

**MILWAUKIE CITY COUNCIL  
WORK SESSION  
NOVEMBER 15, 1999**

The work session began at 5:30 p.m. in the City Hall conference room.

Council present: Mayor Tomei and Councilors Kappa, King, Lancaster, Marshall.

Staff present: City Manager Bartlett; City Attorney Coleman; Assistant City Manager Bennett; Finance Director Gehlen; and Planning Director Rouyer.

**INFORMATION SHARING**

1. **Mayor Tomei** shared information that was provided at the Annual League of Oregon Cities (LOC) Conference including articles on youth involvement and resolutions adopted by the LOC. Staff was directed to provide copies to the other Councilors.

The group discussed how cities and citizens could better communicate their common goals with state legislators. Cities represent their citizens, but in Salem they are perceived as special interest groups.

2. **Councilor King** referred to an earlier suggestion of hers to create a phone tree in which the City Council and board and commission members could contact ten citizens each to respond to questions and concerns. The group discussed a similar program in the City of West Linn that randomly contacted citizens to help gauge public interests and establish goals. **Bartlett** said he would work with Richards and Gregory to determine what resources were needed.
3. **Councilor Marshall** asked when the City Council would have another goal setting session. **Bartlett** said there would be a review scheduled to determine what has been accomplished, what has been dropped, and what needs to be revisited.
4. **Councilor Kappa** discussed Milwaukie Together's new strategy of bringing on youth members with the adults eventually stepping back except for helping with fundraising.
5. The group discussed the status of the Heckmann property.

6. **Councilor Marshall** noted there was a substantial number of people who seemed to have energy to put into civic involvement projects such as skateboard parks, historic preservation, and youth services, but the City needs to be able to provide some continuity. He suggested selecting specific projects to be completed in an established period of time. A goal is either accomplished or discarded.
7. **Councilor King** discussed the importance of youth mentoring programs.
8. **Councilor Lancaster** referred to an article in the November *National Cities Weekly* in which seven communities were cited for exemplary service to youth. **Bartlett** suggested that might be a good resource for Milwaukie Together! and reminded the group of the City's annual \$2,500 social services grant.
9. **Bartlett** provided information from the Willamette Valley Livability Forum addressing growth management issues. The City Council directed Bartlett to plan for a town hall focusing on the broader Valley issues with a presentation and seeking responses from the attendees. A copy of the document "*Choices for the Future*" is in the Ledding Library that outlines issues and shows how Milwaukie fits in the regional issues.
10. The group agreed to meet in executive session to discuss property and employee relations.

### Open Community Forum

John Denney, David Derr, Joe Loomis, Bonnie Petty, and David Worsely spoke with the City Council regarding potential development plans for Milwaukie Middle School and its importance to youth sports programs.

**Loomis** said he and his organization could not support any use of the Middle School site other than a multi-sport complex for youth. If the City really wants to be sensitive to the needs of youth, this is its opportunity. The youth sports associations want to work with the City, and he felt the goals of encouraging athletic events and developing the downtown were compatible.

**Councilor Marshall** asked how many ballfields it takes to support a tournament, and **Loomis** responded that two fields would be sufficient.

**Denny** added that Rowe Middle School is close enough for teams to move back and forth.

**Petty** commented that losing these fields would be detrimental to the entire Milwaukie sports program. Milwaukie High School uses the Middle School athletic facilities, so it would have to relocate some of its games and practices.

The result would be that youth sports would have even less playing time. Athletics have consistently been cut from School District budget, and the associations have put a lot of effort into keeping youth sports alive. She noted that parents had worked very hard to help pass the Parks District bond measure because they believed their children would get more playing fields, but that never happened. She understood that the \$250,000 for the playing fields was used to fund other projects in the District. Residents voted to join the Parks District so the City could have some baseball and soccer fields. She noted that Oregon City has a facility similar to Milwaukie Middle School that houses community education classes, extended day care, and other services for families and children. The Milwaukie Middle School property offers a great opportunity for the City to do something for its children. The community does not need high density housing or a community garden. The proposed fields at Kellogg Lake would be under water nine months out of a year.

**Councilor King** asked how many children were involved in the various programs.

The citizen group responded there were approximately 500 in baseball, 700 in basketball, 500 in soccer, and 330 in girls' softball. Most of the participants attend Milwaukie schools.

**Denny** added that the youth programs are volunteer and receive no help from the School District, Parks District, or City. He also noted that cities like Gladstone and Canby help with field preparation, registration, or funding. The Milwaukie associations raise money from registration fees, business sponsorships, and fundraisers. The associations also provide scholarships for those who want to play but cannot afford the registration. The only youth sport that the middle schools offer at this time is track.

**Worsley** commented that the schools used to help subsidize the programs until the mid-1980's, and the football program has not been the same since. This is an issue of community pride.

**Petty** saw good athletes moving to other cities because Milwaukie has nothing to offer talented youth.

**Loomis** described how tournaments might generate business in the downtown area. Each team in a tournament probably brings in 80 - 90 people who may need lodging and a place to eat.

The citizen group provided a list of their names and addresses.

The Council asked for some additional information such as the types of businesses that would serve athletic events and distribution of participants in Milwaukie schools.

**Councilor Lancaster** commented that without the involvement of these citizen volunteers, Milwaukie youth sports programs would be non-existent.

### Local Improvement District Status Report

**Gehlen** reported on the outstanding special assessments. Of the thirty-nine active accounts, eight are delinquent and have not made scheduled payments for at least five years. The amount of the delinquent payments is \$41,588. Six of the accounts have the same owner and total \$40,810 in outstanding principal and interest.

Oregon Revised Statutes allows the City to adopt a resolution establishing a timeframe for the payoff and authorizing the City to begin collection proceedings with foreclosure as the final step. After repeated attempts to communicate with the property owners over the past five years, staff believes Council's adoption of the resolution would give sufficient leverage to move negotiations forward.

**Councilor Kappa** commented that Council does have fiduciary responsibilities, and these accounts are far past due.

**Bartlett** said one individual has tried to delay the process by saying he will give his property to either the City or the Parks District. To date there has been no follow through on that type of commitment.

**Councilor Marshall** asked why the City Council would have to adopt a resolution to collect on a delinquent special assessment.

**Coleman** responded that the state legislature has imposed that step in the process, and it has been in place for many years. It both forces the local government to make sure everything is in order prior to taking action and also provides the property owner incentive because the issue becomes more public.

**Councilor Lancaster** asked what types of special assessments these were.

**Bartlett** said many of them are for sewer and storm water projects and others are for street improvements.

**Coleman** briefly discussed how it is determined that properties are benefited and the remonstrance process. Each account would need a specific resolution as a pre-condition of foreclosure.

**Councilor Lancaster** asked why certain properties were given deferred status.

**Gehlen** explained that five accounts on the list were in the HUD program, so there are no payments due until the property is sold. She noted there was also a senior deferral program.

**Bartlett** added this action was heavily weighted on due process. Normally, staff reviews the accounts annually, but certain internal conditions resulted in this not taking place last year. One individual will likely come before the City Council, so the elected officials will have to use their best political judgement. The City contacts each property owner at least twice annually to let them know about their past due accounts.

**The group directed Gehlen to move forward with a resolutions.**

**Councilor Lancaster** asked the interest rate.

**Bartlett** said the rate depends on when the LID was formed, but, typically, it is between 4% and 5%. HUD projects have very low interest rates.

### **North Clackamas Parks and Recreation District Quarterly Report**

**Mayor Tomei** asked Mike Henley, North Clackamas Parks and Recreation District (NCPRD) Director, to respond to comments made by the citizen group about athletic fields.

**Henley** stated there was significant groundwater contamination in the proposed playing field site. The recommended remediation was to let the land sit, so there will probably not be development during our lifetimes. The funds for these fields was spent mostly on Ardenwald Park and two fields in the Oatfield neighborhood. Athletic fields continue to be a challenge because of the space needed to accommodate that type of use. He felt the public should look to the School District for assistance.

**Councilor Lancaster** asked if there was an effort to find property for ballfields instead of spending the \$250,000 that Petty mentioned on parks.

**Henley** said the District site, outside the City of Milwaukie, was designed for both active and passive uses. He remarked that \$250,000 was probably low. These concerns come at an appropriate time as the District updates its master plan.

**Councilor Kappa** agreed with citizen group comments that replacement ballfields might not be built in the Kellogg Lake area because of flooding.

**Henley** talked briefly about the 2001 – 2002 budget. Although demands for recreation grow, the District anticipates service reductions in all programs due to Measure 50. The District's top goal is to maintain financial responsibility. Residents can anticipate an increase in existing fees and charges. New fees will

be created for previously free programs, such as the summer park drop-in program, or those programs will be dropped. The District will work to educate residents on Measure 50 impacts through the Comprehensive Plan update.

**Councilor Kappa** asked if the Clackamas County Board of Commissioners could budget more for parks.

**Henley** explained that the District operated on a fixed tax rate and is separate from the County general fund. The Commissioners, however, could vote to approve and support a ballot measure to recoup Measure 50 losses.

**Councilor Kappa** asked if there had been any decisions on systems development charges (SDC).

**Henley** said SDCs were pulled from the table because of potential litigation. The District needs a financial maintenance program to stay ahead of service delivery costs.

**Councilor Kappa** was concerned about impacts to those, such as seniors and children, who really need the types of services the District offers.

**Councilor Marshall** commented that the SDCs provide only 60% of the need, so there is no way to catch up.

**Diane Campbell** said the District believes it is important to go through with the Comprehensive Plan update in order to understand constituents' needs. She described the ad hoc committee created from the District Advisory Board that selected the consultant. Public involvement is key to the master planning process. The purpose of the update is to re-evaluate the original missions and goals, evaluate policies, and recommend operation service levels. The scope of work is being negotiated, and the process will begin after the first of the year.

**Campbell** reviewed the Mt. Talbert master plan that resulted from open houses and other written and oral public comments. The primary access to the 149-acre site will be from Sunnyside Road where parking, handicapped access, restroom, bike racks, and trash receptacles will be located. All other access will be pedestrian only. Bikes, dogs, and horses will not be allowed. The District will try to address the dog issue with signage. The message from the public was to keep the site as natural as possible and prevent erosion of the butte. The existing trails may be looped to increase accessibility. There is also a wildlife corridor on the site. The original plan was to connect with the District Park, however, some issues relating to the Endangered Species Act (ESA) have arisen.

**Councilor Kappa** referred to the plan of the area and asked how there could be a roadway along the creek based on Title 3 restrictions.

**Campbell** said the Plan was approved before Title 3 came into effect.

**Bartlett** added there were also development credits.

**Councilor Lancaster** asked if any of the neighbors had concerns with the access points.

**Campbell** said the main access to the area will be on Sunnyside Road, and parking issues in the residential areas will have to be dealt with on a case-by-case basis.

### Tree Ordinance and Urban Forestry Program Update

**Rouyer** said the Planning Commission will conclude its consideration of policy questions during the November 23, 1999, work session. The main issues are the degree of regulation on private property and public outreach and education. She provided a summary of the Commission's work to date.

Staff will provide a project update to the Neighborhood District Association (NDA) Land Use Committee chairs on November 17 and prepare a summary of comments for the City Council and Planning Commission. The Planning Commission will consider the final policy questions at its November 23 work session prior to drafting the final ordinance. There will be an article in the December *Pilot* with a brief description of the program and contact information. Staff will meet with the neighborhood leadership on December 8 and send the 45-day notice to Metro and the Department of Land Conservation and Development (DLCD). Ballot Measure 56 notice would be scheduled for mailing on January 7, 2000.

**Coleman** added there were statutory language requirements for the Measure 56 notices, but he said counsel would incorporate some tempering language.

**Rouyer** said she, Gregory, and Bennett were planning the public information and January 19, 2000, open house portions of the outreach project. They were looking to create good information with graphic representations of what the urban forestry ordinance might require. City Council public hearings are tentatively scheduled for February 2000. Staff plans to submit a Community Forestry Assistance grant application in December for assistance in drafting the Master Plan.

**Mayor Tomei** suggested an article in *The Pilot* that would soften the Measure 56 statutory language for residents.

**Coleman** explained that the ordinance will affect a property owner's ability to harvest on his/her property.

**Councilor Marshall** commented he was getting 50/50 feedback from the community: regulating land vs. the community's right to identify and set standards important to it. He did not believe the public understood the implications of the program.

**Mayor Tomei** asked if it would be more appropriate to go through the public education process and show the importance of the program before considering adoption.

**Councilor King** pointed out that urban forestry and preservation were of prime importance in the neighborhood visions. She looked at the program from a perspective of responsibility, habitat enhancement, and rehabilitation.

**Councilor Kappa** discussed the benefits of preserving certain right-of-way trees. He felt there needed to be a design review ordinance and committee to look at such issues as replacement trees and appropriate species. He was concerned with the expense of having to hire an arborist. He recommended moving forward but with an emphasis on the educational element.

**Councilor Marshall** felt the City Council should direct staff to move forward on the process but to be flexible if it sensed community resistance.

**Mayor Tomei** suggested Rouyer report after the NDA leadership meeting so Council would have a sense of the community's feelings.

**Councilor King** thought knowledgeable staff should attend the NDA meetings to explain the programs and answer residents' questions.

**Rouyer** said she was attending the NDA meetings by invitation. Since she is the only staff person on the project, she was hoping to make the most contact via the open house.

**Bartlett** said the City Council could get input from the Planning Commission and the open house to determine whether to stay with the January 7 notice or to take more time to extend the public process.

**Councilor Kappa** added that the positive elements of urban forestry needed to be emphasized.

**Bartlett** said the document would be reviewed when it comes back from the Planning Commission.

Other Items

1. **Councilor Lancaster** suggested this budget cycle contain some elements of performance based budgeting.
2. The group discussed board and commission vacancies and appointments.
3. **Councilor Marshall** discussed removing flaglots from the Zoning Ordinance.

**Coleman** said it is not a required development option, but the City would have to look at why it does have flaglots and how the Metro 2040 Plan would be impacted. The full Council would have to give the City Attorney's office direction to do this work.

**Bartlett** said the Planning staff would have to look at the number of units planned and determine what alternatives there might be. He added that an alleyway system would take a major capital program.

**Councilor Marshall** said the community feels that flaglots are detrimental and does not want them. He suggested the City Council allow Coleman to begin looking at the legal aspects.

**Bartlett** explained there might be a takings issue, and the process would require Measure 56 notice. There would have to be an analysis of what would be taken from those who planned to develop their properties as flaglots under the current zoning. There needs to be both a legal opinion and Planning Department analysis of the issue. The GIS department could provide data on the lots that exceed the zoning size.

**Bennett** added that the Planning Commission suggested looking at those issues next year. Once the change is made, the City could probably anticipate a lot of applications since there are some property owners who intend to develop flaglots to fund their retirements.

**Councilor Marshall** was willing to say that is what the community wants to do. Personally he did not think takings was an issue because there are other alternatives.

**Bartlett** said this is why both a legal and planning analysis needs to be done, and he discussed Baker vs. Milwaukie.

**Coleman** explained the project should be led by the Planning Department with legal assistance. He suggested that the City Council give direction to the Planning Department to analyze and report on eliminating flaglots as a development option. The City Attorney could then work with the planners to answer that question.

**Bennett** explained there were time constraints, and staff was scheduled to look at the development code in March or April 2000.

**Councilor Lancaster** said strategically Council wanted to take early steps on the projects having the greatest impact, and flaglots was one of those.

**Councilor Marshall** felt the legal interpretation needed to be done first to find out what action was legally viable.

**Coleman** said the City Council could set minimum lot widths and effectively eliminate flaglots, but the ramifications could be tremendous.

**Councilor Kappa** suggested a Title 3 moratorium, but **Bennett** indicated that would take as much staff time.

The City Council adjourned the work session at 8:30 p.m. and went into an executive session to consider real property transactions and discipline of public officers and employees pursuant to ORS 192.660.

Pat DuVal  
Pat DuVal, Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL WORK SESSION AGENDA  
NOVEMBER 15, 1999**

**MILWAUKIE CITY HALL**

Second Floor Conference Room  
10722 SE Main Street

***WORK SESSION – 5:30 p.m.***

Discussion Items:

	<u>Time</u>	<u>Topic</u>	<u>Presenter</u>
1.	5:30 p.m.	Dinner and Information Sharing	Group
2.	6:00 p.m.	Open Community Forum	Group
3.	6:30 p.m.	Local Improvement District Status Report	Jan Gehlen
4.	6:45 p.m.	North Clackamas Parks and Recreation District Quarterly Update	Mike Henley, NCPRD Director
5.	7:15 p.m.	Tree Ordinance and Urban Forestry Program Update	Alice Rouyer
6.	8:15 p.m.	Adjourn	

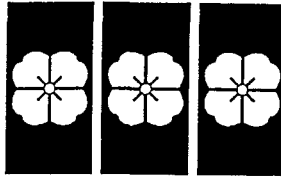
***The Council may vote in work session on non-legislative issues.***

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

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

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

C I T Y O F



MILWAUKIE

## MEMORANDUM

**To:** Mayor and City Council  
**Through:** Dan R. Bartlett, City Manager *Dan*  
**From:** Jan V. Gehlen, Finance Director *JV*  
**Subject:** Special Assessment - Delinquency Status Report  
**Date:** November 5, 1999

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**Action Requested:**

Provide direction to staff in collection efforts of delinquent Special Assessments.

**Background:**

Special Assessment Liens have been used in the City of Milwaukie to fund improvements made to specific areas receiving the benefit. The City of Milwaukie administers all billings and collections. Most assessments are amortized over time with a set interest rate and billed semi-annually.

The attached listing shows account details of all outstanding assessments. There are currently 39 accounts active with an outstanding balance of principal and interest equaling \$116,058, as of October 31, 1999. Of those 39 accounts, 5 accounts totaling \$21,150 are deferred until the property changes ownership. There are 25 accounts, totaling \$53,321, who are making scheduled payments. And there are 8 accounts that are delinquent and have not made scheduled payments for at least the last 5 years, totaling \$41,588.

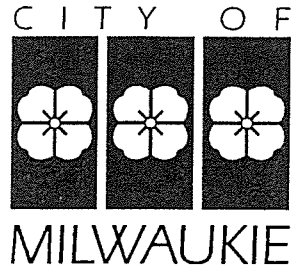
The eight delinquent accounts are the focus of this report. One account has principal and interest of \$534 outstanding. The second delinquent account has principal and interest of \$211 outstanding. The remaining 6 accounts have the same owner and together total \$40,810 in outstanding principal and interest.

Under ORS 223.270, the governing body may pass a resolution, accelerating the payoff period for delinquent accounts making the entire amount of principal and interest due and owing in it's entirety. This resolution establishes a time frame for the payoff and authorizes the City to commence with collection proceedings in accordance with ORS 223.505 – ORS 223.650, which ultimately could end in foreclosure.


There have been many attempts over the past 5 years to communicate with the three owners, bearing delinquent accounts, to make payment arrangements. Staff believes that by passing the resolution, additional leverage will be established and staff will be successful in negotiating acceptable terms for prompt payment.

MILWAUKIE CITY HALL  
 10722 SE MAIN STREET  
 MILWAUKIE, OREGON 97222  
 PHONE: (503) 786-7555 • FAX: (503) 652-4433

November 8, 1999	Assessment #:	Last Name	First Name	Tax Lot	Principal	Comments	Interest	Total Due
Coles Addition	1	OTIS	Daniel R	11E25AB1600	\$ 5,335.03	Making Scheduled Payments	\$ 1.09	\$ 5,336.12
					\$ 5,335.03		\$ 1.09	\$ 5,336.12
HUD	3	BOYD	Richard	11E25CA4600	\$ 4,765.00	No payments due until sold	\$ -	\$ 4,765.00
	4	CHEEK	Louis	12E36AA14900	\$ 1,385.00	No payments due until sold	\$ -	\$ 1,385.00
	5	DAVIS	Arlene	11E25AC2100	\$ 5,000.00	No payments due until sold	\$ -	\$ 5,000.00
	6	FULMORE	Betty	11E25DB7200	\$ 5,000.00	No payments due until sold	\$ -	\$ 5,000.00
	8	STACEY	Thomas	11E25CA4700	\$ 5,000.00	No payments due until sold	\$ -	\$ 5,000.00
					\$ 21,150.00		\$ -	\$ 21,150.00
East Milwaukie/Island Station	10	BRUNELLE	T	12E30DB900	\$ 368.26	Delinquent	\$ 165.23	\$ 533.49
	11	DEGEENDORFER	Paul	12E30CD6900	\$ 291.22	Making payments	\$ 9.77	\$ 300.99
	12	DEGEENDORFER	Paul	12E30CD7700	\$ 62.68	Making payments	\$ 2.10	\$ 64.78
	13	DEGEENDORFER	Paul	12E30CD7400	\$ 337.55	Making payments	\$ 11.32	\$ 348.87
	14	DEGEENDORFER	Paul	12E30CD7701	\$ 400.90	Making payments	\$ 13.45	\$ 414.35
	15	DEGEENDORFER	Paul	12E30CD10300	\$ 379.26	Making payments	\$ 12.73	\$ 391.99
	16	JOLLIFFE	Clarence L.	12E30CD1200	\$ 185.55	Delinquent	\$ 24.80	\$ 210.35
	18	PALM	Milton H	21E1AA700	\$ 2,308.00	Delinquent	\$ 3,344.62	\$ 5,652.62
	19	PALM	Milton H	21E1AA300	\$ 1,121.91	Delinquent	\$ 542.66	\$ 1,664.57
	20	PALM	Milton H	21E1AA1300	\$ 2,186.01	Delinquent	\$ 3,358.64	\$ 5,544.65
	21	PALM	Milton H	21E1AA1200	\$ 1,402.99	Delinquent	\$ 678.53	\$ 2,081.52
	22	PALM	Milton H	11E36DA200	\$ 416.79	Delinquent	\$ 201.61	\$ 618.40
					\$ 9,461.12		\$ 8,365.46	\$ 17,826.58
40th & Wister St	25	PALM	Milton H	1S1E36DA200	\$ 9,371.87	Delinquent	\$ 15,909.75	\$ 25,281.62
					\$ 9,371.87		\$ 15,909.75	\$ 25,281.62
Koll - Omark	26	SE Industrial Way		1S2E31D1000	\$ 1,324.91	Making payments	\$ 33.74	\$ 1,358.65
					\$ 1,324.91		\$ 33.74	\$ 1,358.65
Stanley Area	28	LATTANZI	Tom	1S2E30DB6200	\$ 165.04	Making Scheduled Payments	\$ 2.26	\$ 167.30
	29	LOVE	Rodney E	1S2E30DB1800	\$ 208.81	Making Scheduled Payments	\$ 4.18	\$ 212.99
					\$ 373.85		\$ 6.44	\$ 380.29
Ochoco Storm Drainage	30	THOMASON TOYOTA		1S1E25BB5900	\$ 107.09	Making Scheduled Payments	\$ 0.66	\$ 107.75
	32	THOMASON TOYOTA		1S1E25BB6000	\$ 141.43	Making Scheduled Payments	\$ 0.87	\$ 142.30
	33	THOMASON TOYOTA		1S1E25BB2300	\$ 343.73	Making Scheduled Payments	\$ 2.13	\$ 345.86
	34	THOMASON TOYOTA		1S1E25BB5800	\$ 117.37	Making Scheduled Payments	\$ 0.72	\$ 118.09
	35	THOMASON TOYOTA		1S1E25BB6100	\$ 59.09	Making Scheduled Payments	\$ 0.37	\$ 59.46
	36	THOMASON TOYOTA		1S1E25BB2400	\$ 215.56	Making Scheduled Payments	\$ 1.34	\$ 216.90
					\$ 984.27		\$ 6.09	\$ 990.36
Coles Addition	37	SAMUELSON	Harry M	11E25AB2700	\$ 5,129.56	Making Scheduled Payments	\$ 16.86	\$ 5,146.42
	40	HELVEY	Carol A	11E25AB2500	\$ 5,273.38	Making Scheduled Payments	\$ 30.34	\$ 5,303.72
					\$ 10,402.94		\$ 47.20	\$ 10,450.14
Coles Addition - SDC	43	OTIS		11E25AB1600	\$ 2,176.11	Making Scheduled Payments	\$ 0.44	\$ 2,176.55
	44	HELVEY		11E25AB2500	\$ 2,139.02	Making Scheduled Payments	\$ 12.31	\$ 2,151.33
					\$ 4,315.13		\$ 12.75	\$ 4,327.88
Drefshill Street	45	IJIMA	Y. Peter & Geneva	12E30DB4800A	\$ 2,385.61	Making Scheduled Payments	\$ 5.48	\$ 2,391.09
	47	E & S Construction		12E30DB4103	\$ 3,177.26	Making Scheduled Payments	\$ 8.36	\$ 3,185.62
					\$ 5,562.87		\$ 13.84	\$ 5,576.71
Willow Street	49	Wright	Randall & Deborah	12E30DB04100	\$ 11,867.62	Making Scheduled Payments	\$ 48.77	\$ 11,916.39
					\$ 11,867.62		\$ 48.77	\$ 11,916.39
Drefshill Street	50	COX	M. Lynn	12E30DB5200	\$ 1,167.28	Making Scheduled Payments	\$ 0.38	\$ 1,167.66
	51	WOLLMUTH	Bruce A. & Elizabeth A.	12E30DB4600	\$ 2,537.43	Making Scheduled Payments	\$ 4.58	\$ 2,542.01
	52	CORYELL	John P. & Wendi D.	12E30DB1801	\$ 6,181.36	Making Scheduled Payments	\$ 16.26	\$ 6,197.62
					\$ 9,886.07		\$ 21.22	\$ 9,907.29
Drefshill Street - SDC	54	WOLLMUTH	Bruce A. & Elizabeth A.	12E30DB4600	\$ 1,555.12	Making Scheduled Payments	\$ 0.51	\$ 1,555.63
					\$ 1,555.12		\$ 0.51	\$ 1,555.63
					\$ 91,590.80		\$ 24,466.86	\$ 116,057.66



# Memo

**To:** Honorable Mayor and City Council  
**Through:** Dan Bartlett, City Manager  
**From:** Charlene Richards, Assistant City Manager   
**CC:** Mike Henley, Director, NCPRD  
**Date:** November 4, 1999  
**Re:** Work Session Presentation November 15, 1999

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## Information Only

Mike Henley, Director of the North Clackamas Parks and Recreation District will present an update on the following District activities:

- NCPRD master plan
- Budget development
- Mt. Talbert master plan



To: City Council

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

From: Alice Rouyer, Planning Director *ARR*

Subject: Urban Forestry project update

Date: November 5, 1999

Meeting Date: November 15, 1999

**Action Requested**

City Council review and approval of the Urban Forestry public outreach plan and schedule.

**Background**

Staff provided a project schedule to Council on August 30, 1999. Since that time, the Planning Commission met in work sessions on September 28 and October 26, 1999 to discuss policy questions and issues relating to the original 1996 draft Urban Forestry Ordinance. A summary of these policy questions and a brief narrative of the Commission's work to date are attached. Planning Commission will conclude its consideration of policy questions in a work session on November 23, 1999. Staff will take this direction and finish revising the ordinance in late November and early December.

Upon Council's approval of the project schedule and public outreach plan, the project will move into the public outreach and public comment phase in December and January. This is an important step in the process because both the staff and the Planning Commission expect the Urban Forestry ordinance to stimulate public discussion and debate on the following issues:

- *Degree of regulation on private property. This portion of the ordinance will draw the most comment from citizens.*
- *Public outreach, education, enforcement and citizen involvement in tree planting programs. In response to comments about private property regulation, many citizens and neighborhood groups will be interested in how the City will educate*

*citizens about the new regulations, enforce the regulations and help citizens enhance the urban forest in Milwaukie.*

### **Public Outreach Plan and Schedule**

#### November 1999

- *November 17, 6:00 p.m.; Johnson Creek Bldg.*  
NDA Land Use Committee Chair Meeting to provide project update and discuss the policy issues under consideration by the Planning Commission regarding regulation of private property. Several members of this committee expressed concern about private property regulation at the September meeting. Staff will forward a summary of the comments received at this meeting to the Planning Commission and City Council for their consideration.
- *November 23, 6:30 p.m.; City Hall Council Chambers*  
Planning Commission Work Session to consider final policy questions prior to completing ordinance draft.

#### December 1999

- *November 24 – December 7*  
Final staff and City Attorney's office editing of the ordinance based on Planning Commission review.
- Article to appear in the December edition of *The Pilot*, providing a brief description of the proposed urban forestry program, ordinance, project schedule and staff contact information.
- *December 8, 6:30 p.m.; City Hall Conference Room*  
Staff presentation of proposed ordinance and program at the Quarterly Neighborhood Officer's Meeting.
- *December 23*  
Send required 45 day notice to Department of Land Conservation & Development and Metro with attached ordinance.

#### January 2000

- Distribution of an Urban Forestry Program Question & Answer sheet at the January 2000 NDA meetings. City staff NDA liaisons will distribute the sheet containing summary information about the ordinance, staff contact information, open house and public hearing schedule.

- *January 7*  
Mail state-mandated Ballot Measure 56 notice to all affected property owners with information about the ordinance, open house date, and the Planning Commission hearing date, if needed.
- *January 19; 6:30 p.m.; Public Safety Building Community Meeting Room*  
Open House to discuss proposed ordinance. In particular, staff will prepare presentation materials to explain the proposed regulation on private property and different components of the larger urban forestry program. Public comments sheets and public hearing schedule will also be available.

February 2000

- *February 8, 6:30 p.m.; City Council Chambers*  
Planning Commission public hearing to consider ordinance.
- *February 22, 6:30 p.m.; City Council Chambers*  
Planning Commission continuation of hearing, if needed.

March 2000

- *March 7; 6:00 p.m.; City Council Chambers*  
City Council Public hearing to consider ordinance.
- Staff to finish drafting applications and public information brochures regarding ordinance requirements, etc.

April 2000

- *April 8*  
Ordinance becomes effective.

**Project Schedule for Urban Forestry Program Development**

December 1999

- Submit Community Forestry Assistance grant application to Oregon Department of Forestry to request funding/assistance in drafting an Urban Forestry Master Plan.

January 2000

- *January 25, 6:30 p.m.; City Hall Conference Room*  
Parks & Recreation Board Meeting to provide project update, discuss the schedule for development of the Urban Forestry Master Plan and begin planning for Arbor Week.

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February 2000

- Develop public information brochures to support Urban Forestry ordinance.
- Plan Arbor Week Celebration

April 2000

- *April 24 – 28*  
Arbor Week Celebration

Summer 2000

- Develop Urban Forestry Master Plan; including street tree guidelines, policies for planting/maintenance of trees in public spaces, and tree education programs.

December 2000

- Apply for Tree City USA Designation

**Recommendation**

Staff recommends that the Council approve the Urban Forestry Public Outreach Plan and Project Schedule.

**EXHIBIT**

**Exhibit A: Summary of Planning Commission Urban Forestry Work Sessions  
September 28, 1999 and October 26, 1999**

## EXHIBIT A

**Summary of Planning Commission Urban Forestry Work Sessions:  
Sept. 28, 1999 and Oct. 26, 1999**

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Over the past two months, the Planning Commission has reviewed the 1996 draft Urban Forestry Ordinance and discussed several policy issues. Two of the Planning Commission members served on the 1994-1996 Tree Committee and have provided valuable insight about the 1996 draft. The Commission has reviewed and responded to the following policy questions:

**1. *Advisory Board Structure to support the Urban Forestry Program***

Planning Commission supports the idea of splitting Commission support for the Urban Forestry program with the Parks & Recreation Board. The Parks & Recreation Board also supported this idea at their meeting on September 27, 1999. Planning Commission members requested that one member of the Planning Commission be invited to attend and participate in Parks & Recreation Board discussions about Urban Forestry. The Planning Commissioner selected for this responsibility must be interested in trees and have a professional or personal background in landscape architecture or design, arboriculture, ornamental horticulture or a related field.

The Commission/Board responsibilities are proposed to be divided in the following way:

**Proposed Planning Commission Responsibilities:**

1. Conduct all public hearings associated with tree cutting, planting, and enforcement of regulations on both private property and in the public right-of-way.
2. Recommend revisions to the urban forestry regulations pertaining to private property and public rights-of-way.

**Proposed Parks & Recreation Board Responsibilities:**

1. With staff, develop an Urban Forestry Master Plan for review and adoption by the City Council.
2. Review the annual program for tree care and tree planting in public places.
3. Recommend amendments to city regulations that support the adopted Urban Forestry Master Plan for consideration by the City Council.

4. Maintain a street tree list to determine the types of trees to be planted on city owned property, public parks and public rights-of-way.
5. As needed, work with city staff, other agencies, and volunteer organizations to educate the public about the benefits of a healthy urban forest and the actions citizens can take to enhance the urban forest. This includes an annual Arbor Day or Arbor Week celebration.
6. In coordination with staff, review a city-wide survey and inventory of significant trees.

**2. Program budget and overall fiscal impact**

The Commission briefly discussed how the \$40,000 program budget must be considered when making decisions about regulations. Since a number of urban forestry program goals were already identified by the Tree Committee, Planning Commission and City Council in 1996, staff does not intend to ask the Commission to revisit those goals against the fiscal impacts they will create. Instead, when considering regulations on private property, the Planning Commission and City Council should weigh the cost of regulation and enforcement. The \$40,000 budgeted annually toward urban forestry is unlikely to cover all staff time needed to review and enforce the regulations on private property, the cost of maintaining trees in the right-of-way and the cost of educational program components. Therefore, the new regulations will create an additional work item for existing staff. This should be a consideration when making decisions about the degree of regulation on private property.

**3. Regulating Trees in "Public Places"**

The 1996 draft regulates removal and major pruning of street trees in the public right of way and "other public places" The Planning Commission clarified the term "other public places" to mean city-owned property and public park land. Therefore, tree removal and pruning on city-owned property and park land would be regulated in the same way that street trees are currently regulated.

**4. Degree of regulation on private property**

The Commission is proceeding thoughtfully on this topic due to the degree of public debate expected. The Commission expects to conclude its discussion of private property regulation at the November 23, 1999 work session. At that time, staff and the City Attorney's office can incorporate all of the elements described below into revisions of the 1996 draft.

Planning Commission has been discussing the following parameters for private property regulation:

a. **Tree Removal of Four or More Trees Per Calendar Year (see Municipal Code Section xx.xx.090)**

Propose to regulate removal of four or more trees sized greater than 6 inches in diameter in a calendar year. The term "undeveloped and underdeveloped" (as was originally used in the 1996 draft ordinance) will not be used because the objective is to protect tree removal of four or more trees in a calendar year on all properties.

The Commission directed staff to return to develop a few more options for consideration on November 23, 1999. On October 26, some Commission members expressed concern about the impact such a regulation would have on the typical, single-lot property owner. Staff will return to the Commission with options to address this concern, such as applying this regulation to larger properties with potential for redevelopment.

b. **Removal and Major Pruning of Significant Trees or Groves of Trees (see Municipal Code Section xx.xx.100)**

Propose to regulate removal and major pruning of trees designated as Significant Trees. City staff, with support from the Parks & Recreation Board, will conduct a Significant Tree Inventory to determine which trees might be eligible for designation. City Council, Planning Commission, Park & Recreation Board, a property owner, or any other person may recommend that a tree be designated a Significant Tree. However, the owner must agree to the designation before Planning Commission can consider applying the designation on the property.

c. **Removal and Major Pruning of Large Trees (new code section—not currently included in the 1996 draft)**

Propose to regulate removal and major pruning of all trees larger than 18 inches in diameter.

d. **Tree Removal During Development or Redevelopment (see Zoning Ordinance Section xx.05.1 "Tree Protection")**

Propose to require submission of a tree plan concurrent with planning review applications and structural permit applications (i.e. building permit application, but could include permits for decks and other structures too). The tree plan must show all trees on the property larger than 6 inches in diameter. If the proposal includes removal of four or more trees larger than 6 inches in diameter, then the plan shall preserve the trees unless the applicant is able to demonstrate that:

1. Trees must be removed because they pose a safety hazard to pedestrian or vehicular traffic, threaten to cause disruption of public services or pose a safety hazard to persons or buildings.
2. Trees are diseased or irreversibly weakened by age, storm, fire or other injury.
3. Removal is necessary to provide adequate access immediately around the proposed structure for construction equipment.
4. Tree removal is necessary to accomplish a public purpose, such as the installation of public facilities and utilities, or construction of a public street.
5. Removal is necessary to provide adequate access as required by city standards.
6. Trees must be removed to accommodate essential grade changes needed to develop the property.
7. Trees must be removed to accommodate on-site surface water drainage and utility installation.
8. Trees must be removed to accommodate driveways, buildings or other permanent improvements so as to allow for reasonable development within the building setbacks of the underlying zone.
9. Trees must be removed in order to comply with other City codes and regulations.
10. Trees must be removed to allow efficient use of solar energy equipment.
11. For criteria 3 through 10 above, the applicant shall show evidence of exploring alternative designs which would increase tree protection.

## **2. Tree Care License**

The 1996 draft requires "any person engaged in the business of removing, pruning, or trimming trees in the city of Milwaukie to hold a valid Tree Care License, in addition to a regular Business License." To obtain a Tree Care License, the applicant must comply with the following:

1. *Proof of public liability and property insurance in an amount to be set by the city. This proof needs to be filed with the city at the time of each renewal and must remain in force for the term of the license.*

2. *Proof that at least one member of the staff is an arborist certified by the ISA and that this member is responsible for the work performed under the Tree Care License.*
3. *All work must comply with the rules and objectives of this title. All work is subject to inspection by the city for compliance with city standards.*
4. *All tree care or tree maintenance companies holding a valid City Business License at the time this Section becomes effective will have one full year to meet the above standards.*

*The Community Development Director may revoke or suspend the license for any of the following reasons:*

1. *Failure to provide or continue the insurance required to maintain the license.*
2. *Failure to uphold the good standards of tree care required by the city.*
3. *Irresponsible or unethical business practices*
4. *Reckless or endangering practices on the job site.*
5. *Failure to comply with the requirements of the Urban Forestry Master Plan.*

Staff expressed concern on October 26 that administration of a licensing program is likely to be onerous and difficult to enforce. The Commission agreed to remove the Tree Care Licensing requirement, provided that all tree care professionals obtain business licenses (already required by the Municipal Code) and follow safety standards when removing or pruning trees in the right-of-way. Staff will amend the draft ordinance to include safety standards applying to tree permit applications in the right-of-way, city-owned property or public parks. Staff has also been advised to check on State Landscaping/Tree Maintenance Licensing requirements.

**Remaining Policy Questions for consideration at the November 23 Planning Commission work session**

**1. Process**

The 1996 draft ordinance offers the following process for obtaining approval to remove or prune trees:

- a. Removal of 4 or more Trees per Calendar Year. Staff decision. Notice to the NDA and posting is provided on the tree. Any person may request a public hearing before the Planning Commission within 14 days of the date of posting.

- b. Removal and Major Pruning of Large Trees. Staff decision. Notice to the NDA and posting is provided on the tree. Any person may request a public hearing before the Planning Commission within 14 days of the date of posting.
- c. Removal and Major Pruning of Significant Trees and Groves of Trees. If a tree is dead, the tree may be removed in accordance with a Type I administrative review, requiring no public notice. If the tree is removed or pruned due to any reason besides death or disease of the tree, the decision is referred to the Planning Commission for final decision in accordance with Minor Quasi-Judicial review.
- d. Tree Removal during development or Redevelopment. The ordinance states that "the decision making authority for the related development application shall also be authorized to implement this section." This means that in the case of a building permit review, the decision would be staff-level. If the review required a Planning Commission decision, then the Planning Commission would also have authority to render a decision about the request to remove trees associated with the development request.

The Commission should determine if these review processes are appropriate. The question of staff review vs. Planning Commission review is significant. The Commission should consider if tree removal and pruning decisions would be most appropriately considered by staff or the Commission. Staff would recommend that all tree cutting/removal requirements be decided administratively with the ability to appeal to the Commission, except in the case of Significant Tree removal. Staff will seek the technical assistance of a consulting arborist in reviewing tree removal/pruning applications.

**2. *Authorize staff and the City attorney to clean up sections of the ordinance***

Both staff and the City Attorney have identified areas of the ordinance that either do not belong in the regulations or need better definition to be legally defensible. The Planning Commission should expect staff to return with a revised draft that removes discrepancies and clarifies requirements.