or had not been withdrawn. Is this one MLP or two because, for all intents and purposes, the lot was divided down the middle. She believed the applicant was coached by the Planning Department because, if Thompson had withdrawn his application and submitted a new one, it would have had to meet the revised flaglot standards. She believed it was a ridiculous configuration. There is staff coaching taking place that is not in the NDA's best interest. If Thompson can afford to build a \$170,000 house on the flaglot, then he could certainly afford to demolish the older house and build something that would suit the neighborhood. The whole configuration, the idea of nonconforming use, and the chronology were very confusing. The process flies in the face of what the neighborhood is trying to do in the areas of livability and design review. She believed the City needed to be more responsible when making these types of decisions. The house will eventually have to be demolished, and the NCU will not last forever. She took issue with staff's coaching the applicant to revise rather than withdraw his application. The driveway should not have been considered in the total square footage.

Betty Stewart, 3328 SE Olsen Street. Originally, there had been one car in and one car out of the business. She did not feel this business should have been grandfathered in. Olsen Street residents never wanted the sidewalk that was installed. One flaglot will certainly lead to more, and even one will have a big impact on the neighborhood. What will happen with all of the cars? Where will all of the children go to school? We cannot afford the schools we have now. She was against it all.

Applicant's Testimony in Opposition to the Appeal: **Howard Thompson**, 4310 SE Franklin Street. He provided correspondence from three residents in support of his application. Flaglots are not illegal in the City's zoning ordinance, and his was probably one of the few parcels that would support a flaglot based on current standards. The Planning Department put a restriction on the business and directed him to put a fence around the area used for auto repair, and cars relating to the business could not be parked elsewhere. That is why the Planning Commission determined that one area of the lot was zoned R-7. The original application was for three lots, and, since he did not understand that his original plan changed the nonconforming use, he revised the application to two lots. When he rented the business, the owner told him it was a legal use, and Thompson was not aware of the regulations. The Planning Department placed a ten-car limit on the business and made him construct a fence. He has made repairs to the existing house, and he did not intend to keep an unsightly place since he plans to live there. He plans to build a \$100,000, three-bedroom, ranch-style house that is not out of perspective of the rest of the neighborhood.

Councilor Kappa asked why there was so much confusion with the placement of the fence?

Thompson said staff told him he needed to construct a six-foot solid screen with a 20-foot setback. One neighbor, Malby, appealed the decision because the business was still visible from his house. After the fence was installed, Thompson met with Malby and staff, and he agreed to move the fence 50 feet back and even with the house. He agreed that the business was unsightly when he moved in, but he was not aware of all the regulations at that time. He was attempting to keep it clean and orderly. Senior Planner Heiser agreed that the fence defined the nonconforming area and told him the flaglot could be approved administratively. There is no change in the use or property configuration, and the house is on the other side of the fence.

Bill Hupp, 2626 SE Washington Street. He assured the City Council that this was a very significant issue for him and it was important to cover some crucial facts facing the City Council. He did not learn until this hearing what was being appealed. The Council must go by legal facts. He understood this was an emotional issue, but, at this time, flaglots are legal whether people like them or not. The nonconforming use of the garage for auto repair is also legal, and that

III. A. 12

cannot be denied. The business is better kept and the fence is sight obscuring. Thompson is an honest and competent mechanic. He has been a long time Milwaukie resident who saved his pennies, so he could buy this property. Thompson's plan was to have a home next to his business, and this property offered this opportunity. Heiser worked with the applicant and advised Thompson that the business and house could be approved administratively.

Neutral Testimony: **Leona Goldsmith**, 3311 SE Olsen Street, asked why there was a business in a residential area.

Staff Recommendation: **Wright** said staff recommended that the City Council affirm the Planning Commission's approval of the Minor Land Partition and determination that the nonconforming use was not affected by the MLP.

Councilor Kappa asked if there was a business operation lapse of six months or more during the period mentioned on staff report page V.A.46.

Wright said records indicated an ongoing business at that location.

Appellants Rebuttal: **Walsh** was not aware of the rebuttal process, so she was not prepared. She requested clarification of the licensing process, applicant coaching by staff, and the application withdrawal action. She also wanted to know if there was a lapse in business. She sympathized with all parties who were confused with the process.

Councilor King asked, since the business has been at that location for about fifty years, what had changed to create this problem.

Walsh said perhaps people feel the business does not belong in the neighborhood, and they want to have a say in its continuing. Being grandfathered in is a privilege, and she was concerned with the criteria being applied to Thompson's business.

Councilor King asked for clarification of the grandfathering process.

Wright said staff researched the records and determined that an automotive business, with the exception of the rental house location, had been on that site since approximately 1940.

Councilor Kappa asked, for clarification, if the director determined that the fence established the boundary of the nonconforming use.

Wright believed the entire parcel could have been used for the nonconforming use with the exception of the rental house. The fence allowed the City to help the applicant concentrate his business to lessen neighborhood impacts.

Councilor Kappa asked if the nonconforming use applied to the entire property at the time, and **Wright** responded that she understood it did.

Councilor Marshall referred to the previous question about the issuance of a business license and continued operation without a six-month lapse. On staff report page V.A.46, the chronology indicates a license was issued in 1994 - 1995, but there was a letter stating that the license was not renewed for 1996. The next renewal was in May 1997.

Wright responded there was no nonconforming use approved for the site prior to the director's decision in 1998. Staff researched the issue of how long this business had been on that site.

Mayor Tomei said a nonconforming use is established in conformance with regulations that have subsequently been changed. When this auto repair business first opened, the owners did not need a nonconforming use.

Wright said there was no zoning code in the 1940's, and, therefore, there were no restrictions.

Mayor Tomei said this was established as a nonconforming use, but the business did not change, and the business existed prior to City zoning. She asked if the flaglot issue was a separate consideration.

Wright said Thompson does have property that is zoned R-7. He could, if he chose, partition the property further and build houses. The Planning Commission determined that the nonconforming use could be removed and the parcel could support another house in that zone. The Planning Commission determined that because the nonconforming use was segregated to one area of the lot, the partition of the other portion of the property was not affected.

Mayor Tomei restated for clarification that the Planning Commission initially found that the business had taken over the entire lot except for the rental house.

Wright said the director's determination found that the NCU was over the entire lot with the exception of the rental house. The determination confined the nonconforming use to one area for mitigation purposes. Thompson then determined he wanted to partition part of the property in order to build another house.

Mayor Tomei asked if these were indeed two different issues.

Wright said that was correct based on the Planning Commission's decision.

Coleman reminded City Council that it was not there to make a determination if there was a nonconforming use on the property. The director's 1998 determination made that decision, and the City Council did not need to reanalyze it. The City Council needs to make a decision on whether or not the MLP altered the NCU. The Planning Commission found that the MLP did not alter the NCU, and he referred to staff report page V.A.62 for the Commission's analysis of its decision. Commissioner Borden's motion stated there was no alteration in the use that is subject to NCU-98-04. The 1998 director's determination found that the use was confined to that portion of the property, and the partition does not change the property that was determined as subject to the nonconforming use.

Councilor Kappa asked if a nonconforming use could exist in a MLP or an MLP exist with the conditions of the nonconforming issue. He said it seemed like it was reversed. He understood the City Council was not there to decide if Thompson could keep his business or not, but rather to determine if the MLP can exist with the NCU.

Coleman said the issue is whether the MLP alters the NCU. The Planning Commission found that it did not. If the City Council finds that the MLP does alter the NCU, then a decision would have to be made based on whether the MLP modification results in no more of a detriment to the surrounding property than the existing use. The Planning Commission did not reach that level of analysis because it found the MLP did not alter the nonconforming use. The City Council is not here to determine if there is a nonconforming use or not because the director made that determination in 1998. He added that a six-month lapse in operation was not relevant to this decision. It has been decided there is a nonconforming use on the site, and there are two issues before the City Council based on Planning Commission determinations: does the MLP alter the NCU; and does the MLP application comply with regulations in existence at the time it was made. The existence of the nonconforming use is beyond the scope of what is under consideration at this meeting.

Closure of Public Hearing: **Mayor Tomei** closed the public portion of the hearing on the appeal of MLP-98-06/NCU-98-04 at 8:20 p.m.

Discussion and Decision by Council: **Mayor Tomei** reminded those in attendance that this was a nation of laws, and the City Council had to make its decision based on those laws. It was not a matter of how members feel about flaglots, neighborhood businesses, and traffic.

Councilor Kappa said, based on the City Attorney's comments, he was concerned the nonconforming use criteria was already established on the entire

property. The nonconforming use has already been established, and he believed the flaglot would be the issue upon which the City Council makes its determination.

Coleman said the MLP request must be determined on its own merit. The impact of approving the MLP could affect the continuation of the NCU if City Council disagrees with the Planning Commission's decision that the MLP does not alter the NCU. To find that the NCU does exist, does not rule out the MLP, since they are not mutually exclusive. If the City Council approves the MLP and believes that the NCU is altered, then the issue goes to the next step of analysis.

Councilor Marshall felt he needed to discuss the issue in executive session.

Councilor Lancaster commented that the entire discussion went beyond the scope of this application. The City Council needs to make its decision based on the letter of the law. Land use issues speak to the heart of the U.S. Constitution and property rights. He did not see, from his perspective, how Thompson's application could be denied.

Mayor Tomei had hoped the NDA would respond to the criteria, but she did not hear that. She heard issues about which she had concerns, but she did not think the criteria were addressed or the questions stated in such a way that the City Council would not uphold the Planning Commission's decision.

Councilor King heard there was a need for clarity with citizens at all times. This is a very complicated issue and a struggle for normal citizens to understand. She was concerned with the permit process and the citizens' belief that they cannot get the same answer on two consecutive days from staff. People perceive that the Planning Department favors one person over another, but citizens would want to have instructions as clear as possible when they make an application. The Department's job is to be open and honest with all parties and present possible options.

Councilor Kappa said the nonconforming use was established on the whole property. If the property is subdivided, then the determination must be made how that affects the nonconforming use. He contended that the MLP does impact the use by modifying the original agreement and providing additional property. In his opinion, increased density in the immediate area would be a detriment to the surrounding neighborhood.

Councilor Marshall pointed out he had invested thousands of hours to his community in order to make what he saw as needed changes, and some of them have occurred. People need to get involved and take the time to participate in their NDAs if they want to make a change or keep their neighborhoods the same. Democracy is a participatory form of government. People cannot wait until the next hearing; they need to be prepared for the next application. He assured people that Council would support more changes coming from the neighborhoods.

Mayor Tomei announced that the City Council would enter into executive session pursuant to ORS 192.660(1)(h) to consult with legal counsel regarding legal rights and duties in regard to current litigation or litigation that is more likely than not to be filed.

Mayor Tomei reconvened the regular session.

It was moved by Mayor Tomei and seconded by Councilor Lancaster to deny the appeal of the Ardenwald Neighborhood District Association (NDA) affirming the Planning Commission approval of a Minor Land Partition and determination that the Nonconforming Use is not affected by the Minor Land Partition at 3406 SE Olsen Street, and adopt the Planning Commission Findings and Conditions of approval.

Councilor Marshall said in the material and during the presentation there were references made to the fact that a section of the property was a nonconforming use and the other section was not nonconforming. It was as if there were two separate parcels. It was his opinion that a nonconforming use would impact the entire property as one contiguous piece of land. What triggered that concept was that the nonconforming use conditions of approval stated that the business had to be confined to the southeast corner and fenced. That determination did not mean it was separated from the rest of the property. He believed the Council should remand the decision back to the Planning Commission because it erred in its determination that the nonconforming use only impacted part of the lot, when it, in fact, impacts the entire property. The Planning Commission needs to reconsider the issue from that perspective.

Mayor Tomei respectfully disagreed. She believed when the director made the determination that the nonconforming use would be confined to a certain area that the fence defined that area. The determination placed the NCU at a very specific location on a .8 acre property. The idea could be expanded to say that, if there was a nonconforming use on one block, then the entire block would be nonconforming. She believed the City Council would be doing what the NDA accused staff and the Planning Commission of doing which is looking for loopholes. In this situation, she believed the City Council would be looking at a loophole if it upheld the appeal. She believed Thompson had shown a great

deal of effort to be a good neighbor by constructing the fence and confining his business to a small area. The business has been in that location for over fifty years. When people moved into the neighborhood, they knew what it was like. It seemed to her that Thompson had acted in good faith by confining his business to a small area and complying with what the City asked him to do. To deny him the right to develop a flaglot or continue his auto repair business, even though the City Council may not agree, would not be in keeping with the laws. She felt it was unfair and incorrect to say the whole property was nonconforming.

Councilor Kappa said he was not looking for loopholes. He was trying to make the law work to the best advantage of Thompson and the neighborhood. The facts are that the director made the nonconforming use determination on the entire property, not just the confined area. To alter that would be finding loopholes. He believed Marshall's was a very logical recommendation.

Councilor Marshall was not looking for loopholes but instead trying to critically address the criteria that a nonconforming use impacts the entire property and not just a portion. The Planning Director set conditions on the nonconforming use. She said the applicant could have the nonconforming use in one portion of the property, but she did not say the nonconforming use was not part of the entire property. He believed it was critical to look at the property as a whole, and looking at only one portion of that property created a loophole.

Councilor Kappa called for the question.

Motion failed 2 - 3 with the following vote: Mayor Tomei and Councilor Lancaster aye; Councilor Kappa, Councilor King, and Councilor Marshall nay; no abstentions.

It was moved by Councilor Marshall and seconded by Councilor Kappa to remand the appeal to the Planning Commission for reconsideration based on the Council's interpretation that the nonconforming use applies to the entire property. Motion passed 3 - 2 with the following vote: Councilor Kappa, Councilor King, and Councilor Marshall aye; Mayor Tomei and Councilor Lancaster nay.

Coleman said the City Attorney would prepare an Order for official Council action at the next meeting. This order would contain specific instructions for the Planning Commission, and the Council will determine if the Order is an accurate reflection of its decision.

Protest Nuisance Abatement Notice for Property Located at 10409 SE 32nd Avenue

Mayor Tomei called the public hearing to consider Mr. Griffith's protest that a nuisance exists on his property to order at 9:05 p.m.

The purpose of the agenda item was to consider a protest that a nuisance existed on property located at 10409 SE 32nd Avenue, Milwaukie.

Staff Report: **Wright** presented the staff report in which the City Council was requested to declare that a nuisance existed per Milwaukie Municipal Code Section 8.04.020 and to determine that the Building, Zoning, and Municipal Code violations at 10409 SE 32nd Avenue, Milwaukie, Oregon, be declared a nuisance under Municipal Code Section 8.04.135.

Wright reviewed the chronology of events regarding this property and copies of letters and citations that Mr. Griffith received. The packet also contained a summary of staff's contact with the property owner and the fiscal impact of cleaning up the site. There were several options upon which Council could act: it could move to declare that a nuisance does exist, or the Council may determine there is a reasonable doubt that a nuisance does exist and deny staff's request to abate.

The "Notice to Abate" was served on Mr. Griffith on June 17, 1999. The photos included in the packet were taken at various times during the process. Additional photos taken on this date indicated that the property owner had cleaned up some of the debris that was considered to be part of Griffith's business. Mr. Griffith did apply for a business license to operate an appliance and automotive business but was never granted this license because it was not in compliance with the zoning code.

Wright showed photos that indicated the most recent zoning violation had to do with the carport that came out to the edge of the property line. On corner lots in an R-5 zone, front and side yard setbacks must be 15 feet. This carport actually attaches to the house and comes out to the property line. The most recent pictures also indicated that Griffith had cleaned up some of the appliance and car parts, but staff does want to complete the cleanup and get rid of the zoning violations.

Councilor King understood from the packet information that the carport was constructed without a building permit.

Wright indicated that was correct, and, in this case, Griffith had not applied for a setback variance.

Correspondence: None.

Councilor Kappa asked how many violations were left other than the vehicle and the carport.

Wright responded Griffith would either have to apply for a variance or remove the carport in order to comply with building codes. He would also not be able to operate an automotive business on that site.

Councilor Lancaster asked about recreational vehicle storage.

Wright said those types of vehicles were required to be stored on the side of property, and no one was allowed to live in them. The RV is currently parked on the street, and she indicated that would be a separate action. The vehicle would have to be stored on the side of the property, but that could result in a vision problem.

Councilor Lancaster asked if there were screen requirements.

Campbell responded that the code requires that recreational vehicles be stored on a driveway or gravel surface on the property. Lots less than one acre may have only one personal pleasure craft or recreational vehicle stored. The boat currently parked in the yard creates a violation. The code also prohibits vehicle storage in the public right-of-way for over twenty-four hours. Griffith also has two trailers on his lot that are in violation.

Councilor Marshall asked if there had already been a judgment assessed.

Wright replied that the judgment had been assessed but was not paid.

Bartlett said the Council's action at this meeting was to determine whether or not a nuisance exists. If the City Council does determine a nuisance exists, then staff would follow through on the process.

Councilor Marshall noted that the determination was made in April, so the conditions illustrated in the photos taken today were not necessarily relevant to the facts City Council needed to consider.

Bartlett said the level of nuisance may be reduced. Staff has indicated there are still code violations existing on the property, and the City Council needs to determine if these are valid violations.

Councilor Marshall said the Council needed to look at the conditions on the property that resulted in Judge Gray's determination.

Coleman added that Judge Gray made his determination based on the evidence that was produced in municipal court. Since that time, some of the facts which gave rise to the court proceeding have changed. The City Council is being asked to determine if the nuisance exists today. The appliances and some debris that were part of the April court decision have been cleaned up, so those aspects no longer exist and are no longer a nuisance. Staff reports that the carport is still there and is a violation of the zoning code.

Wright said the zoning and building code violations still exist that include no provision for covered parking or off street parking for customers.

Campbell discussed the voluntary compliance process.

Councilor King understood the nuisance declaration still stood, and she considered today's photos a miracle.

Councilor Lancaster asked on how many current violations had Griffith received notice other than those that have been through municipal court.

Campbell said only those before the City Council at this time. From his expert opinion, he would only cite Griffith on the recreational vehicle and the trailers outside of the zoning and building code violations.

Audience Testimony: **Don Griffith**, 10409 SE 32nd Avenue. The carport was his main consideration because he did not want to tear it down. Several years ago, he contacted staff when he was first confronted about the carport. He did build it without a permit, so he tried to obtain a permit. Staff would not issue the permit because of the setback requirements. He then asked for a variance, but it was too expensive. Crumley told Griffith he would hold the notice, and if no one complained in six months, then staff would go from there. That was about five years ago, and Griffith indicated this was the first contact with the City since that time. He stated his willingness to comply with variances. He understood the setback was for safety, but, in his case, the carport did not block any views.

Staff Comments: None.

Questions of Clarification: None.

Mayor Tomei closed the public testimony portion of the hearing at 9:40 p.m.

Discussion among Councilmembers and Decision: **Councilor Marshall** explained there were several reasons for requiring a building permit in addition to circumstances under which variances are granted. One of the main safety concerns with building on the property line relates to fire hazards. In this instance, the property is adjacent to a lumber yard, so there is definitely a safety

issue to be considered. Generally, if a variance was granted, he believed it would require a concrete wall based on its proximity to a property line. He viewed the structure, and it was his opinion that Griffith would not be issued a building permit for the carport.

Councilor Kappa understood from Griffith's testimony that he could not afford the variance application fee. He asked if the City could help this person through a payment plan.

Councilor King appreciated those thoughts, but she was concerned about judging needs and asking other citizens to subsidize fees. She did not feel the City's fees were extraordinary.

Councilor Kappa was not suggesting subsidizing the fees but rather recommending a payment plan.

Mayor Tomei believed Councilor Marshall's point was good in that a variance would not likely be granted in this case.

Councilor Lancaster cautioned that the City Council not open the flood gates to all sorts of appeals to get around variances and other normal processes. These regulations are in place for a reason, and he was concerned about making policy decisions regarding exceptions and deviations.

Mayor Tomei commented, when looking at this notice to abate, she observed that Griffith was working on the outside storage issue. However, there were still the issues of customer parking, operating without a license, constructing the carport without a building permit, and building the structure in the front yard setback without zoning approval. She believed there was a nuisance, and it was appropriate to declare it as such.

It was moved by Councilor King and seconded by Councilor Marshall to declare that the nuisance exists on the property located at 10409 SE 32nd Avenue, Milwaukie, Clackamas County, Oregon, per Section 8.04.020 of the Milwaukie Municipal Code. Motion passed unanimously.

Mayor Tomei added that the City Council applauded Griffith for his efforts, but there are other issues to address on the notice to abate.

Bartlett said staff would contact Griffith explaining what needed to be done to come into compliance. The City seeks voluntary compliance in these cases. The progress in the past few days is a good demonstration of Griffith's intent to comply.

OTHER BUSINESS

TCI Franchise Agreement -- Ordinance, second reading

It was moved by Mayor Tomei and seconded by Councilor King to read the ordinance adopting a ten-year franchise with Telecommunications of Georgia, Inc., to operate the cable television system in the City of Milwaukie effective July 7, 1999, for the second time by title only. Motion passed 4 - 0 - 1 with the following vote: Mayor Tomei, Councilor Kappa, Councilor King, and Councilor Lancaster aye; no nays; Councilor Marshall abstained.

It was moved by Mayor Tomei and seconded by Councilor Lancaster to adopt the ordinance adopting a ten-year franchise with Telecommunications of Georgia, Inc., to operate the cable television system in the City of Milwaukie effective July 7, 1999.

Councilor Lancaster commented that he was voting to adopt this franchise agreement because it was something that needed to be done for Milwaukie residents. However, the cable companies give local jurisdictions very little choice. He did not like having local control taken away, but that is the situation.

Councilor King had concerns with large corporations having a lot of money and control. She also believed staff and counsel negotiated the best contract possible.

Councilor Kappa said he had a real concern when only a few companies nationwide control how and what people view and tell local jurisdictions what they can and cannot do.

Motion passed 3 - 1 - 1 with the following vote: Mayor Tomei, Councilor King, and Councilor Lancaster aye; Councilor Kappa nay; and Councilor Marshall abstained.

ORDINANCE NO. 1861:

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO TCI CABLEVISION OF GEORGIA, INC., TO PROVIDE CABLE SERVICE WITHIN THE CITY OF MILWAUKIE.

Public Educational and Government (PEG) Access Fee Implementation -- Resolution

Herrigel presented the staff report in which the City Council was requested to approve a resolution approving a monthly PEG access fee of \$1.00 per customer to be charged and collected by TCI and used by the City to maintain and upgrade its Institutional Network (I-Net) and Public Educational and Government Access (PEG) program.

This fee would be for capital support for PEG and I-Net in the City of Milwaukie. In return, the City agreed to provide TCI with an annual report on how these funds are used. The fee would amount to about \$72,000 annually. The City may need most of this amount to upgrade from coaxial cable to fiber to successfully move from the current Milwaukie studio-based public access program to an alternative.

There are currently four City facilities, the Milwaukie Center, and eight schools connected by I-Net. TCI has agreed to upgrade the coax system to fiber and lay the fiber at incremental costs to the City. When the trenches are open, TCI will lay fiber to those facilities, so the City's cost will only be for the fiber and labor. The City will not pay for the digging and refilling of the trench as it would if it chooses to wait. The estimated cost for fiber and incremental costs for the existing I-Net facilities was \$63,000. This nearly depletes the first year's fee collection. Additionally, each facility will need equipment to make the new fiber system function.

In eighteen months, the International Way studio will close, and it will no longer be operated by TCI. Staff is looking at alternatives for the existing studio for future Council consideration. Options include working with another PEG access system and purchasing a "suitcase" system that is loaned out on a day-to-day basis. The cost of the "suitcase" system was estimated at about \$50,000.

Additionally, the City will have expenses associated with its government programming that includes City Council meetings. Staff did not have an estimate at this time.

Herrigel pointed out that, based on early estimates, the City will exceed the monthly fees. Staff is recommending the \$1.00 monthly fee, but she suggested that fees may decrease once the system is established.

Councilor Marshall asked if the \$1.00 fee could be characterized as a fee that was previously incorporated into the franchise operating costs and that it was only recently isolated as a separate fee.

Herrigel said that was a fair statement. The system and the International Way studio are currently operating within the fees customers are currently paying. The rate will not change, and the additional \$1.00 fee will pay for capital when the City begins operating the PEG access.

Councilor Marshall said this cost would normally have been incurred by the franchisee.

Gloria Creighton, TCI Government Affairs Regional Director. She responded to Councilor Marshall's questions regarding the amount of money for studio operation and capital support that was embedded in the monthly charge. She indicated that was a situation TCI was willing to review and make Council and staff aware of what is included in the rates.

It was moved by Councilor Kappa and seconded by Councilor King to adopt the resolution approving a monthly PEG access fee of \$1.00 per customer to be charged and collected by TCI.

Councilor Marshall asked Creighton if she was willing to look into the situation to determine if the fee had previously been incorporated in the bill, and, that if it had been, it would not be broken out in future billings.

Creighton said she would provide the information, but she could not make that commitment.

Motion passed unanimously.

RESOLUTION NO. 28-1999:

**A RESOLUTION OF THE CITY OF MILWAUKIE, OREGON,
APPROVING A MONTHLY PUBLIC, EDUCATIONAL AND
GOVERNMENT (PEG) ACCESS FEE OF \$1.00 PER CUSTOMER
TO BE CHARGED AND COLLECTED BY
TELECOMMUNICATIONS, INC., OF GEORGIA (TCI).**

Dwyer Drive/36th Avenue/Snowhill Complaint

M. Bennett presented the staff report on the portion of 36th Avenue between King Road and Harvey Street and the complaint brought forward by resident Dorothy Snowhill. She added that several members of the audience who had concerns with this issue had left the meeting due to the lateness of the hour.

She pointed out the revised staff report contained a letter from Associate Engineer Shelton to Ms. Snowhill regarding this project's Neighborhood

Traffic Management Program ranking. It also addressed studying the turning movements on Dwyer Drive at the entrance to the apartment complex and clarification from Providence Milwaukie that it had no record of making a commitment to pay for speed bumps.

Ms. Snowhill raised two primary issues relating to 36th Avenue and Dwyer Drive. One had to do with ownership of Dwyer Drive, and the second was under what conditions would traffic control devices be appropriate.

M. Bennett addressed the Dwyer Drive issue. Ms. Snowhill believed that, since Providence Milwaukie had never closed the street and that the City of Milwaukie sands Dwyer Drive in the winter, the street should revert to becoming a public right-of-way. In working with the City Attorney and hospital representatives, both the City and the hospital would like it to remain a private drive. The street is in very poor condition and would have high maintenance costs in light of the City's limited street repair funds. Because the hospital has not expressed a desire to dedicate and the City has not expressed a desire to obtain the street, it is still a private road. There are limited state statute references as to what it takes to maintain a private road, and Providence Milwaukie may establish its own maintenance standards. In spite of Snowhill's valid arguments, the City finds no evidence that Dwyer Drive has reverted to a public right-of-way. Staff recommends leaving the street as it is and to develop an agreement that would clarify the City's desire to sand the street as a public safety responsibility.

M. Bennett then addressed the issue of traffic control on 36th Avenue. Snowhill has expressed the desire for speed humps on 36th Avenue between King Road and Harvey Street. Her concerns are based on the finding that a majority of the traffic on 36th Avenue is hospital related. Snowhill believes the two traffic counts done on this portion of the road were flawed because one was done on one very slow day in January and the other was done during only a portion of a week in May during heavy rainfall. Bennett referred to the letter from Associate Engineer Shelton which analyzed the May 1998 study. A spreadsheet was attached that indicated the ranking of this project based on Neighborhood Traffic Management Program criteria. 36th Avenue between King Road and Harvey Street scored 12.52 points, and the City is working on projects that have scored 30 or more points. Staff found 36th Avenue traffic volumes to be low and speeds not above 30 mph which is the threshold speed.

Staff has an existing policy and program for ranking its street projects. When 36th Avenue between King Road and Harvey Street are run through the program, it does not score high enough to qualify for traffic calming. She suggested that the Council may also wish to consider that this is the

only local street that has an entrance to the hospital, and this may make it more unique. Staff did account for the hospital in the scoring process. Council may also consider approving traffic calming if no City funds are used.

Other issues in the memo include an indication from the hospital that it hopes to relocate the secondary entrance from 36th Avenue to King Road. Other traffic calming options may include a local improvement district for curb, gutters, and sidewalk since the hospital owns a substantial amount of property on the west side. This would make the street more narrow and encourage slower traffic. The City Council might also agree that the traffic studies were flawed and direct staff to conduct another study prior to making any other decisions. Other issues include the apartment complex traffic that could be directed to 32nd Avenue.

Snowhill's final concern was the legality of a hospital in an R-7 zone. The hospital applied for and was granted a Community Service Overlay (CSO) which permits institutional uses in any zone, including residential, as long as it meets appropriate criteria. The land use compliance is very clean, and the hospital meets all the conditions of its approval.

Councilor Marshall asked what amount of traffic was emergency vehicle access related.

M. Bennett did not have that information, but she did not believe those were the trips that concerned the neighborhood. She added that emergency users are not concerned about traffic calming. The City is concerned, though, that speed humps like those on Stanley and Wood Avenues are designed for 27 - 29 mph. If the 85th percentile speed is already less than 30 mph on 36th Avenue, staff had a concern that the speed humps would not result in any significant changes.

Dorothy Snowhill, 10281 SE 36th Avenue. She provided a map showing the dedicated portion of the street and the portion that was established as a private road. She referred to Planning Commission minutes dated March 7, 1967, that defined the private road. There was intended to be a five-foot sight-obscuring easement. The road has been relocated, but there is no copy of the survey or a map showing the present location of that portion that is considered a private road.

In response to Bennett's memo, the City based its response entirely on CSO-97-09 and TPR-97-10 on the assumption that a portion of Dwyer Drive was private because it did not show up on the assessor's map. Snowhill said she never objected to the City's sanding Dwyer Drive during an ice or snow storm. She did object, however, to using public funds to sweep and wash the center portion because it was a private road.

Mayor Tomei suggested that Snowhill schedule another meeting so Council would have sufficient time to review the material.

Councilor Marshall suggested staff contact the hospital to find out if they would pay for half of a traffic calming project.

Snowhill said she had contacted the hospital, and it was willing to pay for the full speed hump project.

Councilor Marshall also recommended finding out if the neighborhood was interested in forming a local improvement district.

Snowhill said no one in the neighborhood was interested in participating in a local improvement district.

The group agreed to meet with Snowhill for 30 minutes during the August 2, 1999, work session.

Snowhill said Heiser and Shelton attended the meeting with the hospital, and those notes should indicate the hospital's willingness to pay for traffic calming. The material dated June 22, 1998, was included in the material she provided.

Suspend Council Rules

It was moved by Councilor Marshall and seconded by Mayor Tomei to continue the meeting beyond 11:00 p.m. Motion passed unanimously.

Milwaukie Downtown Development Association (MDDA) Contract

This item was set over to the July 20, 1999 agenda.

Response to Traffic Safety and Transportation Board (TSTB) June 14, 1999 Motions

This item, which Councilor Marshall removed from the Consent Agenda for discussion, was set over for work session discussion.

City Council Goals

It was moved by Councilor Marshall and seconded by Councilor Lancaster to adopt the City Council Goals and 1999 - 2004 Strategic Directions. Motion passed unanimously.

Agreement to Allow Extension of Sanitary Sewer Service to Alleviate a Health Risk Prior to Annexation

Rouyer presented the staff report in which the City Council was requested to authorize the Mayor to sign an agreement to allow for the extension of sanitary sewer service to 4325 SE Johnson Creek Boulevard prior to completing annexation proceedings. The City is in the process of updating its annexation code and is scheduled for Council consideration on September 7, 1999. The proposed agreement with this property has to do with a health risk, and she advised it would be in the City's best interest to pursue this agreement.

It was moved by Councilor Marshall and seconded by Councilor Kappa to authorize the Mayor to sign an agreement allowing extension of sanitary sewer service to 4325 SE Johnson Creek Boulevard prior to completing annexation proceedings.

Councilor Lancaster asked for clarification if this was a serious health problem and if there were other property owners in this situation that would have to be dealt with prior to annexation.

Bartlett responded said these properties are located in the unsewered area. The City is getting more contacts from residents who are either discovering problems with their septic tanks or who wish to sell their property and cannot do so until they are connected to the sewer system.

M. Bennett indicated there was one other property that staff believed needed immediate attention, but the others could likely wait until the code was adopted in September. Notice was just submitted to DLCD, so the City is 45 days out from adopting the code. After that the City will be able to annex prior to extending sanitary sewer service.

Rouyer added that the annexation ordinance will likely contain an emergency clause.

Motion passed unanimously.

Renewal of City Manager's Employment Agreement

It was moved by Councilor Marshall and seconded by Councilor King to authorize the Mayor to sign the City Manager's employment agreement.

Mayor Tomei said the City Council considered three types of evaluations: the self-evaluation, achievements relating to Council goals, and an independent evaluation by each department head. She also pointed out that Bartlett was a 25-year member of ICMA. The Mayor reviewed the numbers of hours Bartlett worked and meetings he attended on a regular basis.

Motion passed unanimously.

Councilor King said most people do not realize how hard the City Manager works. He is a visionary and a planner and does a lot of behind the scenes work. When things go wrong, the Mayor and City Manager are held responsible.

Councilor Marshall commented that the letter read during audience participation was a personal embarrassment and an unfortunate misuse of free speech. The letter represented a fragmented misperception of facts, and the misleading amplifications of the misperceptions were a disservice to the community.

Mayor Tomei announced an executive session pursuant to ORS 192.660 to consider real property acquisition.

Councilor Kappa suggested that the Traffic Safety and Transportation Board (TSTB) be given the charge of reviewing the new draft Regional Transportation Plan (RTP).

ADJOURN

The meeting adjourned at 10:55 p.m.

Pat DuVal, Recorder



MEMORANDUM

DATE: July 8, 1999

TO: Mayor and City Council

THRU: Dan Bartlett, City Manager *DB*
Martha Bennett, Assistant City Manager *MB*

FROM: Paul Roeger, Civil Engineer *PR*

RE: Water Master Plan
Award of Contract

ACTION REQUESTED

Authorize the City Manager to sign a Professional Services Contract with Montgomery Watson to complete a Water Master Plan in the amount of \$69,968.

OBJECTIVES

The City must complete a Water Master Plan to comply with the Oregon Health Division requirements for master plans as identified in Oregon Administrative Rule 333-61-060(5). The Master Plan will help assure compliance with current and future regulatory requirements for water quality, treatment, system operation, and maintenance.

It will also identify capacity requirements for supply, treatment, transmission, storage and distribution facilities, including existing and potential interconnections with neighboring water systems. It will be used in preparation of planning-level estimates for capital, operations, and maintenance costs of proposed projects, including recommended priorities and schedules for capital projects to allow the City to update financial plans and rate models in support of the capital needs.

Evaluation and identification of additional resource requirements will be done to include system mapping and records, hydraulic network analysis tools, system design criteria, and construction standards as needed to facilitate City implementation and maintenance of the plan. There also will be an evaluation and identification of the major components of a drinking water protection plan and associated planning level cost estimates.

III. B. 2

BACKGROUND

The City advertised for a Statement of Qualifications (SOQ) from qualified engineering firms to prepare a Water System Master Plan. Five firms submitted SOQ's. Staff reviewed them and narrowed them down to four firms that we wanted to have make presentations for further consideration. The review panel included Greg Drechsler from Clackamas River Water and Tom Hoffman from Oak Lodge Water as well as Jay Saatkamp, and myself from the City. Funds for this project are included in the fiscal year 2000 budget, and this project is a key objective for Public Works this fiscal year.

EXPECTATIONS

The Water Master Plan will be useful for future review of the system development charges (SDC's) and in determining future user rates, along with determining the City's water storage, supply and distribution needs.

RECOMMENDATION

Authorize the City Manager to sign a Professional Services Contract with Montgomery Watson to complete a Water Master Plan for the City.



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

July 13, 1999

To: Mayor and City Council
From: Dan Bartlett, City Manager *Dan*
Re: Sunrise Water Authority

Action Requested

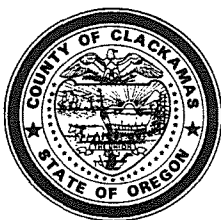
I would like the Council to authorize the Council President and myself to represent the City in the next round of discussions concerning a potential water authority.

Background

On June 10, 1999, the County Commissioners denied the application for formation of the Sunrise Water Authority. The Commissioners have sent the letter on the reverse side of this sheet to interested parties.

I would ask that Council authorize the Mayor and myself to participate in these discussions.

cc: Martha Bennett, Asst. City Manager - Community Development
File -- cm2237/hd



CLACKAMAS COUNTY

Board of Commissioners

July 2, 1999

City of Milwaukie
Carolyn Tomei & Dan Bartlett
10722 SE Main
Milwaukie OR 97222

BILL KENEMER
CHAIR

LARRY SOWA
COMMISSIONER

MICHAEL JORDAN
COMMISSIONER

Dear Carolyn Tomei & Dan Bartlett:

The County Commission at its meeting of June 10, 1999 denied the application for the formation of the Sunrise Water Authority. In the discussion leading up to that decision there were several points made regarding the geography of the application being too limited. It was also offered that the County would be willing to convene a broader discussion of the future structure of the water production and delivery system.

The purpose of this letter is to request that you or a representative of your organization attend a meeting to begin just such a discussion. The meeting will be on July 22, 1999 at 7:00 pm at Environment Learning Center, Lakeside Hall, Clackamas Community College, 19600 S. Molalla Ave.


The County Commission feels that the arguments that the applicants made regarding the need to do long term planning and capital investment with the assurance of a stable customer base are valid and critical to the long term viability of the water system in North Clackamas County. The Commission also feels however, that the broader a base of water purveyors involved in that planning and investment, the better.

The Commission understands that time is of the essence. We are not convening this meeting to begin a multi-year discussion/negotiation on this issue. We are; however, interested in finding out how broadly the notion of a Water Authority could be reasonably stretched over the landscape of North Clackamas County in a reasonably short timeframe. If there seems to be no chance of progress or that it seems as though it will take a long time, the Commission may be interested in reconsidering its position on the Sunrise application.


We know that the sting of the recent denial may still be felt by some and the dull pain of past attempts may still linger with others, but we hope that those feelings can be overcome for the long term benefit of all of the citizens of Clackamas County.

Thanks for all of your previous efforts that have gotten us this far and in anticipation of your contributions to this upcoming effort that hopefully can build on your already realized successes.




Sincerely,


Bill Kenemer
Chair

Larry Sowa
Commissioner


Michael Jordan
Commissioner



To: Mayor and City Council
Through: Charlene Richards, Assistant City Manager 
Dan Bartlett, City Manager 
From: JoAnn Herrigel, Program Services Coordinator 
Subject: Resolution to Consent to Waste Management/USA Waste Merger
Date: June 30, 1999

Action Requested/Recommended

Adopt a resolution consenting to the merger of Waste Management of Oregon, Inc with USA Waste of Oregon, Inc.

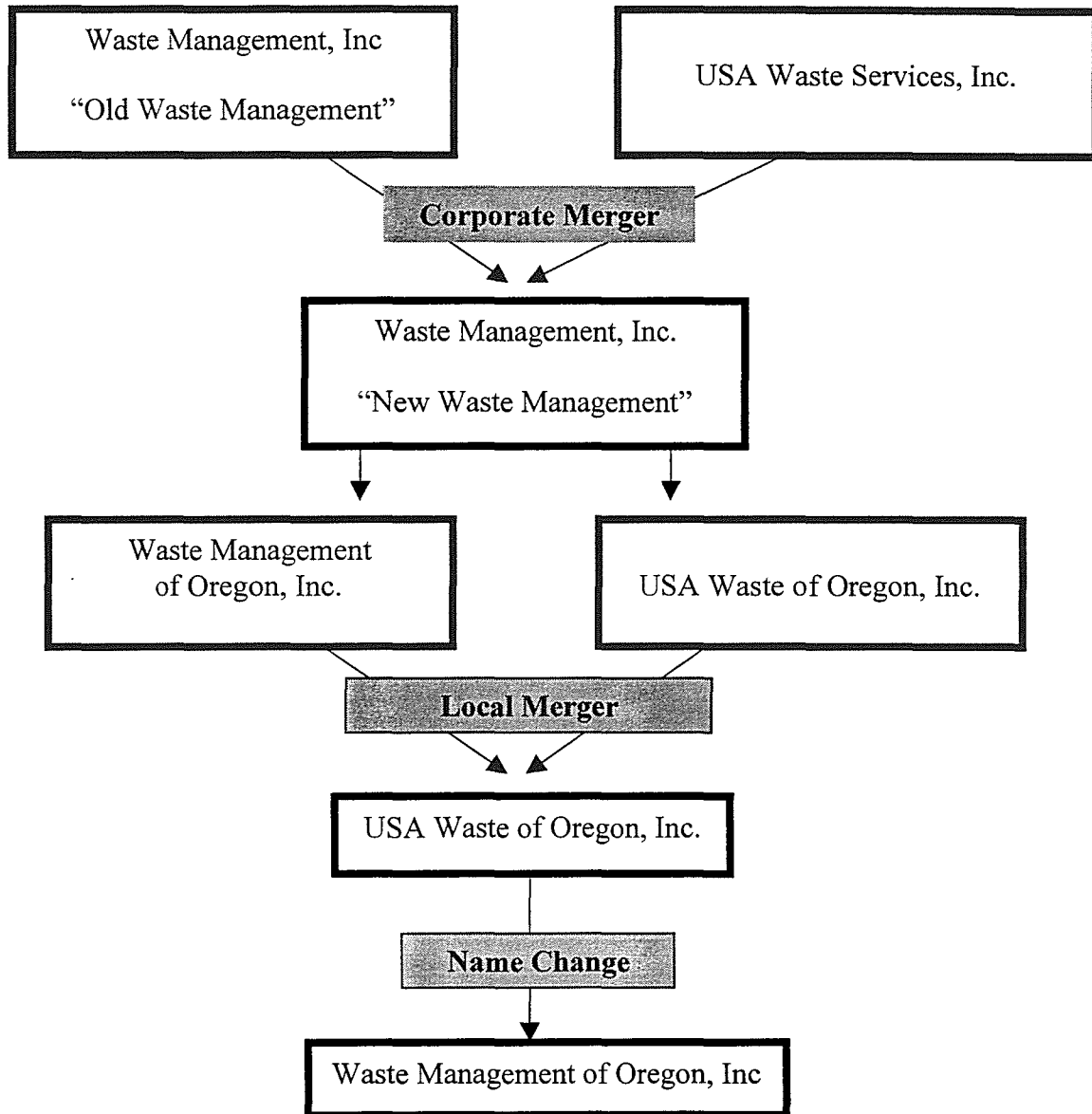
Background

In August of 1998, Waste Management of Oregon notified the City of its parent corporation's intention to merge with USA Waste, Inc. Legal counsel advised staff at that time that council's consent to this merger was not necessary since the entity holding the solid waste franchise (Waste Management of Oregon, Inc.) would remain intact.

On June 29, 1999 we were notified by Waste Management Inc. that they intend to merge Waste Management of Oregon Inc., a solid waste franchise holder in Milwaukie, with USA Waste of Oregon, Inc. (The letter from waste management and a flow chart diagramming what it says is attached.) This merger request does require Council consent according to our solid waste ordinance (#1752).

Staff has met with the new Waste Management administrative team and has been assured by them that the merger of the local companies will not negatively impact the service Waste Management provides City residents. Staff at Waste Management of Oregon has worked closely with City staff over the past several months during Waste's office and phone system transfer to assure uninterrupted service to their Milwaukie customers. With the exception of some phone problems, this physical transfer has been fairly smooth. Staff anticipates that the formal merger of the two companies will not impact customers any further. The new merged company will operate their solid waste service under the terms and conditions of the current solid waste franchise.

Waste Management Merger with USA Waste





WASTE MANAGEMENT

83 S. King St.
Suite 806
Seattle, WA 98104
(206) 264-8207
(206) 264-8212 Fax

June 29, 1999

Dan Bartlett
City Manager
City of Milwaukie
10722 S.E. Main Street
Milwaukie, OR 97222

Re: Waste Management Entity Reduction

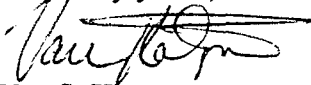
Dear Mr. Bartlett:

As you know, Waste Management, Inc. ("Old WMI"), the grandparent corporation of Waste Management of Oregon, Inc., after thorough review and approval by the U.S. Department of Justice, recently merged with USA Waste Services, Inc., the parent of USA Waste of Oregon, Inc. Following the merger, USA Waste Services, Inc., changed its name to Waste Management, Inc. ("New WMI").

The next phase of the corporate restructuring is the merger of the two local companies—Waste Management of Oregon, Inc., and USA Waste of Oregon, Inc. We seek to accomplish this by merging Waste Management of Oregon, Inc., into USA Waste of Oregon, Inc.; USA Waste of Oregon, Inc., will be the surviving corporation. After the merger is consummated, the corporate name will be changed to Waste Management of Oregon, Inc. The local merger will make no practical difference to service under the contract. The same staff, equipment, and so forth will continue to perform the contract.

Pursuant to § 12 of City of Milwaukie Ordinance 1752, we formally request your written consent before the above-mentioned merger occurs.

If you have any questions about our request, please do not hesitate to contact me.

Very truly yours,

Van S. Katzman
Associate Area General Counsel

Cc: JoAnn Herrigel (via facsimile)
Jon Angin

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF MILWAUKIE, OREGON
CONSENTING TO THE MERGER OF WASTE MANAGEMENT OF OREGON, INC. WITH
USA WASTE OF OREGON, INC.

WHEREAS, Waste Management of Oregon, Inc. holds a franchise for solid waste management and recycling collection in the City of Milwaukie; and

WHEREAS, no such interest granted by franchise may be merged without prior written consent of the City Council pursuant to Section 13.24.120 of the Milwaukie Municipal Code; and

WHEREAS, in making a determination on a request for merger, the Council is required by the Code to consider the public interest and general welfare; and

WHEREAS, based on the analysis and review of City staff and the written assurances of the franchisee, the Council finds that in fact the proposed merger of Waste Management of Oregon, Inc. with USA Waste, Inc. will not negatively impact the service Waste Management of Oregon, Inc. provides its Milwaukie customers, and therefore approval of such merger is in the public interest and promotes the general welfare;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE that consent is hereby granted to the proposed merger of Waste Management of Oregon, Inc. with USA Waste of Oregon, Inc. Such consent is subject to the following conditions:

1. The merger which is approved is as described in the letter from Waste Management's Associate Area General Counsel to City Manager Dan Bartlett dated June 29, 1999. The name of the franchise holder, as represented in this request for approval, will be "Waste Management of Oregon, Inc."
2. The franchisee shall file with the City Manager written documentation that:
 - a. The merger has become legally and finally effective; and
 - b. The new franchisee has obtained all appropriate licenses and registrations to conduct business within the State of Oregon and City of Milwaukie, including a City Business License; and
 - c. The new franchisee has obtained the insurance and performance security required by MMC 13.24.080.H and .I; and
 - d. The authorized representative of the new franchisee accepts the terms and conditions of this Resolution.

Such filings shall be made within thirty calendar days of the passage of this Resolution, or within thirty days of the final effective date of the proposed merger, whichever occurs first.

3. All terms and conditions of the existing franchise granted to Waste Management of Oregon, Inc. remain in full force and effect. The franchise and new franchisee continue to be subject to the requirements of Milwaukie Municipal Code Chapter 13.24 and all other applicable regulations. In

RESOLUTION NO.

Page One

particular, it is the Council's intent that solid waste management and recycling services to Milwaukie citizens be seamless and uninterrupted as a result of the merger approved by this Resolution.

INTRODUCED AND ADOPTED by the City Council of the City of Milwaukie, Oregon, this 20th day of July, 1999.

Carolyn Tomei, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:

Pamela J. Beery, Beery & Elsner
Legal Counsel



To: Mayor and City Council

Through: Dan Bartlett, City Manager *DB*
Martha Bennett, Assistant City Manager *MB*

From: Alice Rouyer, Planning Director *AR*

Subject: Order Remanding the Appeal of a Planning Commission Decision
for MLP-98-06/NCU-98-04 located at 3406 SE Olsen Street.

Date: July 20, 1999

Action Requested

Move to adopt an order remanding the appeal of a Planning Commission decision for a Minor MLP-98-06/NCU-98-04 located at 3406 SE Olsen Street..

Background

At the July 7, 1999 meeting, the City Council decided on a 3-2 vote to remand the appeal of the Minor Land Partition and Nonconforming Use Review back to the Planning Commission for their further consideration and decision. An order which outlines the Council's decision and gives instructions to the Planning Commission is attached for your review and adoption. The Council is asked only to review this order to be sure that it accurately reflects the Council's decision. Reconsideration of the decision or any further discussion about the merits of the decision would not be appropriate at this time. Planning staff and the City Attorney will be available to answer any questions about the attached order.

VI. A. 2

ORDER OF THE MILWAUKIE CITY)
COUNCIL REMANDING THE APPEAL)
OF A PLANNING COMMISSION)
DECISION)
(ARDENWALD NDA))

MLP 98-06 and
NCU-98-04

PROCEDURE

This matter was heard by the City Council at it's July 6, 1999 meeting on the appeal filed by the Ardenwald Neighborhood District Association. Pursuant to Zoning Code §1002 the hearing was limited to the three issues raised in the notice of appeal.

After considering the evidence received during the hearing the Council, by a 3-2 vote, remanded the matter to the Planning Commission for reconsideration in light of the City Code interpretation set forth below. The Council specifically did not make a decision on the merits of the three issues raised in the notice of appeal. The matter is remanded because the Council wants the Planning Commission to have the opportunity to evaluate the merits of NCU-98-04 in light of the Code interpretation made by the Council. The procedural limitations of the appeal process prevented the Council from hearing evidence on the Zoning Code §802 issues because the Council's Code interpretation was made after the close of the public hearing.

CODE INTERPRETATION

Application NCU 98-04 presents the issue of whether the nonconforming use on the site is altered by the MLP. Zoning Code §802 allows a NCU to continue, but it,

"...shall not be altered unless such alteration is approved by the Planning Commission after public hearing ..., upon a determination that the proposed modifications would result in no more of a detriment to surrounding properties that the existing use."

The Planning Commission determined there was no alteration to the NCU, and therefore the Planning Commission was not required to and did not make any determination on the issue of detriment. The Planning Commission determined that the NCU on the site was limited to the approximately 1/3 acre portion of the site that was delineated by the 1998 Directors determination. The Planning Commission reasonably determined that if the NCU was limited to the 1/3 acre portion and MLP-98-06 did not affect any part of that portion of the site, that the MLP did not alter the NCU.

The Council's interpretation is that the area covered by the NCU for the purposes of Zoning Code §802 is the entire lot owned by the applicant and it is not limited to the 1/3 acre portion. The 1998 Directors decision applied to the entire site, and only for the purpose of delineation of scope and intensity of the NCU did it identify the 1/3 acre portion. The fencing of the 1/3 acre

portion did not create a separate lot, but only serves to visibly define the portion of the site that may contain the automobile repair business. The NCU on this total site is the collocation of a residence and an automobile repair business on a single lot that is zoned R-7. The Council finds that approval of the MLP will result in an alteration of the NCU by splitting the single lot into two lots. The Council specifically does not decide whether the alteration caused by the MLP will result in a different impact to surrounding properties than that caused by the existing NCU.

REMAND INSTRUCTIONS

The Planning Commission is instructed to hold a public hearing for the purpose of applying Zoning Code §802 and to take evidence on the question of whether the alteration to the existing NCU caused by the MLP is of a nature that will affect the continuation of the NCU located on the site. The site is to be considered as a whole. The NCU on the site is the collocation on one lot of a residence and an automobile repair business. The alteration is the creation of a second lot zoned R-7 through approval of the MLP. The Planning Commission is to determine whether the proposed modification, the creation of the second lot, will result in no more of a detriment to surrounding properties than the existing use, the residence and automobile repair business collocated on a single lot. If the Planning Commission finds that the alteration to the NCU caused by the MLP results in more of a detriment to surrounding property than the existing NCU, Zoning Code §802 directs that a finding be made that the NCU, as altered, may not continue.

The Planning Commission may also, in its discretion, take additional evidence on the criteria related to the MLP. The Planning Commission is to make decisions on both MLP-98-06 and NCU-98-04.

DISPOSITION OF APPEAL

The effect of the Council's decision to remand is to make the appeal moot. The appellant will have an opportunity to participate in the remand hearing before the Planning Commission. This order is the final decision on the appeal.

Approved by the City Council at its meeting held July 20, 1999.

Signed by the Mayor on _____.

Carolyn Tomei, Mayor

ATTEST:

Pat DuVal, City Recorder

jmc\acm\65021\thompsonorder.dr1(7/8/99)



TO: Mayor and City Council

THROUGH: Dan Bartlett, City Manager *Dan*
Martha Bennett, Assistant City Manager *MB*

FROM: Mike Swanson

DATE: July 9, 1999 for July 20, 1999 Council Meeting

RE: Traffic Safety and Transportation Board (TSTB) Mini Grant
Letter of Support

The TSTB is considering making application to the Alliance for Community Traffic Safety for a mini grant not to exceed \$4,000 to support community-based traffic safety efforts. Grant awards will be made by October 1, 1999, and projects must be completed by September 30, 2000. Examples of past grants throughout the State include:

- Funds to produce public service announcements relating to traffic safety issues such as pedestrian safety;
- Speed board and citizen-operated radar programs;
- Bicycle helmet "give-away" programs; and
- Safety fairs to schoolchildren.

The grant proposal filing deadline is August 2, 1999. One required submittal is a letter of support from the local governing body or its authorized representative.

At present there is not a final grant document. Among the possibilities being discussed is a helmet safety program which distributes helmets to school age children. The TSTB will be meeting on July 13, 1999 to finalize a proposal. I will draft a letter of support for Council consideration immediately following that meeting.

DRAFT

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
WEDNESDAY, JUNE 8, 1999

COMMISSIONERS PRESENT

Donald Hammang, Chair
Judith Borden, Vice-Chair
Barbara Cartmill
Tracy Cook
Mike Miller
Doug Ouderkirk
Howard Steward

STAFF PRESENT

Alice Rouyer,
 Planning Director
John Gessner,
 Associate Planner
Gary Firestone,
 City Attorney
Shirley Richardson,
 Hearings Reporter

COMMISSIONERS ABSENT

None

1.0 CALL TO ORDER

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

2.0 PROCEDURAL QUESTIONS -- None.

3.0 INFORMATION ITEMS -- City Council Minutes, May 18, 1999

4.0 PLANNING COMMISSION MINUTES -- May 25, 1999

Mike Miller moved to approve the minutes of May 25, 1999, as corrected. **Tracy Cook** seconded. MOTION CARRIED 6-0 with one abstention. Howard Steward was not at that meeting.

Ayes: Hammang, Borden, Cartmill, Cook, Miller, Ouderkirk; Nays: None.

5.0 PUBLIC COMMENTS -- None.

6.0 PUBLIC HEARINGS

6.1 Applicant:	North Clackamas School District #12
Property Owner:	North Clackamas School district #12
Location:	11909 SE Linwood Avenue
Proposal:	Install a 28x64 foot modular classroom containing two 900-foot rooms at Linwood Elementary School
File Number:	CSO-99-03/TPR-99-01
NDA:	Linwood

VII. A. 2

CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of June 8, 1999

Page 2

Chair Hammang opened the public hearing on Community Service Overlay CSO-99-03 and Transportation Planning Review TPR-99-01 to allow the installation of a classroom building on the Linwood Elementary School Campus. The criteria to be addressed are found in Section 302, 321, and 1400 of the Milwaukie Zoning Ordinance

Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare. **Tracy Cook** noted that she is the Chair of the Linwood Neighborhood Association. She has toured the facilities and was shown that there is a need for this building. She stated that she does not have any financial interest associated with this application and feels that she can vote impartially on this issue. There were no other conflicts of interest or ex-parte contacts declared. **Chair Hammang** asked if any member of the Planning Commission visited the site; six 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. The Applicant proposes to install a two-classroom, 1,800 square foot modular building on the Linwood School campus. Section 500 of the Parking Regulations indicate that parking requirements for auditoriums does not apply to schools contrary to how the staff report addresses the issue. The original review was done under the standard for auditoriums. Staff will have to investigate this issue to see if there has been a change in the regulations. If there was a change, and the additional parking spaces are required for the auditorium, then the parking will be required of the Applicant. Overheads were shown of the subject site and surrounding area. Site circulation, bus, drop-off and pick-up were shown.

Section 1400 may require an upgrade of pedestrian and bicycle facilities. A number of improvements have been made and it appears that there is adequate bicycle parking racks on-site. In the interest of minimizing impacts to the neighbors and existing trees, Staff feels the area on the northerly edge would be suitable for parking. Minimum grading, fill, and asphalt may be needed.

QUESTIONS FROM THE COMMISSIONERS

Doug Ouderkirk noted that there were two dumpsters. He asked if they would be relocated? **John Gessner** stated that the dumpsters should eventually be relocated. They are taking up potential parking spaces. During peak use, all site parking is needed.

Doug Ouderkirk asked if consideration had been given to the additional garbage that will result from the additional classrooms. Are there plans for enclosed facilities to hold garbage. **John Gessner** stated that one of future site plan requirements can be to identify a permanent location for recycling and garbage storage.

Doug Ouderkirk asked staff to point out the entrance to the classrooms. **John Gessner** stated that the entrance will be on the north side. The applicant will be able to specifically answer this question.

Doug Ouderkirk stated that changing the parking from parallel to diagonal has resulted in fewer spaces. He asked if the number of parking spaces has been verified? **John Gessner** stated that it is staff's opinion that some spaces were lost during re-stripping. This is the only area with diagonal parking. The School District was in last week for a pre-application meeting regarding other proposed development of this site. It may be that other parking improvements will be made in connection with that proposal.

Mike Miller voiced concern about parking in the area of the ball fields. This area is used every day. He suggested that the school be given special consideration in parking requirements so the ball area can remain open space. **John Gessner** stated that minimum parking spaces required will be based on the zoning requirements.

CORRESPONDENCE RECEIVED BY STAFF -- None.

APPLICANT PRESENTATION

Speaking: Dave Church, 2451 SE Fuller Road, Milwaukie 97222

Mr. Church stated that he is the Director of Facilities for North Clackamas School District. The original reason for the Application was the request for modular classroom to alleviate the overcrowding in the Linwood Elementary

VII. A. 4

CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of June 8, 1999

Page 4

School classrooms. There were some classroom loads of over 30 children in one room; 25 is preferred.

Demographic studies were done this spring. These studies show that the area is experiencing unusual overloads at Lot Witcomb, Lewelling, and Witchita. Lot Witcomb is experiencing the most growth, which tends to indicate long-term needs. A decision was made by the School District to look at a potential permanent solution, rather than a modular classroom.

An exhibit was shown of the current configuration of Linwood Elementary School. There are four classroom pods of four classrooms each, plus central workspace. A master plan is being developed and the pre-application meeting was held last week. This proposal includes the construction of two classroom pods, a library media and computer center, and possibly a gymnasium with a community recreation center.

If this four classroom addition can be built and open by September, 2000, both Lot Witcomb and Linwood situations would be improved. The modular classroom is truly a one-year situation. He handed out copies of a purchase order that shows rental of modular rooms for one-year. The purchase order includes tear-down of this classroom.

He asked that the Commission consider not allowing the parking requirements to be a part of this approval. They would be willing to accept a requirement that the modular unit must be removed by September, 2000. The intent is to propose a master plan for the construction of the four-classroom pod. The pod is funded and there is ample room on site for the facility.

There is a possibility of getting additional evening-only parking along the bus-loading zone (potential for up to 16 spaces here). Another 11 spaces are possible near the house and the adjacent ball field, and 15 spaces in the area out to Stanley Avenue.

Mr. Church concluded that they do meet the requirements of Transportation Planning Review and the Community Service Overlay. He voiced concern on how to address TPR fees for the modular rentals. He requested that this hearing be held open to allow time to review the parking interpretation and the possibility of deferring parking requirements until the master plan is complete.

CITY OF MILWAUKIE PLANNING COMMISSION
Minutes of June 8, 1999
Page 5

QUESTIONS FROM THE COMMISSIONERS

Doug Ouderkirk asked for the location of the entrance of the modular classrooms. **Mr. Church** stated that the disabled ramp will come down and land on the sidewalk to provide easy access to the classroom. The modular will be placed so that pedestrians can pass on the sidewalk without interruption.

Howard Steward asked staff to comment on the feasibility of deferring the parking requirement until the master plan is completed.

Chair Hammang asked if there was any part of the structure (air conditioning, etc.) that can be seen by neighbors or from the street? **Mr. Church** stated that there is a heat pump unit that is wall-mounted on each end of the module. However, they are not visual to anyone.

Recess was taken at 7:10 p.m. and the meeting reconvened at 7:22 p.m.

Howard Steward asked if the utility lines would be underground? **Mr. Church** stated that there will be temporary underground wiring.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF

John Gessner stated that the Application meets the minimum requirements for parking based on classrooms. Staff is recommending that staff work with the Applicant on parking issues, including any outstanding conditions of approval as part of the master planning process. The following suggestions were made:

Condition #6: The modular classroom is limited to a one-year occupancy period, terminating on September 1, 2000.

Condition #7: The modular classroom will be relocated to allow adequate access along the front of the building and the sidewalk.

Delete Condition #2 as it refers to the parking requirements.

VII. A. 6

CITY OF MILWAUKIE PLANNING COMMISSION
Minutes of June 8, 1999
Page 6

Revise Finding #4 to read, "Approval of CSO-88-01 required construction of parking spaces to meet minimum standards for the auditorium."

Chair Hammang asked if the Applicant would still want to hold the hearing over considering the suggested conditions? **Mr. Church** stated that he withdraws the request to hold the hearing over, since his concerns were addressed in these new conditions.

QUESTIONS FOR CLARIFICATIONS -- None.

APPLICANT'S CLOSING COMMENTS -- None.

DELIBERATION AMONG COMMISSIONERS

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

Mike Miller commended the School District on the master plan proposal. He is glad to see a permanent solution as modules tend to stay and not add to the aesthetics of the area.

Tracy Cook moved to approve TPR-99-01 and CSO-99-03 based upon the findings of the Staff Report and subject to the conditions listed in Exhibit 1, with the revised findings and conditions and new conditions as stated by staff. **Doug Ouderkirk** seconded. MOTION CARRIED

Ayes: Hammang, Borden, Cartmill, Cook, Miller, Ouderkirk, Steward
Nays: None.

7.0 WORKSESSION

8.0 DISCUSSION ITEMS

8.1 **Mike Miller** asked if the Opening Statement made by the Chair could be shortened or not read in circumstances where there is no audience. **Gary Firestone** stated that this statement must be read, however, he will review the language to see if it can be shortened.

8.2 Kellogg Creek Treatment Plant Application

Barbara Cartmill reported that Ted Kyle called and complimented the Planning Commission on the Kellogg Creek Treatment Plant Application. He felt that the deliberations were orderly, thought-provoking, complimentary, etc. **Chair Hammang** stated that Michelle Gregory, Island Station NDA staff liaison, made the statement that the Neighborhood Association felt that the deliberations were considerate and fair.

8.3 OEKO Application Update

Chair Hammang asked if the OEKO had been resolved. **John Gessner** stated that all the criteria for the mitigation planting of the construction area have not yet been met. The Applicant is still deciding what plant materials are going to be used. Staff is in the process of reviewing the site for encroachment.

8.4 Thomason Ford Application

Howard Steward asked for an update on the Thomason Ford vacation. **John Gessner** stated that Thomason is moving towards completely vacating the space. There were problems with unauthorized paving in the right-of-way; however, it is not Thomason doing the paving.

8.5 Reliable Credit Application

Mike Miller asked for an update for Reliable Credit. **John Gessner** stated that they are in the process of securing a building permit for construction. Design details are being worked out and the building permit should be issued soon.

8.6 Code Revision on Completeness

Howard Steward asked that Staff bring back a draft on code revisions that would deal with incomplete applications. **Chair Hammang** asked that language be developed that address the quality and accuracy of materials submitted from Applicants.

9.0 OLD BUSINESS -- None.

VII. A. 8

CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of June 8, 1999

Page 8

10.0 OTHER BUSINESS / UPDATES

10.1 **Historical Resources Commission Report** -- No report.

10.2 **Community Development Director Report**

Alice Rouyer introduced herself. She comes from Boulder, Colorado, where she worked as a planner for six years and received her Master's Degree in Planning. She worked to revitalize an urban renewal area in Boulder. Previous to that she worked in Roseburg, Oregon, completed her undergraduate studies at University of Oregon, and was an intern with the City of Eugene and the City of Albany. She is excited to come back and be with family and working in Milwaukie.

Discussion followed on issues that the Commission would like to work on in the future.

- Tree Ordinance
- Annexation Ordinance
- Development Standards
- Second meeting worksessions
- Planning Training and Education for Commissioners
- Monthly report on development review applications
- Record management (keeping track of approvals)
- Worksession on Goals of the Commission

Chair Hammang asked that the Commission receive the same information items (in their packets) that are distributed to Council members.

The Commission members then introduced themselves to Ms. Rouyer.

Commission Meeting Canceled. **Alice Rouyer** noted that there is no Commission business scheduled for June 22, 1999, and requested that the meeting be canceled.

Mike Miller moved to cancel the Planning Commission meeting of June 22, 1999. The next scheduled meeting for the Planning Commission will be on July 13, 1999.

11.0 NEXT MEETING -- June 22, 1999

DRAFT

CITY OF MILWAUKIE PLANNING COMMISSION
Minutes of June 8, 1999
Page 9

Mike Miller moved to adjourn the meeting of June 8, 1999. **Judith Borden** seconded.
MOTION PASSED UNANIMOUSLY. The meeting adjourned at 8:26 p.m.

Michael Smith, Chair

Shirley Richardson, Hearings Reporter

North Clackamas Parks and Recreation District
Advisory Board Minutes
Meeting # 96, June 10, 1999

Board Members Present:

Bill Brod, at-large member
Champ Husted, at-large member
Jim Ellis, Chair and Southgate/Town Center representative
Sarah Eraker, Sunnyside representative
Carl Knee, Milwaukie Center representative alternate
Daisa Lawson, Oatfield representative
Elton Storment, Oak Lodge representative

Board Members Absent:

Eleanor Johnson, Milwaukie Center representative
Lynn Sharp, at-large member
Jeff Marshall, City of Milwaukie representative
Don Trotter, at-large alternate

Staff Present:

Suzanne Bader, Community Relations Coordinator
Diane Campbell, Administrative Analyst
Mike Henley, Director
Thom Kaffun, Park Services Manager
Don Robertson, Program Services Manager
June Southworth, Administrative Assistant
Joan Young, Milwaukie Center Director

Minutes

1. Call to Order/Set Agenda:

Chairman Jim Ellis called the meeting to order at 6:12 p.m. in the Salal Room of the Milwaukie Center.

2. Approval of Minutes:

Champ Husted moved to approve the minutes of the May 20, 1999 District Advisory Board meeting. Daisa Lawson seconded the motion.
APPROVED.

VII. B. 2

NCPRD Advisory Board Meeting Minutes

June 10, 1999

Page 2

3. Election of Chair and Vice-Chair for 1999-2000

Director Mike Henley explained that pursuant to District policy, it is now time to have the District Advisory Board elect a Chair and Vice-Chair for the 1999-2000 year. The Nominating Committee, comprised of Eleanor Johnson, Champ Husted and Elton Storment, lobbied for candidates. Husted said they nominate Elton Storment as Chair, and Daisa Lawson as Vice-Chair.

Daisa Lawson moved to approve the nomination of Elton Storment as Chair of the North Clackamas Parks & Recreation District Advisory Board. Bill Brod seconded the motion. APPROVED.

Sarah Eraker moved to approve the nomination of Daisa Lawson as Vice-Chair of the North Clackamas Parks & Recreation District Advisory Board. Bill Brod seconded the motion. APPROVED.

Storment immediately took over as Chair of the meeting. Henley pointed out that Ellis still serves on the Executive Committee and the NCPRD Foundation board.

4. Sunnyside Neighborhood Park Advisory Board Appointments:

Eraker informed the DAB that the Sunnyside NPAB has met twice to interview seven candidates to fill five vacant positions. Two of the candidates were not interviewed. Eraker asked that Martha Waldemar's application remain open so she can serve in the next vacancy without having to reapply. A brief background on each candidate was provided. Eraker pointed out that Tom Peterson wishes to be reappointed in his position, so there are actually only four positions that need to be filled.

Sarah Eraker moved to forward the applications of Jo Culbertson, Shonna Williams, John Shelby Gladwell and Becky Sanders to the Board of County Commissioners to approval. Jim Ellis seconded the motion.

Storment presented Jim Ellis with an engraved gavel for his service on the DAB and announced that cake and coffee would be served in his honor.

NCPRD Advisory Board Meeting Minutes
June 10, 1999
Page 3

5. Board Members' Comments:

Brod asked if the water leak at the Aquatic Park had been fixed. Robertson explained that staff has re-routed the leak and Robertson/Sherwood Architects plan to address the DAB in the near future regarding a permanent fix of the problem. The leak has been inspected by the Health Department and passed all approvals. Brod asked if someone would pay for the energy and water costs associated with the leak. Robertson responded that this issue is being investigated.

Ellis asked how much this represents in dollar value. Henley commented that staff has never been able to calculate how much water was lost solely because of the leak. There are so many factors coming into play such as loss due to vapor, etc. Robertson added that the Aquatic Park should see a significant reduction in the next heating bill. Henley noted that the tough part would be reaching an equitable settlement. The Aquatic Park staff has done an excellent job in isolating the problem.

Ellis asked if the Utilities Department alerted the District about a possible leak. Robertson said no, and staff just assumed that rates had increased.

Lawson said that a meeting of the neighborhood boards was held the previous week. Staff was prepared to make a presentation, but there wasn't a good turnout. Lawson asked if we are to have a citizen-based governing process, what do we do to improve attendance?

Eraker commented that it would be nice to interface with the Neighborhood Parks Advisory Boards. Storment asked if it would be helpful to send everyone a letter letting them know what happened at the meetings. Lawson added that she felt part of the problem is that we don't have regular meetings. Storment said maybe it would help to appoint someone in each group to inform the NPAB members of what transpires at the meetings.

Bader added that maybe we should ask the NPABs how they would like to get the information.

VII. B. 4

NCPRD Advisory Board Meeting Minutes

June 10, 1999

Page 4

6. Director's Comments:

Henley noted that recruitment for a Financial Analyst has closed. Interviews will be held June 21. Plans are to have someone on board the latter part of July. Henley informed the DAB that Scott Archer's last day with NCPRD would be the following Wednesday. Recruitment to fill his position is underway.

The Director updated the DAB on the TEA 21 grant applications. The District was awarded funds for planning and development of the District Park trail and planning and acquisition of the Phillips Creek Greenway. We need to coordinate with Metro to determine when we can access the funds. The District wants to commit to begin work with Walker/Macy in the near future. We hope to begin construction next summer.

Diane Campbell went to Salem to present NCPRD's grant application to the State Parks Commission to receive additional funding for planning and development of the trails in the District Park. We hope to hear if the District received funding within six weeks. If we get the dollars, it would total an additional \$116,000.

Lawson suggested that the Chair write a letter on behalf of the project.

Henley explained that Daisa Lawson and Thom Kaffun went down with Water & Environmental Services the previous week to tour the water retention facility.

7. Adjournment:

The meeting adjourned at 7:15 p.m.

TO: SB 122 Citizen Group Members
FROM: Mike Swanson
DATE: June 29, 1999
RE: Update

It has been only a month since I last updated you. The managers and I feel that we continue to make progress.

We have had a number of meetings with the County after inviting them to become partners. While they have not formally agreed to become signatories to the Draft Agreement, they are initiating two processes that could conceivably utilize your Consortium structure.

The first might be called the Concurrency Project. It is a Countywide effort to provide for infrastructure needs prior to development. Your Draft Agreement includes "coordinated capital plans for infrastructure" as an element of the Consortium's responsibilities. The County has targeted this effort for immediate action after having determined that it should not await the results of a longer process. While they have not finalized a process, our understanding is that they will be seeking participation from citizens and local service providers. We, of course, will continue to seek an active role in that process. They are looking at a timeline that would develop policies by the first of next year.

The second County planning effort is the Complete Communities Project. It is much like the visioning effort that is called for in your Draft Agreement. Initially, the project would define issues through citizen input. The input would be used in a visioning process that would break the County into three sub-areas. The sub-areas and process have not been defined, but your Draft Agreement provides scenarios for both the definition of one sub-area and the structure for a visioning process. The County has acknowledged the fact that the Draft Agreement might well have answers to some of their unresolved issues. Realistically, the Complete Communities project is much longer term than the Concurrency Project. They are looking at a Fall, 1999 "kickoff" for the project with completion a year later.

I am including two attachments provided by the County. The first is entitled "Concurrency in Infrastructure." It provides additional information on the first of the above projects. The second, entitled "Complete Communities Project," provides an outline of that project.

Steve Rhodes, County Administrator, is now attending the meetings we are holding to ensure progress on your earlier effort. In addition, the County recently discussed the above efforts with local jurisdictions during a two-day retreat. While there are no assurances that the concepts outlined in the Draft Agreement will ultimately be adopted, the managers and I feel that the current efforts deserve to be pursued. Implementation of the Draft Agreement is still an option if these efforts do not provide a reasonable certainty of achieving your desires.

VII. C. 2

At our recent managers meeting we discussed the possibility of bringing your group together again to hear more about the County's proposals. I am assuming that a meeting in early September might capture more attendees, given vacations during July and August. However, if there are enough who wish an earlier meeting, we can arrange it. Steve Rhodes has agreed to be present at either meeting to explain the County proposals and to answer questions. At this point I will plan to schedule a September meeting. If any of you are interested in something earlier, please call me at 699.7780, and I will try to put something together.

As always, if you have any questions, please call me.