



Regular Session

RS

Milwaukie City Council



MINUTES
MILWAUKIE CITY COUNCIL
 www.milwaukieoregon.gov

REGULAR SESSION
 JUNE 3rd, 2014
 City Hall Council Chambers

Mayor Ferguson called the 2,175th meeting of the Milwaukie City Council to order at 7:13 p.m.

Council Present: Council President Hedges and Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff Present: City Manager Bill Monahan, Administrative Specialist Scott Stauffer, Community Development Director Steve Butler, Finance Director Casey Camors, Engineering Director Jason Rice, Associate Planner Vera Koliass, and Program Coordinator Beth Ragel

Media Present: None

CALL TO ORDER

Pledge of Allegiance

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Imagine Clackamas – Clackamas Community College (CCC) Public Engagement Report

Greg Chaimov, member of the CCC Board of Education (BOE), reported on CCC's physical presence, course offerings, and enrollment of over 30,000 students. He discussed the cost-effectiveness of attending CCC, shared the results of a recent survey the college conducted, announced a tuition freeze, and noted a textbook lending program. He discussed area unemployment problems and the need for students to be highly trained which CCC is trying to address through facility and technology upgrades which are dependent on private donations and a 90 million-dollar bond the CCC BOE is considering placing on the November ballot.

Council President Hedges expressed his support for the CCC bond.

CONSENT AGENDA

It was moved by Councilor Gamba and seconded by Councilor Miller to approve the consent agenda as presented.

A. City Council Meeting Minutes:

1. May 6, 2014, Regular Session; and
2. May 20, 2014, Work Session.

B. Board, Commission, and Committee Appointments:

1. **Resolution 49-2014: a Resolution of the City Council of the City of Milwaukie, Oregon, appointing Andrea Adams to the Milwaukie Arts Committee.**
2. **Resolution 50-2014: a Resolution of the City Council of the City of Milwaukie, Oregon, appointing Maitri Dirmeyer to the Milwaukie Arts Committee.**
3. **Resolution 51-2014: a Resolution of the City Council of the City of Milwaukie, Oregon, appointing Meg Elston to the Public Safety Advisory Committee.**
4. **Resolution 52-2014: a Resolution of the City Council of the City of Milwaukie, Oregon, appointing Greg Hemer to the Milwaukie Planning Commission.**

C. OLCC Applications for:

1. **Bob's Red Mill Natural Foods, Inc., 5000 SE International Way – New Outlet**

2. **ORWA Cider Collective, 3155 SE Sellwood Street – New Outlet**
 3. **Woodpecker Pizza and Wings, LLC, 10610 SE Main Street – Change of Ownership**
- D. Resolution 53-2014: a Resolution of the City Council of the City of Milwaukie, Oregon, approving a Clackamas County Order to Initiate the Formation of a new Parks and Recreation District under ORS 266.**

Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba, and Mayor Ferguson voting “aye.” [5:0]

AUDIENCE PARTICIPATION

Mr. Monahan reported no follow-up from the 5/20/14 Audience Participation.

Ed Parecki, Milwaukie business owner, reported sending an email to Council and stated he was present to respond to any questions. He noted the rejection of the proposed amendment to the City Charter at the 5/20/14 Primary Election and discussed comments he reported to have been made by Council President Hedges and Councilor Gamba regarding the City Manager’s contract. He questioned that the same legal firm has been City Attorney for so long.

Mayor Ferguson suggested that Mr. Parecki take action outside the forum of a Council meeting.

Ed Zumwalt, Milwaukie resident, speaking on behalf of First Friday, announced the 6/6/14 First Friday event lineup featuring an art walk, a bike rodeo, and the Milwaukie High School (MHS) Jazz Band. He stressed the good work done by co-organizer Alicia Hamilton.

Mayor Ferguson added that the Riverfront Park Phase II groundbreaking ceremony was also on 6/6/14, prior to First Friday events, and announced a toast to be held at Wine:30 following the ceremony. He thanked Mr. Zumwalt and Ms. Hamilton for their work organizing First Fridays.

PUBLIC HEARING

- A. Consider Sign Ordinance and Municipal Code Amendments to Establish an Art Mural Program File ZA-15-01 – Ordinances**

Opening:

Mayor Ferguson called the public hearing on the consideration of a Sign Ordinance and Municipal Code Amendments to Establish an Art Mural Program to order at 7:43 p.m.

Purpose and Procedures:

Mayor Ferguson stated that the purpose of the hearing was to consider Ordinances adopting amendments to the Zoning Ordinance which include Title 20, Public Art, and Title 14, the Sign Ordinance. He explained the process, standards for Council to use in considering the Ordinance, the order of business, and read a statement regarding appeals.

Conflicts of Interest:

No member of the Council declared a conflict of interest and no member of the public questioned the Council’s impartiality.

Initial Staff:

Ms. Ragel provided background information on the proposed code amendments, explaining that art murals can enrich public spaces, enhance tourism, help create economic potential, and celebrate community. She noted that businesses and organizations have expressed interest in putting-up murals and she reviewed the outreach effort which included a community survey, public meetings, and Council and Planning Commission Work Sessions. She described the legal history of murals and the City of Portland’s 2006 adoption of a mural program; she noted that Council had approved staff initiation of outreach efforts on an art mural program, and the proposed amendments, which are similar to Portland’s mural program, reflect the culmination of that work. She explained that the proposed program includes two types of murals, public and original, and two types of permit processes. She stated that murals would be allowed in manufacturing, commercial, and community service use zones and generally not in residential zones or on historic buildings.

Ms. Kolias reviewed the Planning Commission's consideration of the mural program and explained the proposed amendments to Title 14 and the creation of Title 20. She reported that the Planning Commission had unanimously recommended approval of the program.

Ms. Ragel explained that funding for the proposed mural grant program had not been determined but added that the Arts Committee (artMOB) would help fundraise and that there are other possible funding sources. She discussed the administrative procedures to be rolled out in July along with a call for public mural submissions. She stated that the staff recommends adopting Title 20 and added that several groups would put up murals without grant funding.

Correspondence:

Mr. Stauffer reported that 12 letters or emails had been received by 4 p.m., all in support of the mural program, from Rebecca Banyas, Tim Taylor on behalf of MHS, Jayne Scott, Andrea Adams, Heather Hobson, Lisa Fossen, Peggy Kendellen on behalf of the Regional Arts & Culture Council, Lars Campbell, Karin Power, Keri Wilborn, Alicia Hamilton, and Maitri Dirmeyer.

Conduct of the Hearing:

Mayor Ferguson reviewed hearing conduct and encouraged speakers to be brief.

Testimony in Support:

Jeff Davis, 8703 SE 43rd Avenue, urged Council to adopt the mural program, and commented on the positive impact murals will have on the community and the possibility of public funding.

Denise Emmerling-Baker, 10606 SE Main Street, expressed excitement about First Friday, the Sunday Farmers' Market, the City Hall sculpture garden, and commented on the growing reputation of the MHS and Portland Waldorf School (PWS) art programs. She expressed her appreciation for the work of the artMOB and for the proposed mural program.

Kara Busick, 4306 SE Harrison Street, discussed the shared benefits of murals and public art and stated her support of the proposed mural program.

Bryan Dorr, 2055 SE Olson Street, commented that he was glad to live in a city known for its arts and stated his support for the mural program.

Mr. Zumwalt expressed his support for the mural program.

Mark Pinder, 11300 SE 23rd Avenue, Principal of MHS, stated MHS' support for the mural program and commented on the positive impacts it will have on the students.

Scott Ohman, thanked Council and staff for assisting in the annexation of his property into city limits and stated his support for the proposed mural program.

Chris Haberman, 5229 SE Boise Street, Portland, professional muralist and consultant to the television show *Portlandia* and to Oregon Public Broadcasting, discussed a school history mural at MHS he worked on and described going through the City of Portland's permitting process and working with the community on his murals. He reported that he has worked with artMOB and described himself as an ally of the mural program. He announced his next mural project will be at Mike's Diner in Milwaukie and noted that he was the guest artist at City Hall.

Councilor Churchill thanked Mr. Haberman for his work and asked if he could arrange for Mayor Ferguson to make a cameo appearance on *Portlandia*.

Mike Richardson, President of Dark Horse Comics, expressed his support of the mural program.

Neutral Testimony:

None.

Testimony in Opposition of the Proposal:

None.

Staff Response:

None required.

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Questions from Council to Staff:

None.

Closure of Public Hearing:

It was moved by Councilor Gamba and seconded by Councilor Churchill to close the public testimony portion of the hearing. Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

Council Discussion:

Council President Hedges expressed concern about the potential for offensive murals to be put up and discussed balancing freedom of speech with safeguards against offensive murals.

Ms. Ragel discussed how the proposed public mural program involved two committee reviews and requires the applicant to demonstrate community support for the mural. She explained that for an original mural the content is limited to 40% of the wall space and that none of the art administrators from other cities she spoke with reported any problem with offensive murals; she noted that Portland has approved 45 objective mural permits with no controversies to-date. She expressed her hope that the art would be considered public and would not be offensive, adding that political pressure may have to be exerted if an offensive mural is put up. She discussed the community response to a controversial mural in Estacada.

Ms. Kolias added that the City's review of original mural applications would be content neutral.

Council President Hedges said he did not think this community would display offensive murals, but expressed concern about that the possibility would exist. He commented on how some murals might make people think and cause some discomfort.

Councilor Gamba recalled artMOB discussions about an art mural program and discussed protecting free speech in the form of public art, adding that art is often most engaging when it is to some degree controversial. He said that doing the mural program is a giant step forward and adds Milwaukie to the regional promotion of art in an urban area.

Councilor Miller stated that he supports the mural program and expressed concern about balancing freedom of speech and the potential for offensive murals. He said he would like to see the Chopsticks Express mural that displayed city history put back.

Ms. Ragel commented that the artMOB agrees that the Chopsticks mural should be put back.

Councilor Churchill expressed his support for the mural program and stated his concern about potentially offensive content; he thanked staff for their efforts to control that possible issue.

Mayor Ferguson said he was supportive of the arts and the proposed mural program.

Council President Hedges stated his support for the mural program and discussed the need for community discouragement of racist murals; he noted a difference between opposing opinions about art and art that perpetuates the hatred of another person for any reason.

Council Decision:

It was moved by Councilor Gamba and seconded by Councilor Churchill to approve the first and second readings by title only and adoption of the Ordinance amending Title 14 Signs to exempt art murals from provisions of Title 14 (File #ZA-14-01). The motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

Mr. Monahan read the ordinance for the first and second times by title only.

Mr. Stauffer polled the Council: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye" [5:0].

Ordinance No. 2078:

An Ordinance of the City Council of the City of Milwaukie, Oregon, to amend Title 14 Signs to exempt art murals from provisions of Title 14 (File #ZA-14-01).

Councilor Miller thanked Ms. Ragel for her work on crafting the art mural program.

It was moved by Councilor Gamba and seconded by Councilor Miller to approve the first and second readings by title only and adoption of the Ordinance establishing Milwaukie Municipal Code Title 20 Public Art, Chapter 20.04 Art Murals, with Sections 20.04.050 Public Art Murals and 20.04.060 Original Art Murals, containing rules and procedures for allowing public art murals and original art murals within the City. The motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

Mr. Monahan read the ordinance for the first and second times by title only.

Mr. Stauffer polled the Council: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye" [5:0].

Ordinance No. 2079:

An Ordinance of the City Council of the City of Milwaukie, Oregon, to establish Milwaukie Municipal Code Title 20 Public Art, Chapter 20.04 Art Murals, with Sections 20.04.050 Public Art Murals and 20.04.060 Original Art Murals, containing rules and procedures for allowing public art murals and original art murals within the City.

Mayor Ferguson thanked the artMOB and staff for their work on the art mural program.

LUBA Appeal Information:

Mayor Ferguson read the Land Use Board of Appeal statement.

OTHER BUSINESS

A. Consider Expedited Annexation of 10021 SE Wichita Avenue (File #A-14-01) – Ordinance

Ms. Kalias provided the Staff Report; she reported that no comments in opposition had been received and staff does not believe there are any adverse effects to annexing the property.

Mr. Ohman, the applicant, waived his right to speak as he had made a statement earlier.

It was moved by Councilor Hedges and seconded by Councilor Churchill to approve the first and second readings by title only and adoption of the Ordinance annexing a tract of land identified as tax lot 1S2E30DD-03401 and located at 10021 SE Wichita Avenue into City Limits of the City of Milwaukie and withdrawing the tract from the territory of Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights (File #A-14-01). The motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

Mr. Monahan read the ordinance for the first and second times by title only.

Mr. Stauffer polled the Council: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye" [5:0].

Ordinance No. 2080:

An Ordinance of the City Council of the City of Milwaukie, Oregon, annexing a tract of land identified as tax lot 1S2E30DD-03401 and located at 10021 SE Wichita Avenue into City Limits of the City of Milwaukie and withdrawing the tract from the territory of Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights (File #A-14-01).

Mr. Ohman expressed his appreciation for Council annexing his property into city limits.

B. A Protest of Code Enforcement Abatement: Deanna Martinot, 2840 SE Boyd Street

Mr. Salyers provided the Staff Report and reviewed the code enforcement actions to-date, noting that the property had been in violation since 2011 when a complaint prompted a site visit. He explained the protest process and confirmed that the Ms. Martinot currently resides on the property and has been found guilty in Municipal Court on two separate occasions.

Mayor Ferguson inquired about Council's authority to postpone abatement and **Mr. Ramis** said Council has the authority to allow the abatement to proceed, to stop, or to stop for a specified amount of time; he explained that the Municipal Court and the Council are two independent remedies to getting the property owner to comply with the code.

Councilor Gamba asked if the court case would be heard if Council allowed the abatement and **Mr. Ramis** replied that if abatement ceases the violation the court may be lenient.

Mr. Salyers explained that the City has to show that the property was in violation of the code on the dates cited and discussed code enforcement's end of the fiscal year budget constraints.

Mayor Ferguson noted that the pictures provided by staff don't show any significant abatement of the property and **Mr. Salyers** agreed, adding that some work had been done.

Mayor Ferguson asked about the costs of the abatement process and **Mr. Salyers** replied that no cost analysis had been done as that would require a warrant to access the property; he commented that inoperable vehicles could be towed under the City's contract with Olson Brothers Towing and that any landscaping work could be done by county corrections crew; he noted that the biggest issue will be identifying the debris covered by vegetation.

Mayor Ferguson and **Mr. Salyers** discussed possible abatement timelines and it was noted that if Council found the property to be a nuisance this evening the owner would still have 10 days to comply before abatement by the City began, and that a Council decision at a later date would reduce the staff time available to abate the property with funds currently available.

Mr. Monahan noted the budget and time constraints and confirmed that the owner would have 10 days to comply if Council disallowed the protest this evening.

Joseph Haddad, attorney representing the property owner, reported that his client is in a position to continue the abatement process on her own and had begun vegetation removal. He expressed the owner's concern about the fence violation citation and questioned whether 10 days would be enough time to clean-up the property. He stated that his client requests to have until 7/23/14 to demonstrate that she is working to abate her property.

Council President Hedges inquired why no progress had been made since the first citation and **Mr. Haddad** cited financial and physical constraints on the owner's ability to make abatement a priority; he added that the owner is now working to bring the property into compliance. He said the situation is very distressing for the owner and reported that she is attempting to remove the vehicles and debris which are owned by Norman Yee, who lives on the property.

Councilor Churchill asked if a project plan could be presented and **Mr. Haddad** noted that the protest document has a plan to address the noxious weeds within 20 days and that the owner's goal is to remove all inoperable vehicles and review the fence citation situation within 45 days. He noted his discussions with the City Attorney regarding abatement orders and suggested that the owner would have the debris and vehicles removed at her own expense and that a contractor would be hired to address the fence issue.

Councilor Gamba inquired about the fence violation and **Mr. Haddad** said they were unable to determine if the fence was in the right-of-way and added it might be an obstruction.

Councilor Miller noted that the vehicles had been on the property for three years and asked what assurances the owner could give that the vehicles will disappear in 45 days. **Mr. Haddad** noted that the third-party might not cooperate, making the removal of the vehicles challenging.

Mayor Ferguson asked if the owner was financially able to abate the property and **Mr. Haddad** reported that the owner's finances are still a concern but she is making abatement a priority.

Council President Hedges thanked Mr. Haddad for his forthright answers.

The group discussed the fence being in the right-of-way, possibly partially on private property, and that it does not conform to size rules; alternate uses for the fencing were considered.

Councilor Miller commented that he did not see debris being removed over time from the photos and **Mr. Salyers** noted that it was possible that some vegetation had been removed.

Councilor Gamba asked if abatement funds could be rolled into the next fiscal year and **Mr. Monahan** replied that Council could allocate General Fund contingencies in the next budget.

Mayor Ferguson, citing the lack of progress on abatement since 2011, commented on the neighbors' likely frustration and concluded that he would not be inclined to grant the protest.

Councilor Miller concurred with Mayor Ferguson's comments and said something needed to be done to alleviate the nuisance and that he was inclined to uphold the staff decision.

Council President Hedges stated that the violations had gone on too long with no clean-up of the property and that not enforcing the abatement would be a disservice to the neighbors.

Mayor Ferguson discussed property maintenance resources available to the owner and said he did not like having to take this action but felt it was necessary to clean-up the property.

It was moved by Mayor Ferguson and seconded by Council President Hedges to uphold the Staff decision to abate the property located at 2840 SE Boyd Street.

Councilor Churchill concurred with Mayor Ferguson's comments and expressed his sympathy for the owner, noting that much of the debris was not under her control.

Mayor Ferguson thanked Mr. Salyers and Mr. Ramis for their work on behalf of the City.

Councilor Gamba concurred with Mayor Ferguson's comments and added that taking this action might be the kindest action for the owner.

Councilor Miller expressed his understanding for the owner's situation and concluded that at some point a line has to be drawn so the owner, neighborhood, and City could move forward.

Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

C. Council Reports

Mayor Ferguson and **Councilor Churchill** announced 6/6/14 First Friday activities.

Council President Hedges reported attending the Bike Transportation Alliance presentation of a bicycle to Allisyn Bass, the Milwaukie student who was the Oregon winner of a nationwide poster contest; he announced that the Milwaukie Police Department cadet program would be holding a yard sale on 6/22/14 at the Public Safety Building, and that the Public Safety Advisory Committee would be hosting a fall prevention seminar on 6/11/14 at the Milwaukie Center.

Councilor Miller announced the 6/6/14 groundbreaking ceremony for Riverfront Park Phase II construction and thanked Planning Department staff for the Oregon City and Lake Oswego tour.

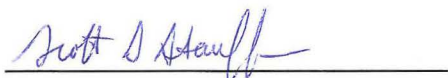
Councilor Gamba congratulated the graduating classes of MHS, La Salle Catholic College Preparatory school, PWS, and Rex Putnam High School.

ADJOURNMENT

It was moved by Ferguson and seconded by Councilor Hedges to adjourn the Regular Session. Motion passed with the following vote: Councilors Miller, Churchill, Hedges and Gamba and Mayor Ferguson voting "aye". [5.0]

Mayor Ferguson adjourned the regular session at 9:47 p.m.

Respectfully submitted,



Scott S. Stauffer, Administrative Specialist II

Correspondence

6/3/14

Rebecca Banyas
Banyas Public Art Consulting
2157 SE Sparrow Street
Milwaukie, OR 97222
503-303-7337
rebeccabanyas.com

May 28, 2014

RE: Mural Program in Milwaukie

Dear Mayor Ferguson and City Council:

I am a new resident of Milwaukie, and am so pleased that the Council will be considering a mural code/ program for the city. I have been a professional in the public art field for many years, and have witnessed the benefits of murals all over the country. I write in strong support of the council passing the mural code/program.

I currently consult with the public transit authority in Los Angeles, CA, considered the “mural capital of the world.” Throughout Los Angeles, murals flourish, providing community identity, historic insights, beauty and delight. It is with great pride that the city works diligently to preserve these important works of art.

Murals will become an essential part of Milwaukie’s identity over the years. I have visited many communities, like Toppenish, Washington, whose mural program attracts many visitors every year:

http://www.elocallink.tv/clients3/wa/toppenish/tourplay.php?movie=topwa13_qol_rev2_iwd&spoon=qualityo

Thank you for your time and consideration.

Rebecca Banyas

6/3/14

Stauffer, Scott

From: Milwaukie OCR
Sent: Wednesday, May 28, 2014 12:44 PM
To: _City Council
Cc: Ragel, Beth
Subject: FW: Need MHS to support mural program June 3rd

Councilors: Please see the comments from Milwaukie High School administrator Tim Taylor regarding the Art Mural hearing scheduled on 6/3.

Scott S. Stauffer, MPP

City of Milwaukie
Office of the City Recorder
T 503.786.7519

From: Tim Taylor [mailto:taylorti@nclack.k12.or.us]
Sent: Wednesday, May 28, 2014 10:36 AM
To: Milwaukie OCR
Subject: Fwd: Need MHS to support mural program June 3rd

Tim Taylor
Director - Milwaukie Academy of the Arts
Assistant Principal - Student Management
(503) 353-5834
taylorti@nclack.k12.or.us

----- Forwarded message -----

From: **Tim Taylor** <taylorti@nclack.k12.or.us>
Date: Wed, May 28, 2014 at 10:24 AM
Subject: Re: Need MHS to support mural program June 3rd
To: "Ragel, Beth" <RagelB@milwaukieoregon.gov>
Cc: Mark Pinder <pinderm@nclack.k12.or.us>, Lori Moe-Burgener <moeburgener1@nclack.k12.or.us>, Michael Fell <fellm@nclack.k12.or.us>

Beth,

I will be at the Freshmen Mixer on June 3rd until 8:00. Please do share with the Committee that MAA/MHS is considering an Artistic mural for the back of the Auditorium building to advertise the talents of our students and to mitigate the potential graffiti that we currently have and prevent an increase with the opening of the new MAX station directly across the street. Thanks, Tim

Tim Taylor
Director - Milwaukie Academy of the Arts
Assistant Principal - Student Management

[\(503\) 353-5834](tel:5033535834)
taylor@nclack.k12.or.us

On Wed, May 28, 2014 at 10:12 AM, Ragel, Beth <RagelB@milwaukieoregon.gov> wrote:

JUNE 3rd—this coming Tuesday.

Beth

From: Mark Pinder [mailto:pinderm@nclack.k12.or.us]
Sent: Wednesday, May 28, 2014 10:11 AM
To: Ragel, Beth
Cc: Tim Taylor; Lori Moe-Burgener; Michael Fell
Subject: Re: Need MHS to support mural program June 3rd

Did you mean June 3rd? July 3rd is a Thursday.

Mark Pinder
Principal
Milwaukie High School
[503-353-5830](tel:5033535830)

On Wed, May 28, 2014 at 10:05 AM, Ragel, Beth <RagelB@milwaukieoregon.gov> wrote:

Mark, Tim, Michael and Lori,

We have a public hearing to get the final Milwaukie mural code/program passed on Tuesday July 3rd, shortly after 7:00pm at City Hall in the Council chambers. It would be extremely helpful if school district staff could either attend and provide testimony or send in written comments. Written comments can be sent to ocr@milwaukieoregon.gov addressed to Council for the June 3rd hearing. Even short comments about the school's intention to place a mural would be good. In person at the meeting is best--but I know it's the end of the school year.

Public Hearing on Murals in Milwaukie, June 3rd

Vibrant new murals may soon grace walls in the commercial and industrial areas of Milwaukie—celebrating our community's unique culture and highlighting businesses. On Tuesday June 3, 2014 City Council will hold a public hearing shortly after 7:00pm to define and allow Art Murals in Milwaukie. After several years of public outreach and discussions with other cities in the region, staff has developed Title 20 (Public Art) for review and

adoption by City Council. As part of this new Title, Art Murals will be defined. Two categories of Art Murals are proposed: Public Murals and Original Art Murals. Public Murals will require a rigorous review by an ad hoc committee and the Milwaukie Arts Committee. Context, feasibility, and community support will be reviewed and the committees will have some discretion over what is allowed and approved. Public Murals may be granted some funding. While funding has not yet been determined, the Arts Committee has offered to help raise funds. As proposed, the second type of mural-- Original Art Murals--will be subject to Planning department review and restricted in size. The content of proposed Original Art Murals will not be reviewed and a permit fee will be assessed. Original Art Murals will be reviewed for conformance with basic standards such as size, location, and if a building permit is needed. For more information see the City's website or contact Beth Ragel at [\(503\) 786-7568](tel:5037867568) or RagelB@MilwaukieOregon.gov

Thanks,

Beth Ragel
Program Coordinator

City of Milwaukie
City Hall| Milwaukie, OR 97222
T [503.786.7568](tel:5037867568)
Building [503.786.7555](tel:5037867555)

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MILWAUKIE SUSTAINABILITY: Please consider the impact on the environment before

printing a paper copy of this message.

6/3/2014

Stauffer, Scott

From: Jayne Scott <jscott@beavertonoregon.gov>
Sent: Wednesday, May 28, 2014 4:04 PM
To: Milwaukie OCR
Cc: Ragel, Beth; kathryn@artisanrenovations.com
Subject: Support and Encourage Mural Program

Mayor Ferguson and Members of the City Council,

The Beaverton City Council voted in April 2008 to exempt all public art from the City's sign code and create a public art program for display of art on public rights of way and on private building facades and other private property under the terms of easements to be granted to the City for that purpose. In 2009, a city-wide public art mural program was established and is administered by the Beaverton Arts Commission (BAC) as part of its Public Art Program. Since the establishment of our mural program, the city has added 5 new murals to our landscape and a 6th is in the works now. The color and imagery in our murals brighten our downtown and offers interesting stories about our community life, our history and our appreciation of nature. The murals create a welcoming, friendly and vibrant environment for our residents and visitors and the program has received wide, community support. Many of the murals have been placed near our downtown core and that has encouraged the development of other, private artistic endeavors including the opening of a cooperative gallery business in 2010 and a second art gallery business opening in June.

I applaud you for your consideration of launching a mural program in Milwaukie and wish you all the best.

Sincerely,

Jayne Scott

Senior Program Manager, Arts, Culture & Events

Office of the Mayor

City of Beaverton | PO Box 4755 | Beaverton OR 97076-4755

p: 503.526.2288 | f: 503.526.2479 | www.beavertonoregon.gov

Email: jscott@beavertonoregon.gov



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6/3/14 RS

Stauffer, Scott

From: Andrea Adams <aadamsgibson@yahoo.com>
Sent: Thursday, May 29, 2014 6:23 PM
To: Milwaukie OCR
Subject: Milwaukie Murals, Attn: Mayor Ferguson and City Council
Attachments: Lois Carrols Mural side by side.jpg; Lois Carrols Right Side of Mural.jpg; Lois Carrols Left Side of Mural.jpg

Dear Mayor Ferguson and the Milwaukie City Council,

I would like to express my unconditional approval of the proposed mural program for Milwaukie. Art in public view creates a vibrancy to the city and murals can lend a place identity, history and valuable paths through the city for visitors and residents alike.

I come from a small town of equal size to Milwaukie (when not including the nearby military base) that has created a very strong and vibrant mural program. Theirs is designed to impart community interest and history. I also have a family connection to the largest mural there as it was painted from my Grandmother's sunrise painting. I have attached images of her murals here, they are proudly vibrant, creative and give pause to take it all in. To me public murals lend a quality of community and an aesthetic tradition that permeates the city well beyond the walls of paint.

Many of the murals in 29 Palms speak to the history of the area and the founding fathers and mothers of the town. Additionally the natural beauty of the area is spotlighted. It is easy to drive past an area and not see what the locals see but the 25 murals make it quite clear--This place is special and here is why.

Please take a moment to go through the following links. I think you will be able to imagine how a similar approach could be quite beneficial in creating a cohesive cultural and historical identity for Milwaukie too.

Symbiotic messaging: <http://www.panoramio.com/photo/33703689>

Unique nature and wildlife of the area: http://www.panoramio.com/photo_explorer#view=photo&position=160&with_photo_id=33703618&order=date_desc&user=1324572
& <http://www.panoramio.com/photo/33703669>

Enhancement of public spaces: <http://www.panoramio.com/photo/33703611>

Visitor guides through the area leading to exploration of the city: <http://www.panoramio.com/photo/33703352>

Early history of the area brought to life: <http://www.panoramio.com/photo/33703361> & <http://www.panoramio.com/photo/33703487> & <http://www.panoramio.com/photo/33703502>

As you consider the visual and community appeal of these images, please also consider the benefit to the local businesses that are now not only more visible but are also more likely to have foot traffic to their areas. Properly managed, murals are a win, win, win, for the city, businesses and residents.

Thank you for your consideration,

Andrea Adams
Milwaukie, Oregon







6/3/14 RS

Stauffer, Scott

From: Heather Hobson <hheather@wcpsolutions.com>
Sent: Monday, June 02, 2014 8:42 PM
To: Milwaukie OCR
Cc: Ragel, Beth; Monahan, Bill
Subject: Mayor Ferguson and City Council, For June 3rd ~ Mural hearing

Mayor Ferguson and City Council;

Unfortunately our family is unable to attend the city council meeting tomorrow but wanted to weigh in on the public hearing; art murals in Milwaukie. Our family supports art murals and hopes the council will vote to approve. We feel murals will enhance our cities appearance, add vibrancy, uniqueness and would be a great opportunity to show case local artists.

Regards,

Heather and Jason Hobson
Alexis Noren
12737 SE Weedman Ct
Milwaukie OR 97222
503.201.2922

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6/3/14 RS

Stauffer, Scott

From: Lisa Fossen <lisafossendance@gmail.com>
Sent: Tuesday, June 03, 2014 11:03 AM
To: Milwaukie OCR
Subject: Murals in Milwaukie

As a new resident of Milwaukie I am very excited about the proposed code changes. When I visit other cities in Oregon and all over this country I see such beautiful public art and murals and I always think "Milwaukie needs this!"

Being a member of Artmob has been such a pleasure and I'm in a constant state of anticipation to see how Milwaukie blooms into a destination like so many other cities in Oregon that I've visited.

I am in full support of staff recommendations to modify code and I look forward to a new "Colorful" Milwaukie. If walls could talk, the stories they could tell.....!

Thank you

Lisa Fossen
11836 SE 34th Avenue
Milwaukie, Oregon 97222

530-941-9991



Regional Arts & Culture Council

Correspondence

RS 6/3/14

411 NW Park Avenue, Suite 101
Portland, OR 97209-3356
503.823.5111
racc.org

June 3, 2014

Beth Ragel
Program Coordinator
City of Milwaukie
City Hall | Milwaukie, OR 97222

Dear Beth:

I am writing in support of allowing art murals in the City of Milwaukie and urge the City Council to adopt Title 20 (Public Art). Murals can serve many purposes in a community: mitigating graffiti, telling community stories, bringing communities/neighborhood associations together during the planning and creation of the mural, and supporting artists. All of these things lend themselves to a more vibrant streetscape and greater community/NDA ownership of their assets.

Since the inception in 2005 of the Public Art Murals Program for the City of Portland that is managed by the Regional Arts & Culture Council, we have supported the creation of over 60 murals in the City of Portland. Providing funding for artists that covers their time and materials is critical to the support of their careers. While many of our murals have been partially underwritten by business owners that occupy a building, many of those murals are not specific or are more generalized in appearance so as not to appear as advertising. The requirement for keeping a mural on a wall for no less than five years influences the apparent aversion for advertising on murals since most ads have a shorter life term.

Community participation has played an important role in many of our mural projects. Many artists embrace that approach to creating art and welcome anyone and everyone of all ages and backgrounds to contribute ideas or actual painting prowess to their project. Other artists prefer to work alone or with an assistant. Flexibility with an artist's approach is important to have as part of any program.

Title 20 will no doubt provide new opportunities and support for artists as well as public art for the Milwaukie community. I urge the City Council to approve the program.

Sincerely,

Peggy Kendall
Public Art Manager
503.823.4196 | pkendellen@racc.org

Correspondence

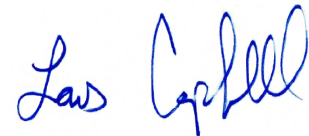
RS 6/3/14

June 3, 2014

Dear Mayor Ferguson and City Council,

I am writing comments in support of the effort to create a mural program in the city of Milwaukie. The arts committee and Beth Ragel have worked tirelessly to think through any and all issues that may come up in the creation of this program, as well as doing a vast amount of due diligence to ensure that the city has a viable program from the perspective of the artists, the community and the city. The recommendation that is being presented is a great way to increase the visibility of Milwaukie within the greater Portland metro area, capitalizing on the arrival of light rail in the city. The synergy of these programs can maximize the effectiveness of our community's push toward a thriving downtown business district and a healthy and vibrant community. Please consider endorsing these efforts with your full backing.

Sincerely,

A handwritten signature in blue ink that reads "Lars Campbell". The signature is written in a cursive, flowing style.

Lars Campbell

6/3/14 RS

Stauffer, Scott

From: Karin Power <power.karin@gmail.com>
Sent: Tuesday, June 03, 2014 12:08 PM
To: Milwaukie OCR
Subject: June 3rd Public Hearing on Murals

City councilors and Mayor Ferguson,

I'm emailing in support of the hearing this evening on public murals in Milwaukie. Public art enlivens drab, concrete walls, can depict important cultural or historical moments, and deters graffiti. 3 of Lonely Planet's (a foremost travel guide) top 10 worldwide public art pieces, for example, are murals (<http://www.lonelyplanet.com/travel-tips-and-articles/76001>).

Art is a key part of Milwaukie's regional reputation; our downtown Dark Horse Comics and Things From Another World businesses embody the kind of commercial success that art-based enterprises can achieve. Murals could further highlight this sort of creativity on the exterior of their buildings and encourage lingering, all-hours pedestrian traffic to our downtown areas. I also bike ride the Springwater Corridor and the mural below is a point of great interest for visitors, tourists, and residents. I can envision something similar on Kellogg Plant's exterior concrete along our riverfront space that would greatly compliment the forthcoming Riverfront Park improvements.

I'm confident that the committees and processes involved in the review and approval of public art would appropriately set screening criteria for inappropriate pieces. I hope you'll endorse these processes as well.

As always, thanks for your time and consideration.

Best,
Karin

Portland Bird Mural



photo:mike houck

Address: 6705 SE 14th Avenue [Map]

The Wilhelm's Portland Memorial Mausoleum, which overlooks the Oaks Bottom Wildlife Refuge, is now the site of the largest mural in the United States, and it's entirely for the birds. The wetland motif mural encompasses almost 50,000 square feet. Begun as a great blue heron mural in 1991 in honor of Portland's city bird, the project has recently been completed thanks to a generous collaboration of sponsors.

The mural now features dozens of bird species found in the Portland area, including wood ducks, an osprey, a red-tailed hawk, a red-winged blackbird and many more.

Neighborhood: Westmoreland

Website: www.urbangreenspacesinstitute

6/3/14 RS

Stauffer, Scott

From: Keri Wilborn <keborn@gmail.com>
Sent: Tuesday, June 03, 2014 2:09 PM
To: Milwaukie OCR; Phil Phan
Subject: Murals in Milwaukie

Hello,

My name is Keri Wilborn. I have been involved with the committee/team that is trying to create murals in the city of Milwaukie for the past couple of years. Both my children attend school in the Milwaukie area as well.

I am very involved with my work with youth in the Portland Metro area and feel there should be space for murals and public works of art in EVERY community.

I will speak firsthand as a young girl who had a few opportunities to create murals in and around Portland while growing up and it was a very transforming and positive experience for me.

I believe the original ideas of some of the "original" team members to work with youth to explore their identities and express their culture is an ideal one for our Milwaukie murals. There have been many recent shifts in the community and it is quickly expanding. We need more expressive and visual ways to invite the community to public spaces and show representation of who the people of Milwaukie are. Especially our young people.

I hope that all the hard work and preparation that the Mural Committee Members have put into this mural project can come into fruition very soon.

Not only will the students/youth benefit from it, but we all will.

Thank you,

Keri Wilborn
Mother, Artist, Community Member, Advocate for youth

503-927-7062

keborn@gmail.com

--

~Keri Wilborn

"Unless one's philosophy is all-inclusive, nothing can be understood."

Mary Ritter Beard

RS 6/3/14

Stauffer, Scott

From: Ragel, Beth
Sent: Tuesday, June 03, 2014 3:28 PM
To: Milwaukie OCR; Koliias, Vera
Subject: FW: Please support Milwaukie Murals

This just came in.
Beth

From: alicia hamilton [<mailto:aliham10@hotmail.com>]
Sent: Tuesday, June 03, 2014 3:26 PM
To: Miller, Mike; Ferguson, Jeremy; Churchill, Scott; Hedges, David; Gamba, Mark
Cc: Ragel, Beth; Monahan, Bill; Zumwalt Ed
Subject: Please support Milwaukie Murals

Dear Milwaukie City Council Members,

Milwaukie is a blank canvas sitting in a room of painters. Everywhere one turns there is a wall begging for an artist's hand.

Your support of changes to the sign code will help bring a vibrancy to Milwaukie it so desperately needs. Art and creative energy are catalysts for growth and we should be doing everything we can to encourage both (see Chapter Five of this National Governor's Association report <http://www.nga.org/files/live/sites/NGA/files/pdf/0901ARTSANDECONOMY.PDF>).

As a citizen of Milwaukie and an organizer of First Friday Milwaukie, I wholeheartedly support a mural program that not only allows, but encourages bringing artists and murals to our city. I certainly hope you will do the same by changing the current sign codes.

Sincerely,
Alicia Hamilton

Stauffer, Scott

From: Maitri Dirmeyer <tiadirmeyer@hotmail.com>
Sent: Tuesday, June 03, 2014 3:34 PM
To: Milwaukie OCR
Subject: RE: Testimony in Support of Mural Program

Dear Mayor Ferguson and Council Members:

I am a committee member of ArtMOB. I am unable to attend the June 3rd, 2014 council meeting and provide testimony in support of establishing a mural program in Milwaukie. Please accept this email as my testimony.

Over the years I have observed first hand in Portland, Oregon City, Canby and many other cities how public art and murals improve the economic vitality of downtown urban cores. I enjoy living, working, and playing in cities that have public art/murals and on more than one occasion I have visited cities just to view their public art. I have also researched the economic benefit of public art and mural programs.

Below is a summary of a few economic benefits from public art and murals that I found on the web.

Public art can:

- Promote economic development by increasing tourism, business and tax revenues, and property values.
- Inspire and energize our town and unite our community, organized groups, and businesses by encouraging participation from all ages and walks of life.
- Beautify our streets while decreasing vandalism and eliminating graffiti.
- Create a greater appreciation of the visual arts and our historical roots while establishing the face and identity of Milwaukie.

Source: Clark County Washington Mural Society. Website. June 3, 2014. <http://www.ccmurals.org/mural-benefits/>

Here are a few additional benefits from public art.

The activities of the arts and culture sector and local economic vitality are connected in many ways. Arts, culture, and creativity can:

- Improve a community's competitive edge
- Create a foundation for defining a sense of place
- Attract new and visiting populations
- Integrate the visions of community and business leaders
- Contribute to the development of a skilled workforce.

Source: Murray, David J. Economic Vitality: How the Arts and Culture Sector Catalyzes Economist Vitality, Arts and Culture Briefing Papers 05. American Planning Association. Website. June 3, 2014.
<https://www.planning.org/research/arts/briefingpapers/vitality.htm>

Thank you for taking my testimony into consideration and for valuing the importance of public art.

Sincerely,

Maitri Dirmeyer

RS 6/3/14

Stauffer, Scott

From: Mike Richardson <miker@darkhorse.com>
Sent: Tuesday, June 03, 2014 6:22 PM
To: Milwaukie OCR
Subject: Mural Program

Mayor Ferguson and the Milwaukie City Council,

I'd like to encourage our city council to support passage of the Milwaukie mural code program. Murals have been very effective in other cities around the country in demonstrating a vibrant energy so important to an active community and its image. These murals enhance community identity and pride and would offer visual proof of our city's own artistic sensitivity and cultural involvement. Dark Horse Comics is proud of our history here in Milwaukie, and we are eager to take part in this great program.

Respectfully,

Mike Richardson
President, Dark Horse Comics



MILWAUKIE CITY COUNCIL

Office of the City Recorder
10722 SE Main Street
P) 503-786-7502
F) 503-653-2444
ocr@milwaukieoregon.gov

Speaker Registration

The City of Milwaukie encourages all citizens to express their views to their elected city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder.

Name: ED PARECKI
Address:

Organization: SELF
Phone:
Email:

Meeting Date: 6/3/14

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:



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Name: ED ZUKWALTA
Address: MILWAUKIE

Organization: FIRST ERS.
Phone: [REDACTED]
Email: [REDACTED]

Meeting Date: 6/3/14

Topic to Discuss:

Agenda Item You Wish to Speak to:

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Name: *Jeff Davis*

Address: [REDACTED]

Organization: *Arts Committee*

Phone: [REDACTED]

Email: [REDACTED]

Meeting Date: *6/3/14*

Topic to Discuss:

Agenda Item You Wish to Speak to:

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Name: Denise Emmerling-Baker
Address:

Meeting Date: June 3, 2014

Organization: ART MOB, Emmerling Studios
Phone: [Redacted]
Email: [Redacted]

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:



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Name: *Kara BUSICK*

Address: [REDACTED]

Organization: *ART MOB*

Phone: [REDACTED]

Email: [REDACTED]

Meeting Date: [REDACTED]

Topic to Discuss:

Agenda Item You Wish to Speak to:

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You are Speaking...

- in Support
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- to ask a Question

Comments:



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Name: **BRYAN DORR**

Address: [REDACTED]

Organization: [REDACTED]

Phone: [REDACTED]

Email: [REDACTED]

Meeting Date: **6/3/14**

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:



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Name: *RED ZUMWALT*

Address: *MILWAUKIE*

Meeting Date: *6/3/14*

Organization: *HIST. MILWA. NDA*

Phone: [REDACTED]

Email: [REDACTED]

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:



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Name: *MARK POWDER*

Address: [REDACTED]

Organization: *Milwaukie High*

Phone: [REDACTED]

Email: [REDACTED]

Meeting Date:

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:



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Name: *Scott Ohman*
Address: [REDACTED]

Organization: *—*
Phone:
Email:

Meeting Date:

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

Annexation

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:

*No reason to speak unless proposed.
only if opposed*



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Speaker Registration

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Name: *CHRIS HABERMAN*
Address: [REDACTED]

Organization: *PEOPLE'S ART GALLERY*
Phone: [REDACTED]
Email: [REDACTED]

Meeting Date: *6/3/2014*

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

MUSIC PROGRAM

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:



MILWAUKIE CITY COUNCIL

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Speaker Registration

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Name: MIKE RICHARDSON
Address: [REDACTED]

Organization: DARK HORSE
Phone: [REDACTED]
Email: [REDACTED]

Meeting Date: 6/3/14

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:



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Speaker Registration

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Name: *Joseph S. Haddad* **HADDAD**
Address: [Redacted] **HADDAD**
Meeting Date: *6/3/14*

Organization: *SSA Law*
Phone: [Redacted]
Email: [Redacted]

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:

Protest of Abatement notice



PUBLIC HEARING ATTENDANCE SIGN-UP SHEET

If you wish to have standing and/or to be on the mailing list for Council information from tonight's hearing, please sign-in below.

6/3/14

Consider Sign Ordinance and Municipal Code Amendments to Establish an Art Mural Program

NAME	ADDRESS	PHONE	EMAIL
Ed Zuhwali	10700 SE 29 TH	654-2492	PEM204@comcast.net
JERRY MURPHY	28383 SE JUDY ROAD	654-3215	Jerry@bobsredmill.com
Sally Thompson	14267 SE Tiara Dr.	503-880-4117	stheba@bobsredmill.com
CHRIS BERMAN	5229 SE BOISE	503-317-8368	CHRISBERMAN@GMAIL.COM
Denise Emmerling-Baker	10606 SE main #213	(503) 407-1940	DUB
Kara Busick	4306 SE Harrison St	503-756-6346	karachristine86@gmail.com
Joseph S. Hedd	351 NW 12 th Ave.	503-552-1467	joseph@jsh-law.com
Jeff Davis	8703 SE 43 rd Ave	503 786 0451	jncdavis@comcast.net
MIKE RICHARDSON		503-260-7191	MIKER@DARKHORSE.COM
MANIC Pruden		503 353 5847	Pinder@nclark.k12.or.us



PUBLIC HEARING ATTENDANCE SIGN-UP SHEET

If you wish to have standing and/or to be on the mailing list for Council information from tonight's hearing, please sign-in below.

6/3/14

Consider Sign Ordinance and Municipal Code Amendments to Establish an Art Mural Program

NAME	ADDRESS	PHONE	EMAIL
Cheryl Snow	CCA - POB 218, OC	503 655-0525	cheryl@clackamasartsalliance.org
Jon Steiner	Park Hamlin Apt.	503 910 8606	jon4efan2@yahoo.com

EXHIBIT

tabbles

RS 6/3/14

June 3, 2014











**MILWAUKIE CITY COUNCIL
REGULAR SESSION**

City Hall Council Chambers
10722 SE Main Street
www.milwaukieoregon.gov

REVISED AGENDA

JUNE 3, 2014

2,175th Meeting

1. CALL TO ORDER **Page #**
Pledge of Allegiance

2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

A. Imagine Clackamas – Clackamas Community College (CCC) 2
Public Engagement Report
Introduced by Greg Chaimov, CCC Board of Education, Milwaukie
Area Representative

3. CONSENT AGENDA

These items are considered to be routine, and therefore, will not be allotted discussion time on the agenda; the items may be passed by the Council in one blanket motion; any Councilor may remove an item from the "Consent" agenda for discussion or questions by requesting such action prior to consideration of that part of the agenda.

A. City Council Meeting Minutes 26

1. May 6, 2014, Regular Session

2. May 20, 2014, Work Session

B. Board, Commission, and Committee Appointments – Resolutions 32

1. Appoint Andrea Adams to the Milwaukie Arts Committee

2. Appoint Maitri Dirmeyer to the Milwaukie Arts Committee

3. Appoint Meg Elston to the Public Safety Advisory Committee

4. Appoint Greg Hemer to the Milwaukie Planning Commission

C. OLCC Applications 36

**1. Bob's Red Mill Natural Foods, Inc., 5000 SE International Way
– New Outlet**

2. ORWA Cider Collective, 3155 SE Sellwood Street – New Outlet

**3. Woodpecker Pizza and Wings LLC, 10610 SE Main Street –
Change of Ownership**

D. Approve Initiation of the Formation of a New Parks and 39
Recreation District under ORS 266 by Clackamas County –
Resolution

4. AUDIENCE PARTICIPATION

The Presiding Officer will call for statements from citizens regarding issues relating to the City. Pursuant to Section 2.04.140 of the Milwaukie Municipal Code, only issues that are "not on the agenda" may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and return it to the City Recorder. Pursuant to Section 2.04.360 of the Milwaukie Municipal Code, "all remarks shall be directed to the whole Council, and the Presiding Officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous." The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.

5. PUBLIC HEARING

Public Comment will be allowed on items under this part of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.

- A. Consider Sign Ordinance and Municipal Code Amendments to Establish an Art Mural Program – Ordinance** **43**
File: ZA-14-01
Applicant: City of Milwaukie
Staff: Associate Planner Vera Koliass and Program Coordinator Beth Ragel

6. 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 Expedited Annexation of 10021 SE Wichita Avenue – Ordinance** **91**
File: A-14-01
Staff: Associate Planner Vera Koliass
- B. A Protest of Code Enforcement Abatement: Deanna Martinot, 2840 SE Boyd St.** **119**
Staff: Code Enforcement Coordinator Tim Salyers
- C. Council Reports**

7. INFORMATION

8. ADJOURNMENT

Meeting Information

- Executive Sessions: The Milwaukie City Council may meet in executive session immediately following adjournment pursuant to ORS 192.660(2).
 - All Executive Session discussions are confidential and those present may disclose nothing.
 - Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed.
 - Executive Sessions may not be held for the purpose of taking final actions or making final decisions.
 - Executive Sessions are closed to the public.
- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503-786-7555
- During meetings the Council asks that all pagers and cell phones be set on silent mode or turned off.



**Regular Session
Agenda Item No.**

2

**Proclamations,
Commendations,
Special Reports,
& Awards**



Community Special Report * Spring 2014

**Preparing
for CCC's
50th year of
service!**

Clackamas Community College (CCC) was founded in 1966. In preparation for its 50th year of service, the CCC Board of Education developed an engagement process called Imagine Clackamas to help it better understand what its students, businesses and community members most value about the College. Imagine Clackamas shined a light on areas where the College needed to improve and adapt its educational and training programs to better meet the needs of the community it serves, both today and in the future.

This special report summarizes the feedback from more than 2,000 participants. It highlights ways in which the College is responding today to meet those needs and sets the stage for longer term investments, such as a proposed bond measure. The College is inviting community members to continue engaging in the conversation about CCC's future.

CCC discovered what the community most values

- * **Degrees and certificate programs that lead to careers and family-wage jobs**
- * **Affordable education that leads to a four-year degree**
- * **Classes and workshops that improve job skills and support career advancement**
- * **Classes that lead to General Educational Development (GED), high school diplomas, and related adult basic skill offerings, such as English as a Second Language (ESL)**
- * **Training opportunities for businesses, career coaching, retraining and credit for work-based experience**



The Community Asked for...

Employer Focus Groups



Over the summer of 2013, the College met with more than 100 members of the business community to learn about their workforce development needs.

Discoveries...

- ★ Good jobs are out there for graduates in a variety of industries, from manufacturing to health science to engineering, but these jobs are going to be highly specialized.
- ★ The College needs to continue aligning its degree pathways and training offerings with both current and future marketplace demands.
- ★ Competition for these jobs is going to be tough. Employers want graduates who have work-based experience, good interpersonal skills and an aptitude for technology.
- ★ The College needs to ensure its graduates are interview ready, not just job ready.
- ★ CCC was asked to lead economic change initiatives.

EMPLOYERS

Businesses asked for...

- ★ Graduates who are ready to move into the workplace with interpersonal skills and an aptitude for technology
- ★ CCC to be their go-to college for training and workforce development
- ★ Professional development support for their employees

The College is responding...

- ★ Creating a one-stop employer service to streamline valuable access to training and workforce support
- ★ Evaluating programs and services to best address the community's request for more training that is reflective of modern industry needs
- ★ Developing a Career Center to help students improve their job-readiness skills
- ★ Initiating a Rapid Response Team to help employers during difficult times by providing employment and training services to those impacted by downsizing



CCC is Responding

STUDENTS

Students and community members asked for...

- ★ Greater help with the cost of financing an education
- ★ Improved transportation options
- ★ Enhanced distance learning offerings
- ★ Increased access to information

The College is responding...

- ★ Foundation pledges to raise \$10 million to reduce student financial barriers
- ★ Securing grants to help laid-off and unemployed citizens return to work
- ★ Expanding Green Line Shuttle
- ★ Improving the College's information channels both in person and online
- ★ Providing financial aid and scholarship information online
- ★ Offering new programs and services for high school students and freshmen
- ★ Enhancing Career Center services
- ★ Expanding opportunities for internships and cooperative work-based experience



“Imagine Clackamas is about building tomorrow’s careers today.”

— Judith Ervin, CCC Board Chair



College prepares for Bond Measure

To address the community's vision for education and training at CCC, the Board of Education is developing a bond measure for the Nov. 4, 2014, ballot that would modernize facilities and equipment for high-demand careers, and build additional classroom and lab space.

The projects in the bond proposal were identified as high priorities by the community through the Imagine Clackamas engagement process.

The Board will finalize the projects at the July 30 Board meeting. The list will likely include a new industrial technical learning center for electronics, automotive, manufacturing, welding and skilled trades programs; modernized training equipment for healthcare, science and engineering programs; improvements to worn-out systems in existing buildings; and replacing the 61-year-old building at the Harmony Community Campus.

If you would like more information on Imagine Clackamas findings or the proposed bond measure, please visit our website, attend a May forum (see back panel) or contact us at publicaffairs@clackamas.edu.

Please contact us at publicaffairs@clackamas.edu or 503-594-3015



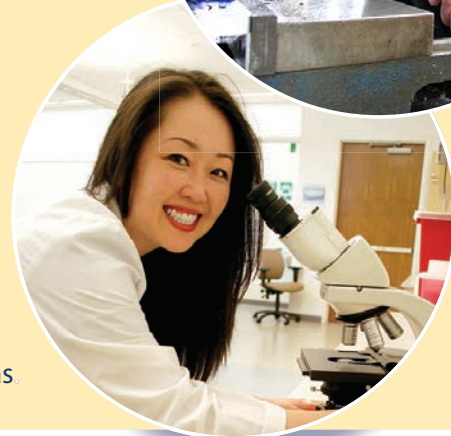
**Preparing for CCC's
50th year of service!**

Community Special Report

To address the community's vision for education and training, Clackamas Community College is developing a bond measure for the November 2014 election. Your input is highly valued. Please join us at one of the upcoming open houses to learn more.

- ★ **Oregon City Campus – Community Center:**
Thursday, May 1 from 5 - 7 pm
Friday, May 2 from 7:30 - 9:30 am
- ★ **Harmony Community Campus – Lobby:**
Thursday, May 15 from 5 - 7 pm
Friday, May 16 from 7:30 - 9:30 am
- ★ **Wilsonville Campus – Lobby:**
Thursday, May 22 from 5 - 7 pm
Friday, May 23 from 7:30 - 9:30 am

For more information go to www.clackamas.edu/ImagineClackamas



CCC Profile

Clackamas Community College has three campuses: Oregon City, the Harmony Community Campus in North Clackamas, and Wilsonville; and surrounding communities. CCC provides career technical, college transfer degrees and basic skills education, along with workforce and business services, job training and community education classes.

Student Profile

- Student Headcount: 30,370 for 2012-13
- Total Full-time Equivalence: 7,894.72 for 2012-13
- Course offerings: associate degrees and certificates, college transfer degrees, career technical education, literacy/basic skills, community education, business training, job training, distance learning and partnerships for four-year degree completion programs.
- Total degree and certificates completed in 2012-13: 1,544.

Tuition Comparison

Starting a four-year degree at Clackamas Community College can save individuals and families thousands of dollars on the cost of their education.

- Average Oregon four-year private university tuition and fees \$36,455
- Average Oregon four-year public university tuition and fees \$8,267
- Clackamas Community College tuition and fees \$4,134

Annual tuition and fees at CCC and Oregon four-year public and private universities is based on figures provided by the Oregon Student Access Commission.

Student Access

- Tuition for the 2013-14 school year is \$84 per credit for in-state students.
- Financial Aid: For 2012-13 the total federal and state aid our students received was \$49,368,125. Compared to 2011-12, the total federal and state aid increased by 19%.
- Scholarships: For 2012-13 the total in scholarships and waivers our students received was \$1,903,905.
- The CCC Foundation provided \$466,206 to students, funded through private donations, in 2012-13.

Veterans Services

Clackamas Community College offers:

- Veterans Education & Training Center
- Job training opportunities
- Counselors to work with veterans
- Veterans Small Business Development
- Dedicated full-time VET Center staff
- Military Families Scholarship Endowment
- Student Veterans Club
- College Credit for military training & experience

Workforce

CCC helps keep the economy moving forward in our region by offering: Customized Training and Development Services (CTDS), Cooperative Work Experience (CWE), Workforce Investment Act (WIA) programs, and the Small Business Development Center (SBDC).

- Over the last five years, CCC has offered 1,251 customized training sections, enrolling 16,494 students, an average of 3,299 annually (course enrollment). In a given year, we serve 50+ area employers.
- In 2013-14 to date, the SBDC served 1,494 clients from Clackamas County and veterans in the Portland Metropolitan area. Additionally, the center provided 1,925 free hours of business counseling and assisted with 51 new business start-ups.

CCC in Oak Grove, Gladstone and Milwaukie

Clackamas Community College is governed by a Board of Education and has an elected representative for each of the seven zones that make up the college district. Judy represents Zone 3 which serves Gladstone, Oak Grove and the west Clackamas area. Greg represents zone 1 which serves the City of Milwaukie, North Oak Grove, and the Harmony Johnson Creek areas. Dr. Joanne Truesdell (CCC class of 1982) serves as college president. CCC has three campuses: Oregon City, North Clackamas (Harmony Community Campus) and Wilsonville; and extension sites in surrounding communities. At CCC we make getting a job, keeping a job and pursuing a higher education our top goal.

High School Connections

Out of 30,370 CCC students (total for 2012-13), 4,311 were from the Gladstone and Milwaukie area.

Gladstone High School

- 149 students graduated from Gladstone High School in 2011 and 37% enrolled at CCC in fall 2012.
- 146 Advanced College Credit students from Gladstone High School earned a total of 1,201 credits in 2012-13, a tuition value of \$94,879.

Milwaukie High School

- 252 students graduated from Milwaukie High School in 2011 and 37% enrolled at CCC in fall 2012 and 32% from Rex Putnam.
- 346 Advanced College Credit students from Milwaukie, Rex Putnam and LaSalle high schools earned a total of 3,676 credits in 2012-13, a tuition value of \$290,404.

Rex Putnam High School

- 240 students graduated from Rex Putnam High School in 2011 and 32% enrolled at CCC in fall 2012.
- 149 Advanced College Credit students from Rex Putnam High School earned a total of 1,404 credits in 2012-13, a tuition value of \$110,916.

Clackamas High School

- 487 students graduated from Clackamas High School in 2011 and 24% enrolled at CCC in fall 2012.
- 177 Advanced College Credit students from Clackamas High School earned a total of 1,158 credits in 2012-13, a tuition value of \$91,482.

Business Connections

- 13 Gladstone and Oak Grove businesses were served by the Small Business Development Center in 2013.
- 95 Milwaukie businesses were served by the Small Business Development Center in 2013.

We welcome your feedback.

Greg Chaimov - gregorychaimov@dwt.com

Judy Ervin - ervinjb@aol.com

Clackamas Community College

Education and Job Training Bond Proposal

4/2/14

During a two-year public engagement initiative, the community asked CCC to update and modernize classroom space that would provide more opportunities for job training and education. The response is a proposal for a \$90 million bond measure for the Nov. 4, 2014 election. The bond proposal would include projects that are the highest priority for the community based on a series of surveys and business focus groups.

Clackamas Community College contributes to the local economy by providing quality job training for high-demand fields. Businesses looking to relocate are attracted to an area by high-quality educational and training programs that can provide a skilled workforce.

The goals of the bond projects are to:

- Increase local access to affordable educational programs that would allow students to transfer to four-year universities or obtain training for family-wage jobs
- Train students in high-demand careers, such as nursing, engineering and manufacturing
- Update and modernize equipment, labs and facilities so students are adequately trained to meet current industry standards

Possible bond projects include:

- Constructing an industrial technical learning center with labs and classrooms that will benefit programs for: electronics, automotive, manufacturing, welding, skilled trades and apprenticeships, such as electricians and plumbers
- Expanding, updating and modernizing equipment and facilities for training in high-demand careers, including healthcare, science and engineering
- Making improvements to existing buildings by replacing worn-out electrical, heating, ventilation and plumbing systems
- Replacing the 61-year-old building at the Harmony Community Campus with an updated workforce development and training facility

A proposed workforce development center would replace the old building on the Harmony Community Campus to support economic development, high-demand careers and transfer degrees.

The new building would use the same square footage, replacing the current building. New construction at Harmony Community Campus would not disrupt traffic on Harmony Road.

The proposed bond debt service in the future is anticipated to be the same as the average it has been over the last ten years.

Next Steps

CCC continues to share information about college programs and the bond proposal with the community.

April-June: A series of community presentations are scheduled in April, May and June.

May Community Forums:

Six community forums with President Joanne Truesdell will be held to allow for public comment.

Oregon City Campus

May 1, 5 – 7 p.m.

May 2, 7:30 – 9:30 a.m.

Harmony Community Campus

May 15, 5 – 7 p.m.

May 16, 7:30 – 9:30 a.m.

Wilsonville Campus

May 22, 5 – 7 p.m.

May 23, 7:30 – 9:30 a.m.

July 30: The CCC Board will vote on the ballot measure in July. The election is Nov. 4, 2014.

Through Nov. 4: Information about the bond proposal will be distributed to the Clackamas Community College community.

The election is Nov. 4, 2014

RS8



Clackamas Community College Public Engagement

2014 Special Report

CCC prepares for 50th year of service in 2016!

- ★ CCC has three campuses - Oregon City, the Harmony Community Campus in North Clackamas, and the Wilsonville Training Center - plus extension sites in surrounding communities.
- ★ CCC provides career technical programs, college transfer degrees and basic skills education, along with workforce and business services, job training and community education classes.
- ★ CCC served 30,370 students in the 2012-13 school-year.



RS10

Tuition Comparison

Do the Math.

TUITION AND FEES

\$4,134



CCC

\$8,267



**Average Oregon four-year
public university**

\$36,455

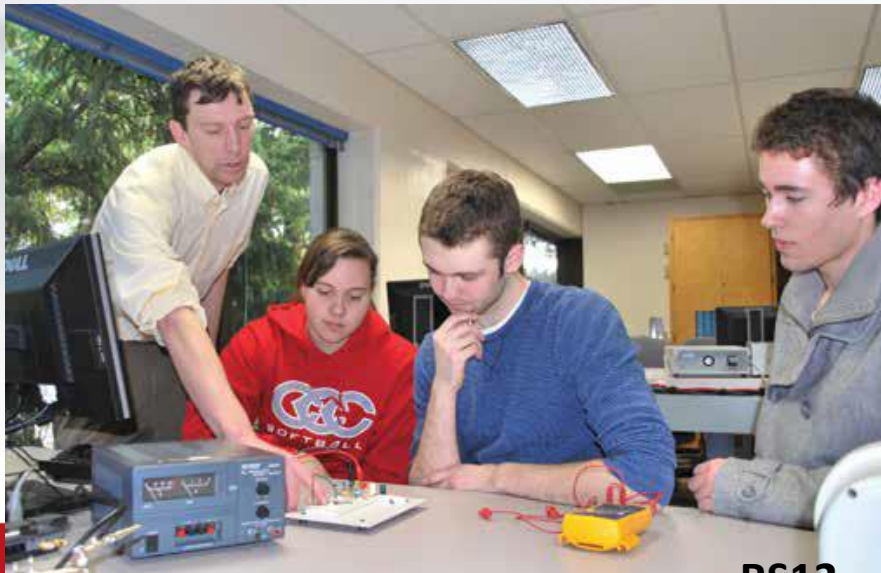


**Average Oregon four-year
private university**

Annual tuition and fees at CCC and Oregon four-year public and private universities is based on figures provided by the Oregon Student Access Commission.

In 2013 more than 2,000 participants shared what they most value about CCC...

- ★ Degrees and certificates that lead to careers and family-wage jobs
- ★ Affordable education that leads to a four-year degree



RS12



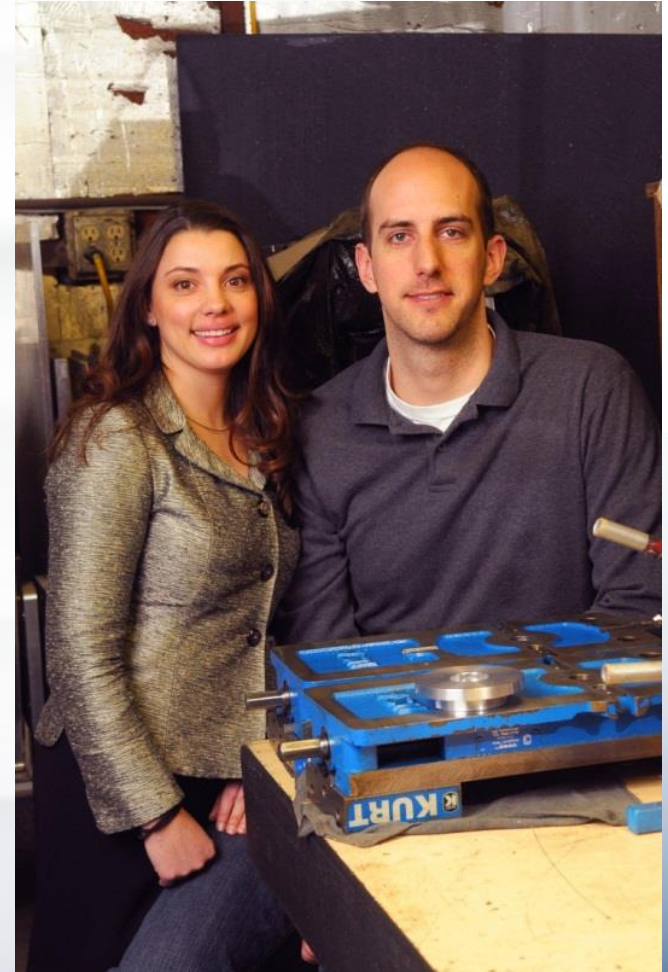
The Community Asked....

CCC is Responding



Immediate actions for employers...

- ★ New one-stop service for employers seeking training and workforce development assistance
- ★ Support for employers and employees impacted by downsizing
- ★ New Career Center services to help students improve their job-readiness skills
- ★ Align degree pathways and training offerings with current and future marketplace demands



Immediate actions for students and community members...

- ★ Foundation pledges to raise \$10 million to reduce student financial barriers
- ★ Securing grants to help laid-off and unemployed citizens return to work
- ★ Expanding Green Line Shuttle
- ★ Improving the College's information channels



Immediate actions for students and community members...

- ★ Financial aid and scholarship information online
- ★ Tuition freeze for 2014-15
- ★ New services for high school students and freshmen
- ★ New Career Center services
- ★ More opportunities for internships and cooperative work-based experience
- ★ New book-lending program



A close-up photograph of two young women wearing blue graduation caps and gowns. They are both smiling warmly at the camera. The woman on the left has a red and blue tassel on her cap, while the woman on the right has a red tassel. The background is a soft, out-of-focus green.

Long-term investments...

“Imagine Clackamas is about building tomorrow’s careers today.”

— Judith Ervin, CCC Board Chair

Long-term investments

College prepares for Bond Measure

To fulfill our community's vision for education and training at CCC, the Board of Education is developing a \$90 million bond measure for the Nov. 4, 2014, ballot that would modernize facilities and equipment for high-demand careers, and build additional classroom and lab space. We anticipate that the average property tax rates would be what they have been for the last decade.

The goals of the bond project are to:

- ★ Increase access to affordable education and training for family-wage jobs that are close to home
- ★ Train students in high-demand careers, such as nursing, engineering and manufacturing
- ★ Update and modernize equipment, labs and facilities so students are trained to industry standards



Secured and Seeking Match

Secured:

\$16 million State Matching Funds for

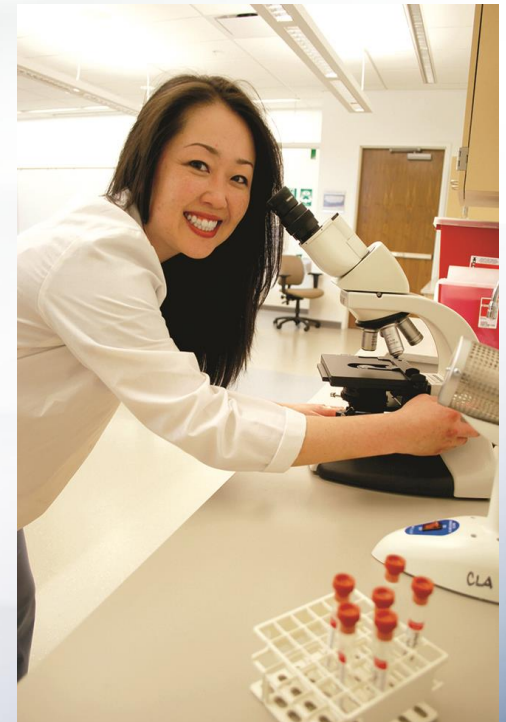
- ★ New industrial technical learning center at Oregon City Campus for electronics, automotive, manufacturing, welding, skilled trades and apprenticeships
- ★ Replacing 61-year-old building at Harmony Community Campus with an updated workforce development and training center

Seeking:

\$5 million in private funds

Possible bond projects include:

- ★ Construction an industrial technical learning center
- ★ Expansion and modernization of equipment and facilities for training in high-demand careers
- ★ Improvements to existing buildings
- ★ Replace 61-year-old building at the Harmony Community Campus with an updated workforce development and training facility



Please join us at one of the upcoming open houses to learn more!

- ★ **Oregon City Campus – Community Center:**

Thursday, May 1, 5:00 – 7:00 pm

Friday, May 2 from 7:30 – 9:30 am

- ★ **Harmony Community Campus – Lobby:**

Thursday, May 15, 5:00 – 7:00 pm

Friday, May 16 from 7:30 – 9:30 am

- ★ **Wilsonville Campus – Lobby:**

Thursday, May 22, 5:00 – 7:00 pm

Friday, May 23, 7:30 – 9:30 am



We invite you to continue the conversation

- ★ Stay connected online at www.clackamas.edu/ImagineClackamas
- ★ Invite us to attend a meeting in your community at publicaffairs@clackamas.edu
- ★ Call us at 503-594-3015



Thank you!



**Regular Session
Agenda Item No.**

3

Consent Agenda



MINUTES
MILWAUKIE CITY COUNCIL
www.milwaukieoregon.gov

REGULAR SESSION
MAY 6, 2014
City Hall Council Chambers

Council President Hedges called the 2,173rd meeting of the Milwaukie City Council to order at 7:08 p.m.

Council Present: Council President Hedges and Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff Present: City Recorder Pat DuVal, Finance Director Casey Camors, Community Development Director Steve Butler, Engineering Director Jason Rice, and City Attorney Tim Ramis

CALL TO ORDER

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Poppy Days Proclamation

Council President Hedges explained the history of Poppy Days, read the poem *In Flanders Fields*, and introduced the American Legion Auxiliary Unit 180's 2014 Miss Poppy Days, who distributed red poppies. Council President Hedges then read the proclamation and presented Miss Poppy Days with a copy.

B. North Clackamas Parks and Recreation District (NCPRD) Master Plan Update

Gary Barth, NCPRD Director, reviewed the NCPRD's Master Plan update process and the possible formation of an independent parks district. He reported the preliminary results of recent polling and noted the high positive ratings of the NCPRD and the broad support of an independent parks district; he discussed the support shown in the poll for the proposed funding solution. He also reported on an estimated compression loss for Milwaukie if a new parks district was created with the proposed funding solution. He described the next steps on forming the new parks district, including a Council Resolution supporting of the new district from the Milwaukie City Council in June.

Councilors Miller, Gamba, and Churchill voiced their continued support for an independent parks district and **Council President Hedges** discussed the possible funding phase-in and voiced his support for the independent parks district.

Council President Hedges announced that Mayor Ferguson and City Manager Monahan had been excused from the Regular Session.

CONSENT AGENDA

It was moved by Councilor Gamba and seconded by Councilor Churchill to approve the consent agenda as presented.

A. City Council Meeting Minutes:

1. April 15, 2014, Work Session;

2. April 15, 2014, Regular Session; and
3. April 17, 2014, Study Session

B. Board, Commission, and Committee Appointments.

1. Resolution No. 38-2014 Reappointing Charles Bird to the Kellogg Good Neighbor Committee;
2. Resolution No. 39-2014 Reappointing Neil Hankerson to the Kellogg Good Neighbor Committee; and
3. Resolution No. 40-2014 Reappointing Gary Klein to the Kellogg Good Neighbor Committee

C. Resolution No. 41-2014 Authorizing an Amendments to the Habitat Development Agreement and Initial Escrow Instructions (“Second Amendment”) between the City of Milwaukie and Wildlands’ Capital Partners, LLC

D. Resolution No. 42-2014 Extending the Contract for Photo Radar Services with Automatic Computer Systems (ACS) Inc. / Xerox, and Making Findings that Traffic Safety is Negatively Impacted by Speed at Locations on Hwy 99E and on Johnson Creek Blvd in the City of Milwaukie.

Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill voting “aye.” [4:0]

AUDIENCE PARTICIPATION

Ms. DuVal reported the findings of the Office of the City Manager related to questions raised during Audience Participation at the April 15, 2014, meeting. The first question by Ed Parecki, in regards to business registration code enforcement procedures, she reviewed how each of the business citations in question were resolved; the second question by Michael Backus, regarding delivery of business registration mail, she reported how the Code Compliance officer verifies business addresses; and the third question, also by Mr. Backus, relating to Council’s role in setting business registration fine amounts, Ms. DuVal reported that the Municipal Court Judge has the authority to rule on all matters before the court and neither the Council nor staff should interfere.

Jim Bernard, Celebrate Milwaukie, Inc. (CMI) discussed the work done by CMI, including the Sunday Farmer’s Market, and thanked the City for supporting the market and allowing the free use of the parking lot. He thanked and introduced his colleagues at CMI and said they look forward to the market continuing to grow. Mr. Bernard also noted he is now the Clackamas County commission liaison to Milwaukie.

Council President Hedges thanked CMI for its work on the Sunday Farmers’ Market and asked Mr. Bernard about the possibility of the county refunding the money the City paid for county land to be used as part of Riverfront Park.

Mr. Bernard stated that he never thought the county should have charged the City for that land and said he would discuss it with his fellow county commissioners.

Willie Miller, American Federation of State, County, and Municipal Employees (AFSCME) Local 350-5 President, thanked the Council for its support and asked for public support for Milwaukie ballot measure 3-439, noting recent and upcoming phone banking sessions in support of the ballot measure. He also commented on his personal connection to Poppy Days, explaining that his grandfather served in World War I.

Lisa Batey, Milwaukie resident, noted the new banners on McLoughlin Blvd and the ad for the Sunday Farmers’ Market in the *Willamette Week*; she encouraged voters to mark ‘yes’ on the ballot for both City measures; and she announced the short film festival this coming weekend at the Milwaukie Masonic Lodge. She thanked Claudia Steinberg, with TriMet, who is retiring, for her outreach work in the community.

Richard Cayo, Milwaukie resident, noted his opposition to the light rail project and reported that he had sent the *Clackamas Review* newspaper a letter in opposition to the City-referred ballot measure authorizing the sale of bonds; he explained the newspaper had omitted several passages and proceeded to read the missing sentences.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. Milwaukie Riverfront Park Phase II – Oregon Department of Fish and Wildlife (ODFW) Project Agreement - Resolution

Mr. Rice introduced the topic and provided background information on the ODFW and Oregon Marine Board (OMB) grants; he clarified that the project funding includes \$200,000 from the OMB, \$1 million from the City through the Kellogg Good Neighbor Committee, and a matching \$1 million from the ODFW.

The group agreed to discuss agenda items 6. A. and 6. B. simultaneously; it was understood that Council would take action on the resolution under item 6. A.

Mr. Butler and **Mr. Rice** discussed the Riverfront Park Phase II project, including completion goals and timelines, funding sources, and groups consulted and contracted with to-date. They described the contractor bid process and explained that all bids received had come in over the projected project budget.

The group discussed the varying estimated project costs and work experience differences between the contractors who submitted bids on the project.

Mr. Rice discussed the budget gap between the estimated costs, funding secured, and the lowest contractor bid received. He presented and discussed strategies for funding the budget gap, including possible additional state funding, postponing construction of pathway bridges and lighting, using funds possibly returned from the county that had been used to purchase property for the project, and reconsidering the inclusion of non-essential elements of the plan. **Mr. Butler** discussed readjusting economic development funds for use on the Riverfront Park project to close the funding gap.

Councilor Churchill inquired about cost savings related to moving the Portland General Electric (PGE) power poles. **Mr. Rice** discussed the use of sub-contractors.

Councilor Gamba asked about the responsiveness of ODFW and OMB officials regarding additional funding. **Mr. Rice** and **Mr. Butler** described the timeline for presenting information to Council and reported their conversations with state contacts.

Councilor Gamba asked about any response from the consultants at David Evans and Associates (DEA) in regards to the budget gap. **Mr. Rice** said he had spoken to DEA and they had discussed various supply and labor cost estimate differences.

The group discussed the possibility of rejecting the received bids and calling for new bids based on revised requirements; it was noted that rejecting the received bids would delay the construction timeline into 2016. Change orders, price negotiations, and adjusting City-ordered project requirements were also discussed.

Councilor Churchill asked about project contingency funds and **Mr. Rice** replied that the project carried zero contingency and confirmed that the DEA estimate did not include contingency funding, which had been requested by staff.

The group discussed working with the lowest bidding contractor to reduce costs, possible additional state funding, and approaching members of the original Riverfront Board for private donations to support the project.

Council President Hedges supported seeking additional state funds and said he would work on getting a refund of the money used to purchase park property from the county.

Councilor Churchill asked staff to work with the lowest bidding contractor on value engineering on the pathway bridges before they would be removed from the scope of work; he also discussed the need for contingency funding as the project moved forward.

It was moved by Councilor Churchill and seconded by Councilor Gamba to approve the Resolution authorizing the City Manager to enter into a “Grant Agreement” with the Oregon Department of Fish and Wildlife in order to receive grant funding for the construction of Riverfront Park Phase II. Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill voting “aye.” [4:0]

Resolution No. 43-2014:

A Resolution of the City Council of the City of Milwaukie, Oregon, hereby authorizing the City Manager to enter into a “Grant Agreement” with the Oregon Department of Fish and Wildlife in order to receive grant funding for the construction of Riverfront Park Phase II.

B. Milwaukie Riverfront Park Phase II Contract Award

[Note: Council consideration of this agenda item was included under item 6. A.]

C. Council Reports

Councilor Gamba announced he would have pro-bond measure yard signs available and reported on events he had attended and events coming-up. He reported meeting with the editorial board of the *Clackamas Review* who planned to write editorials in favor of passing both City-referred ballot measures.

Councilor Miller reported attending a volunteer recognition event at the Milwaukie Center and encouraged citizen participation in the center’s activities.

Councilor Churchill reported on the events he had attended and thanked Stacy Bluhm for her work on shortening the duration of downtown street closures due to light rail construction. He discussed walking around the sewage plant to monitor the odor and the input he has received from residents regarding Moving Forward Milwaukie (MFM) and proposed downtown building heights.

Council President Hedges summarized the meetings and events he had attended; he thanked the volunteers assisting with Shred Day, Drug Turn-in Day, and the bike donation program. He expressed his support for the City staff’s union and frustration with rumors spread using his name. He announced various upcoming events and the birth of his second grandson, Brandon Michael Peas.

ADJOURNMENT

It was moved by Councilor Churchill and seconded by Councilor Miller to adjourn the Regular Session. Motion passed with the following vote: Councilors Hedges, Gamba, Miller and Churchill voting “aye.” [4:0]

Council President Hedges adjourned the Regular Session at 8:48 p.m.

Respectfully submitted,

Scott S. Stauffer, Administrative Specialist II



MINUTES
MILWAUKIE CITY COUNCIL
www.milwaukieoregon.gov

WORK SESSION
MAY 20, 2014
City Hall Conference Room

Mayor Ferguson called the work session to order at 5:18 p.m.

Council Present: Council President Dave Hedges and Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff Present: City Manager Bill Monahan, City Recorder Pat DuVal, City Attorney Tim Ramis, Finance Director Casey Camors, Community Development Director Steve Butler, Engineering Director Jason Rice, Planning Director Denny Egner, and Associate Planner Li Alligood

City Manager's Report

Mr. Monahan discussed agenda revisions that included postponing the garbage rate report to the 6/3/14 work session, amendments to the 5/22/14 study session agenda, and upcoming Budget Committee meetings. Mr. Monahan reported that the Oregon Supreme Court had remanded the Dunn v. City of Milwaukie case to the Court of Appeals.

Mayor Ferguson announced the Council Dropboxes were full, and that the Office of the City Recorder had offered to help with the clean up if Councilors wanted assistance.

Community Development Update

Mr. Butler said the Milwaukie Riverfront Park Phase II construction contract would be discussed in the regular session and noted the Riverfront Task Force voted to support the Council's approving the proposed contract and offered its support in helping to close the funding gap.

Mr. Rice reported the City's and Metro's comments on the cost and duration the Oregon Department of Transportation's (ODOT) 17th Avenue Multiuse Trail Project. He announced the "ride along" organized by project staff to gather input through the eyes of pedestrians and cyclists. The group discussed strategies for hastening the process.

Mr. Egner reported on upcoming Planning Commission hearings for Wichita Park and the proposed Moda Health parking lot expansion which the Design and Landmarks Committee recommended for approval. Staff was working with business and property owners to allow a Jazzercise facility to locate in the Graham Building and a hydroponic equipment supply store in the Shipley Building.

Mr. Butler briefly discussed the West McLoughlin Boulevard subarea planning effort and the Reliable Credit proposal to add more employee parking by converting the property to the north of the business to more permanent parking. He reported that the recently renovated Dark Horse Comic Building at Main and Jefferson Streets was fully leased and announced that the Revolve Vintage Shop has decided to continue trying to make its current location work.

Council President Hedges discussed the feasibility of signage options for Revolve, and **Councilor Churchill** suggested talking with the property owner about underutilized sign space on his building.

Mr. Butler would provide more information at the 5/22/14 study session on the Reliable Credit proposal and the interest expressed by several downtown businesses that the City implement a parklet pilot program.

Moving Forward Milwaukie (MFM): Action and Implementation Plan

Mr. Butler and **Abe Farkas**, ECONorthwest, provided an overview and summary of the MFM Project. The goal of the Project was implementation to make sure the commercial areas look and function the way the community wants them to and to take steps to have the downtown and the central Milwaukie Murphy and McFarland sites live up to their potential by removing barriers.

Mr. Farkas reviewed the Project schedule and the current status. The purpose of this meeting was to reach consensus on the draft action and implementation matrix, get direction on the financial component, and hear general input from the Council. He reviewed the proposed action plan that included regulatory and policy recommendations and key financial considerations. Items in the financial “toolbox” might include tax abatement, site specific tax increment financing (TIF) zones, local improvement districts (LID) for public improvements, and direct City funding for appropriate development. The Council would get to choose when and which tool or tools were appropriate. He showed slides of downtown opportunity sites and buildings that were in good condition with several of them being candidates for adaptive reuse. He reviewed input from the project advisory committee (PAC) that indicated interest in enhanced City involvement. Sources of direct investment of City funds could include the General Fund, General Obligation (GO) bonds, sole source system development charges (SDC), and franchise and license fees. At this time, the PAC was split on whether or not the City should explore these strategies.

Mr. Farkas discussed key regulatory and policy recommendations that included streamlining the City’s permitting and review process. In the downtown it was recommended that the number of zones be reduced, that a two track process for new development be established, that pedestrian oriented standards for 21st Avenue and urban design standards for McLoughlin Boulevard be expanded, and that consideration be given to changing the public area requirements (PAR). He asked for Council comments.

Councilor Churchill states his support of a two track process for adaptive reuse projects.

Mayor Ferguson said he wanted to keep in mind increased bike and pedestrian traffic from the Trolley Trail.

Councilor Miller explained that he did not want anything in the financial “toolbox” that would increase the tax burden on current property owners.

Mayor Ferguson announced immediately upon adjournment of the work session the City Council would meet in executive session pursuant to ORS 192.660(2)(f) to consider information or records that are exempt by law from public inspection.

Mayor Ferguson adjourned the work session at 6:34 p.m.

Respectfully submitted,

Pat DuVal, City Recorder

6/3/14



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A resolution of the City Council of the City of Milwaukie, Oregon appointing Andrea Adams to the Milwaukie Arts Committee.

WHEREAS, a vacancy exists on the Milwaukie Arts Committee; and

WHEREAS, Milwaukie Charter Section 26 provides that, "the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body," and

WHEREAS, Andrea Adams possesses the necessary qualifications to serve on the Milwaukie Arts Committee.

Now, therefore, the City of Milwaukie, Oregon resolves as follows:

SECTION 1: That Andrea Adams is appointed to the Milwaukie Arts Committee.

SECTION 2: That her term of appointment shall commence immediately and shall expire on March 31, 2015.

Introduced and adopted by the City Council on **June 3, 2014**.

This resolution is effective immediately.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

6/3/14



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A resolution of the City Council of the City of Milwaukie, Oregon appointing Maitri Dirmeyer to the Milwaukie Arts Committee.

WHEREAS, a vacancy exists on the Milwaukie Arts Committee; and

WHEREAS, Milwaukie Charter Section 26 provides that, "the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body," and

WHEREAS, Maitri Dirmeyer possesses the necessary qualifications to serve on the Milwaukie Arts Committee.

Now, therefore, the City of Milwaukie, Oregon resolves as follows:

SECTION 1: That Maitri Dirmeyer is appointed to the Milwaukie Arts Committee.

SECTION 2: That her term of appointment shall commence immediately and shall expire on March 31, 2015.

Introduced and adopted by the City Council on **June 3, 2014**.

This resolution is effective immediately.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

6/3/14



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A resolution of the City Council of the City of Milwaukie, Oregon appointing Meg Elston to the Public Safety Advisory Committee.

WHEREAS, a vacancy exists on the Public Safety Advisory Committee for a representative of the Island Station NDA; and

WHEREAS, Milwaukie Municipal Code Section 2.24.020(B) provides for appointment of members of the Milwaukie Public Safety Advisory Committee "by the council;" and

WHEREAS, Meg Elston possesses the necessary qualifications to serve on the Committee and has indicated her desire to serve.

Now, therefore, the City of Milwaukie, Oregon resolves as follows:

SECTION 1: That Meg Elston is appointed to the Milwaukie Public Safety Advisory Committee as the Island Station NDA representative.

SECTION 2: That her term of appointment shall commence immediately and shall expire June 30, 2016.

Introduced and adopted by the City Council on **June 3, 2014**.

This resolution is effective immediately.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

6/3/14



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A resolution of the City Council of the City of Milwaukie, Oregon appointing Greg Hemer to the Milwaukie Planning Commission.

WHEREAS, a vacancy exists in position one of the Milwaukie Planning Commission; and

WHEREAS, Milwaukie Charter Section 26 provides that, "the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body," and

WHEREAS, Greg Hemer has served on the Design and Landmarks Committee and possesses the necessary qualifications to serve on the Milwaukie Planning Commission.

Now, Therefore, be it Resolved that

SECTION 1: Greg Hemer is appointed to the Milwaukie Planning Commission for the remainder of the term for position one, which expires on March 31, 2015.

SECTION 2: That his term of appointment shall commence immediately and shall expire March 31, 2015.

Introduced and adopted by the City Council on **June 3, 2014**.

This resolution is effective on **June 4, 2014**.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder


City Attorney



RS 3. C. 1.

6/3/14

To: Mayor Ferguson and Milwaukie City Council
Through: Bill Monahan, City Manager

From: Steve Bartol, Chief of Police
ACTING POLICE CHIEF  *DYE*

Date: May 19, 2014

Subject: OLCC Application – Bob's Red Mill Natural Foods, Inc – 5000 SE International Way

Action Requested:

It is respectfully requested the Council approve the OLCC application to obtain a liquor license for Bob's Red Mill Natural Foods, Inc. – 5000 SE International Way, Milwaukie, OR 97222.

Background:

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

POLICE DEPARTMENT
3200 SE Harrison Street
Milwaukie, Oregon 97222
P) 503 786 7400 / F) 503 786 7426
www.milwaukieoregon.gov

RS36



RS 3. C. 2.

6/3/14

To: Mayor Ferguson and Milwaukie City Council

Through: Bill Monahan, City Manager

From: Steve Bartol, Chief of Police

ACTING CHIEF

 DYE

Date: May 19, 2014

Subject: OLCC Application – ORWA Cider Collective – 3135 SE Sellwood Street

Action Requested:

It is respectfully requested the Council approve the OLCC application to obtain a liquor license for ORWA Cider Collective LLC at 3135 SE Sellwood Street, Milwaukie, OR 97222.

Background:


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

POLICE DEPARTMENT
3200 SE Harrison Street
Milwaukie, Oregon 97222
P) 503 786 7400 / F) 503 786 7426
www.milwaukieoregon.gov

RS37

6/3/14



To: Mayor Ferguson and Milwaukie City Council
Through: Bill Monahan, City Manager
From: Steve Bartol, Chief of Police 
Date: May 1, 2014
Subject: O.L.C.C. Application – Woodpecker Pizza and Wings LLC – 10610 SE Main Street

Action Requested:

It is respectfully requested the Council approve the O.L.C.C. application for the change of ownership to obtain a liquor license for Woodpecker Pizza and Wings LLC – 10610 SE Main Street.

Background:

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



MILWAUKIE CITY COUNCIL
STAFF REPORT

RS 3. D.

6/3/14

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Supporting formation of a new parks and recreation district and agreeing to include the City of Milwaukie within the new district's boundaries**

From: Steve Butler, Community Development Director

Date: May 27, 2014, for June 3, 2014, Regular Session

ACTION REQUESTED

Council action on a resolution supporting formation of a new parks and recreation district (with a yet-to-be determined increased tax rate), and including the City of Milwaukie in the boundary of the new district. This action has been requested by the Clackamas County Board of County Commissioners, in their role as the Board of the North Clackamas Parks and Recreation District (the Board).

BACKGROUND

The North Clackamas Parks and Recreation District (NCPRD) was formed in 1990, with a tax rate of 54 cents per \$1,000 of assessed valuation; its annual budget is approximately \$24 million. NCPRD provides recreational and park maintenance services to the north part of Clackamas County, which includes maintenance of the City of Milwaukie's parks.

As part of its master plan update process, NCPRD staff conducted polling regarding a possible change in governance and the maximum permanent tax rate that district residents would support in the formation of a new district. Based on that polling, there appears to be support for formation of a new district at a higher rate.

On May 13, 2014, the Board gave NCPRD staff direction to proceed with a ballot measure for the November 2014 election to create a new independent park and recreation district, with a dedicated elected board as authorized under ORS 266 at a proposed maximum permanent tax rate not to exceed \$0.99 per \$1,000 of assessed value. The final proposed rate for the ballot will be determined at a June 12, 2014, Board meeting, once final ballot polling of district residents is completed.

A 'yes' vote would simultaneously create the new district and merge the existing NCPRD – which is currently a county service district organized under ORS 451 and governed by the Board of County Commissioners at a permanent rate of \$0.5382/\$1,000 – into the new district. The primary outcome of a 'yes' vote would be to increase the permanent tax rate to a rate greater than the current rate but less than or equal to \$0.99/\$1,000 to allow the district to have adequate reserves into the future to repair, replace, and refurbish the existing assets of the district, expand programs and services, and, depending on rate, contribute to development of new capital assets to close service gaps in the system. The 'yes' vote would also create a new, dedicated elected board, focused solely on the park and recreation district, made up of residents whom must reside within the district's boundaries.

Based on recent discussions between City Council and NCPRD staff, NCPRD understands that the City wishes to be included in the boundaries of the new district to facilitate this transition in governance and increase in operational funding. The method to affirm that inclusion is by adoption of the attached resolution. The resolution is required so NCPRD staff and legal counsel can provide the boundary description for the newly proposed district, which is required before the NCPRD Board can request formation of that new district to the Board of County Commissioners, in their capacity as the county boundary commission, at the June 12, 2014, business meeting.

FISCAL IMPACTS

None for the City at this point. If the new district ballot measure passes, then all taxpayers within the new district's boundaries will pay an increased tax rate for increased facilities and services.

ATTACHMENTS

1. Draft Resolution



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A resolution of the City Council of the City of Milwaukie, Oregon, approving a Clackamas County Order to Initiate the Formation of a new Parks and Recreation District under ORS 266.

WHEREAS, Clackamas County intends to form a parks and recreation district under the authority of ORS 266 ("266 District"). This District would replace the current North Clackamas Parks and Recreation District ("NCPRD") The 266 District would have authority to fund, support and provide park, open space and recreational opportunities for residents within its boundaries; and

WHEREAS, Clackamas County may initiate the formation of a 266 District by adopting an order under authority of ORS 198.835. Clackamas County would like to include the City of Milwaukie within the proposed boundary; and

WHEREAS, the Board of Clackamas County Commissioners is planning to adopt an Order on June 12, 2014, initiating the formation of the 266 District; and

WHEREAS, The territory of the City of Milwaukie may only be included within the boundaries of the 266 District if the City Council adopts a resolution approving the County order initiating the formation of the 266 District.

WHEREAS, The City Council believes a 266 District at a new, higher permanent rate will be better positioned to provide park and recreational services throughout our community.

Now, Therefore, be it Resolved that The City of Milwaukie hereby consents to the inclusion of all the territory of the City within the proposed boundaries of a new 266 District at a new permanent rate not to exceed \$0.99/1000 of assessed value, and supports and approves the Clackamas County order initiating the formation of said district.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



**Regular Session
Agenda Item No.**

5

Public Hearing

6/3/14



MILWAUKIE

Dogwood City of the West

To: City Council

Through: Bill Monahan, City Manager
Denny Egnor Planning Director

From: Beth Ragel, Program Coordinator
Vera Koliias, Associate Planner

Date: May 23, 2014, for June 3, 2014, Public Hearing

Subject: Art Mural Code Amendments (New Title 20) and Amendments to the Sign Ordinance (Title 14) – File ZA-14-01

ACTION REQUESTED

Staff recommends that City Council adopt Title 20, Public Art, which amends Milwaukie Municipal code and includes chapters defining and permitting two types of murals—Public Murals and Original Art Murals. Further, staff recommends that City Council approve related amendments to Title 14, Sign Ordinance.

SUMMARY

The proposed amendments would establish Title 20, Public Art, including chapters which define two types of murals—each consisting of separate permitting paths. "**Public Art Murals**" are proposed to be permitted through a public art easement and will be subject to review by an ad-hoc City committee. Public Art Murals may occupy up to 100% of a wall. "**Original Art Murals**" are proposed to be permitted through a clear and objective permit process without committee review. As proposed, Public Art Murals may occupy up to 40% of a wall. The Sign Ordinance currently limits wall signs to 20% of a wall. The proposed Sign Ordinance amendments exempt Public Art Murals and Original Art Murals from the provisions of the Sign Ordinance and also include an overall size limitation in cases where signs and original art murals are applied to the same wall face. The proposed amendments to the Sign Ordinance (Title 14) have been processed as a land use decision and have been recommended for approval by the Planning Commission ([File ZA-14-01](#)).

BACKGROUND INFORMATION

A. History of Prior Actions and Discussions

The City Council provided direction to staff to develop an art mural program in September of 2011. Staff worked with the Milwaukie Arts Committee (artMOB) and community members to draft a proposal that was brought to a public hearing before the Planning Commission in September 2012. At that time, legal issues were identified that required reconsideration of the approach and the need for a clear and objective process in addition to a process that was subject to committee review. Work sessions were held with the Council in late 2012 and early 2013 and with the Planning Commission in the fall of 2013. On April 8, 2014, the Planning Commission held a hearing on the proposed amendments and recommended approval. See Attachment 4 for a timeline with a more detailed description of the process

B. Why Code Changes Are Needed

Murals are a unique form of art that can add character to an area and contribute to a community's identity and sense of place. For these reasons, community members and the artMOB have expressed a desire for the City to allow and encourage murals within the community. Prior to 2006, Milwaukie's sign ordinance allowed "painted wall decorations or embellishments...not accompanied by a written message" as a display that was exempt from a sign permit.

In 2006, the sign ordinance was revised to be consistent with court rulings regarding sign regulations and free speech protection. The key concept in the court rulings that necessitated the amendments is that the government cannot regulate signs based on their content. Instead, the regulations must be limited to physical aspects of the signs such as the time they are displayed, the places where they are displayed, and the manner in which they are displayed. The resulting amendments removed language that exempted, prohibited, or required different levels of review based on the message of the display or sign.

The permit exemption for murals was removed because it would require the evaluation of content for the presence of a written message and to determine if the display was a decoration or embellishment as opposed to being a standard sign. The amendments to remove content-based regulations in the sign code had to be accomplished expediently to avoid legal challenges, and staff did not have the time during the Sign Code update to explore alternatives to permitting murals.

Under the current sign code, the City standards applying to murals are the same as those applying to signs. Murals are permitted under the same standards as other wall signs, and are subject to the same size regulations, which limit sign face area to 20% of the total wall area in most zones. This presents a difficulty for murals since most murals use all or a significant percentage of the total wall area.

Multiple community members have expressed interest in installing murals. Milwaukie High School, Dark Horse Comics, and members of the artMOB would like to put up new murals in the future. Others have discussed reinstalling a mural that was removed from the side of building at 10801 SE Main Street that faces Jackson Street (at the Chopstick's Express side of the building) in downtown.

In response to this interest, staff began working on a mural program. Details regarding outreach efforts are included in Attachment 4.

C. Structure of proposed 2012 public mural permit process

The 2012 version of the mural code proposed one discretionary review process and permitting path for murals. An ad hoc mural review committee was proposed with final approval authority given to the Milwaukie Arts Committee. Broadly, the review criteria suggested at that time included artistic merit, feasibility and context and demonstrated community support.

Since staff was aware that reviewing content is generally problematic—and specifically, that reviewing the content of signs was deemed a violation of Article I, Section 8 of the Oregon constitution—staff also proposed that the City require a public art easement signed by the property owner. This approach is used by the City of Portland and was suggested by the City of Portland attorney and the Public Art Manager at the Regional Arts and Culture Council (RACC). This easement was determined to be a key feature of the proposed program, as the public art easement would mean the review of the mural would be for the purpose of selecting public art rather than regulating sign content on private property.

D. Structure of the proposed Art Mural permit processes

In 2013, the City attorney recommended that modifications to the public mural permitting process were necessary in order to address issues of free speech; specifically, that there should also be a permitting process based on clear and objective standards. Accordingly, the current proposal separates the mural code from the sign code and includes two mural review and permitting options—Public Art Murals and Original Art Murals. The Public Art Mural review process includes some public grant funding for the public art mural as well as a discretionary review process through an Ad-Hoc Mural Committee.

The other review process is for Original Art Murals that are reviewed by the Planning Department against clear and objective standards. Both types of Art Murals will be regulated through a new code provision: Title 20 – Public Art. The primary changes proposed to Title 14 are to clarify that Art Murals are not subject to the provisions of Title 14 and to ensure that wall signs and murals together do not exceed the standards for wall coverage in square feet. Based on a recommendation made by the Planning Commission at the public hearing on April 8, 2014, staff has included language in Title 20 to define how to measure the image area of a mural.

Art Murals	
Public Art Mural	Original Art Mural
<ul style="list-style-type: none"> • Discretionary review by Ad-Hoc Committee and Arts Committee; content of public art mural is reviewed; standards and review criteria are described. • Public Art Mural can cover up to 100% of the building wall plus may wrap around corners. • Grant funding provided and City acts as patron not just regulator. • Public art easement form must be signed by building/property owner. • Compensation to building/property owner is prohibited. 	<ul style="list-style-type: none"> • Clear and object review by Planning Department; content of original art mural is not reviewed. • Original Art Mural can cover up to 40% of the building wall. • Grant funding is not provided and a permit fee is assessed. • No public art easement form is required. • Compensation to building/property owner is prohibited.

Attachment 1, Exhibits B and C, Amendments to Title 14, Sign Ordinance and Attachment 2, Exhibit A, proposed Title 20, detail the review criteria for Public Mural and Original Art Murals.

E. Analysis

As stated above, murals are a unique form of art that can add character to an area and contribute to a community identity and sense of place. By regulating murals within a new Title 20 – Public Art, the City is encouraging the installation of murals as an art form within the City and distinguishing them from signs. Staff acknowledges the possibility of a proposal that combines a wall sign and a mural on the same building wall. Within the Original Art Mural provisions, which have clear and objective review standards, the proposed language allows for this combination, provided that the total area covered does not exceed 40%. Staff believes that this achieves the goal of both allowing a mural while also accommodating the economic need for a wall sign that identifies a business, all while maintaining a limit on the size.

CONCURRENCE

This report has been reviewed and concurred with by the following staff:

- Bill Monahan, City Manager
- Denny Egner, Planning Director
- Vera Koliass, Associate Planner

FISCAL IMPACT

If Council chooses to provide funds for the Public Murals matching grant program this would have a fiscal impact determined by the amount allocated. Given the mural budgets provided by local mural artists, it seems that if the City provided \$5,000-\$10,000 for a matching grant program perhaps one to three murals could be funded in the first year of the program. There would be a cap on the amount that would be given per project. Again, the applicants would need to match (or exceed) the amount granted them by the City. Examples from other cities show that it is common for applicants to exceed a strict match by getting donations or through other fundraising efforts. In other words, if an applicant expects their project to cost \$15,000 they may only ask for \$5,000 or, alternately, if the City only provides \$5,000 they must make up the difference in order to make their project work.

The Arts Committee may be able to help raise funds for such a program.

WORK LOAD IMPACTS

Original Art Murals:

The Original Art Murals permits will be managed through the Planning Department. The level of review is similar to the administrative review for a typical sign permit, and the Planning Department typically handles 15-20 such permits each year. We do not anticipate more than 1-2 mural permit applications per year. As such, the Original Art Murals permit process within the Planning Department will have low work load impacts.

Public Murals:

The Public Murals permit process will require more staff time than the Original Art Murals review process. It will establish a new grant program to be managed and will require coordination with an ad hoc review committee and the Milwaukie Arts Committee. Contracts with artists will need to be managed closely along with documents such as the public mural easement, insurance forms, grant reporting forms etc. Staff will likely receive inquiries from mural artists and community members about how to match grant funds.

This Public Art Murals and matching grant program will likely require moderate staff time depending on the complexity and number of mural applications processed through this track.

This process could also be contracted out the Clackamas Arts Alliance on an as-needed basis, who has extensive experience managing such projects.

ALTERNATIVES

Council could discuss the funding issue at a later date and adopt Title 20, Public Art as proposed.

Council may modify elements of Title 20, as proposed.

ATTACHMENTS

1. Ordinance – Title 14
 - Exhibit A: Findings in Support of Approval
 - Exhibit B: Amendments to Title 14, Sign Ordinance: underline/strikeout edits
 - Exhibit C: Amendments to Title 14, Sign Ordinance: clean copy
2. Ordinance – Title 20
 - Exhibit A: Proposed Title 20
3. Comments Received
4. History and Outreach
5. Mural Examples and Budgets
6. Draft Public Art Easement form



CITY OF MILWAUKIE
"Dogwood City of the West"

Ordinance No.

An ordinance of the City Council of the City of Milwaukie, Oregon, to amend Title 14 Signs to exempt art murals from the provisions of Title 14 (File #ZA-14-01).

WHEREAS, the City of Milwaukie finds that murals are a unique form of public art that add visual interest to buildings and spaces, build community identity, and celebrate the history, culture, and values of the city; and

WHEREAS, the City of Milwaukie desires to allow murals as a form of public art in order to realize the beneficial aspects of murals; and

WHEREAS, the City does not regulate signage on the basis of sign content, and currently regulates murals in the same manner as other signage; and

WHEREAS, the City of Milwaukie has worked with mural artists, art professionals, and community stakeholders in devising a program for public art murals; and

WHEREAS, the Planning Commission held a duly advertised public hearing on the amendments to Title 14, with notice provided per the requirements of the Milwaukie Municipal Code and Oregon Revised Statutes; and

WHEREAS, the City Council held a duly advertised public hearing on the amendments to Title 14, with notice provided per the requirements of the Milwaukie Municipal Code and Oregon Revised Statutes;

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the proposed amendments to Title 14 are attached as Exhibit A.

Section 2. Amendments. Title 14 Signs is amended as described in Exhibit B (strikeout/underline version) and Exhibit C (clean version).

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

(See Page 2 for Signatures)

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Exhibit A

Recommended Findings in Support of Approval

1. The City of Milwaukie (“applicant”) proposes to amend regulations that are contained in Title 14, Signs. The land use application for this amendment is ZA-14-01.
2. The purpose of the proposed code amendments is to clarify that Art Murals (Public Murals and Original Art Murals) are not subject to the regulations of Title 14. Public Murals and Original Art Murals would be allowed subject to the provisions of a new title in the Milwaukie Municipal Code (MMC) that is being considered by Milwaukie City Council concurrently with the amendments to Title 14.
3. The proposed amendments are subject to the following provisions of the MMC:
 - MMC Section 19.902 Amendments to Maps and Ordinances
 - MMC Chapter 19.1000 Review Procedures
4. Sections of the MMC or Milwaukie Comprehensive Plan not addressed in these findings are found to be not applicable to the decision on this land use application.
5. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.

- A. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Director, or any individual.

The amendments are proposed by the City of Milwaukie and were initiated by the Planning Director on January 25, 2014.

- B. MMC Section 19.1008 establishes requirements for Type V review.
 - i) Subsection 19.1008.3.A.1 requires opportunity for public comment. Opportunity for public comment and review has been provided. Staff held public meetings with the Milwaukie Arts Committee to discuss mural permitting in 2011 and 2012. City staff solicited feedback on mural permitting and preferences through a public survey in February 2012. A study session and worksession were held with Milwaukie City Council in 2012 on establishing a mural program.
 - ii) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing. A notice of the Planning Commission’s March 11, 2014, hearing was posted as required on February 9, 2014, at City Hall, Ledding Library, Public Safety Building, and Johnson Creek Facility. A notice of the City Council’s June 3, 2014, hearing was posted as required on May 4, 2014, at the same locations.
 - iii) Subsection 19.1008.3.A.2 requires notice be sent to individual property owners if the proposal affects a discrete geographic area. The proposed amendments apply throughout the city generally in the sign ordinance, and specific property owner notice is not required.
 - iv) Subsection 19.1008.3.B and C require notice of a Type V application be sent to Metro and the Department of Land Conservation and Development (DLCD) 45 days prior to the first evidentiary hearing. The first evidentiary hearing was held on April 8, 2014. Per Oregon Administrative Rule 660-018-0022(1), no goals, commission rules, or land use statutes apply to a particular proposed change, and DLCD notice was not

required. Metro responded on March 20, 2014 that they had no comments on the proposed code amendments.

- v) Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the proposed amendments would affect the permissible uses of land for those property owners. In the opinion of the Planning Director, the proposed amendments would not affect the permissible uses of any property in the city, and that notice to property owners was not required.
 - vi) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application. The Planning Commission held a duly advertised public hearing on April 8, 2014, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on June 3, 2014, and approved the amendments.
6. MMC Chapter 19.902 establishes requirements for amendments to the text of the Milwaukie Comprehensive Plan and the Milwaukie Municipal Code. The City Council finds that these requirements have been met as follows.
- A. MMC Subsection 19.902.5.A requires that changes to the text of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a duly advertised public hearing on April 8, 2014 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on June 3, 2014 and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.
 - B. MMC Subsection 19.902.5.B contains approval criteria for text amendments to the Milwaukie Municipal Code.
 - i) MMC Subsection 19.902.5.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

The amendments to Title 14 are proposed to be consistent with the Milwaukie Municipal Code. They are intended to coordinate and clarify that Art Murals (Public Murals and Original Art Murals) allowed by the proposed Title 20 are reviewed separately from other signage.
 - ii) MMC Subsection 19.902.5.B.2 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan. Goals and policies that do not apply to this code amendment are not listed here.

Allowing public art murals is consistent with the Comprehensive Plan as follows:

Chapter 4, Residential Land Use and Housing Element, Goal Statement: To provide for the maintenance of existing housing, the rehabilitation of older housing and the development of sound, adequate new housing to meet the housing needs of local residents and the larger metropolitan housing market, while preserving and enhancing local neighborhood quality and identity.

Murals are a unique form of art that can add character to an area and contribute to a community identity and sense of place. The City Council finds that murals build and enhance local neighborhood identity, which is consistent with this goal statement.

Chapter 4, Residential Land Use and Housing Element, Objective #4 – Neighborhood Conservation: To maximize the opportunities to preserve, enhance and reinforce the identity and pride of existing well-defined neighborhoods in order to encourage the long-term maintenance of the City’s housing stock.

Many residential neighborhoods abut or are close to commercial areas. Murals add visual interest to buildings and spaces and can help to enhance the identity and pride in both the commercial and the surrounding area. Allowing murals is consistent with this objective.

Economic Development Element, Objective #12 – Town Center, Planning Concepts:

To emphasize downtown Milwaukie and the expanded city center as a Town Center with the major concentration of mixed use and high density housing, office, and service uses in the city.

The future role for the downtown as a Town Center will revitalize the area as a focus of community identity and pride.

Multiple community members have expressed interest in installing murals, particularly downtown. Results from an on-line survey that was posted for citizens to provide feedback on establishing a mural program indicated a high level of agreement that murals can highlight the uniqueness of a community, can offer a positive opportunity to feature niche businesses, and the murals can enhance public spaces. The role that murals play in a Town Center environment can be positive and can enhance its viability. Allowing murals is consistent with this objective.

- iii) MMC Subsection 19.902.5.B.3 requires that the proposed amendment be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendments were sent to Metro for comment. Metro did not object to the proposed amendments. No Urban Growth Management Functional Plan policies are relevant to the proposal.

- iv) MMC Subsection 19.902.5.B.4 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

There are no statutes or administrative rules that were found to be applicable to the proposed amendments.

- v) MMC Subsection 19.902.5.B.5 requires that the proposed amendment be consistent with relevant federal regulations.

There are no federal regulations that were found to be applicable to the proposed amendments.

Underline/Strikeout Amendments

TITLE 14 SIGNS

CHAPTER 14.04 GENERAL PROVISIONS

14.04.030 DEFINITIONS

The following words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section:

"Sign" means the physical components of materials placed or constructed primarily to convey a message or other display and which can be viewed from a right-of-way or lot under other ownership. Displays permitted through Title 20 Public Art are not signs for purposes of Title 14.

CHAPTER 14.08 ADMINISTRATION AND ENFORCEMENT

14.08.090 CONDITIONAL AND COMMUNITY SERVICE USE SIGNS

D. In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.

CHAPTER 14.12 SIGNS PROHIBITED OR EXEMPTED

14.12.010 EXEMPTED SIGNS

The following signs shall not require a sign permit but shall conform to all other applicable provisions of this chapter and shall be allowed outright in all zones, except as otherwise noted:

M. Art murals, and any identified subcategories, as permitted by Title 20. Such displays are not considered signs and are exempt from all provisions of Title 14.

CHAPTER 14.16 SIGN DISTRICTS

14.16.020 RESIDENTIAL-OFFICE-COMMERCIAL ZONE

No sign shall be installed or maintained in an R-O-C or R-1-B Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.020.

Table 14.16.020				
Standards for Signs in Residential-Office-Commercial Zones R-O-C or R-1-B				
Sign Type	Area	Height	Number	Illumination ¹

Proposed Code Amendment

Signs at entrances to subdivisions	Max. 2 SF per dwelling unit to max. 32 SF per sign; 16 SF per display surface; total sign area for all display surfaces may not exceed 64 SF.	Max. 6 ft. above grade.	1 per entrance.	External only
Freestanding signs on multifamily properties	Max. 2 SF per dwelling unit to max. 32 SF per sign; 16 SF per display surface.	Max. 6 ft. above grade.	1 per street frontage.	External only
Wall signs on multifamily properties	Limited to 2 SF per dwelling unit to a max. 32 SF.	Cannot extend above roofline at wall or top of parapet wall, whichever is higher.	1 per street frontage.	External only
Awning signs on multifamily properties	Max. display surface is 25% of awning area, up to a max. of 32 SF.		1 per street frontage.	External only
Freestanding signs on commercial property	Max. 32 SF per display surface; total sign area for all display surfaces may not exceed 64 SF.	Max. 12 ft.	1 permitted. ²	External only
Wall signs on commercial property ³	Max. 10% of building face related to commercial use.	Cannot extend above roofline at wall or top of parapet wall, whichever is higher.	1 permitted. ³⁴	External only
Awning signs related to a commercial use	Max. display surface is 25% of surface of awning not to exceed 10% of the building face related to commercial use.	May not extend higher than the point where the roofline intersects the exterior wall.	1 per frontage.	External only
Hanging sign suspended beneath awning	Max. 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground level to lowest portion of awning or suspended sign.	1 per street frontage. ⁴⁵	External only
Daily display sign ⁵⁶	Max. 8 SF per display surface; total sign area may not exceed 16 SF.	Max. 6 ft. above ground level.	1 per property or occupancy.	External only

- ¹ Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.
- ² 1 freestanding sign is permitted in addition to 1 wall sign.
- ³ In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.
- ³⁴ 1 wall sign is permitted in addition to 1 freestanding sign or 2 wall signs permitted.
- ⁴⁵ For awnings related to residential use, either 1 sign on an awning or 1 sign hanging beneath an awning is allowed.
- ⁵⁶ Location. A daily display sign shall not be located within required landscaped areas, and is only allowed within the public right-of-way subject to the standards of Section 14.20.040.

14.16.030 NEIGHBORHOOD COMMERCIAL ZONE

No sign shall be installed or maintained in a C-N Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.030.

Table 14.16.030 Standards for Signs in Neighborhood Commercial Zones C-N				
Sign Type	Area	Height	Number	Illumination ¹
Freestanding signs	1.5 SF per lineal ft. of street frontage, not exceeding 40 SF per display surface and 80 SF overall.	May not project over the top of a building or max. 20 ft., whichever is less.	1 permitted. ²	External only
Wall signs ³	Max. 20% of building face. ⁴	Cannot extend above roofline or top of a parapet wall, whichever is higher.	Dictated by area requirements. ⁴⁵	External only
Awning signs	Max. 25% of surface of awning, not to exceed 20% of building face.	No higher than the point where the roofline intersects the exterior wall.	1 per frontage per occupancy.	External only
Hanging sign suspended beneath awning	Max. 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground level to the lowest portion of awning or suspended sign.	1 hanging sign per awning.	External only
Daily display signs ⁵⁶	Max. 8 SF per display surface and 16 SF overall.	Max. 6 ft. above ground level.	1 per property or occupancy.	External only

¹ Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

² In addition to 1 wall sign.

³ Location: limited to the building surface or surfaces facing the public right-of-way.

⁴ In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.

⁴⁵ Wall signs are permitted in addition to 1 freestanding sign.

⁵⁶ Shall not be located within required landscaped area, and is only allowed within the public right-of-way subject to the standards of Section 14.20.040.

14.16.040 COMMERCIAL ZONE

No sign shall be installed or maintained in the C-L, C-G, and C-CS Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.040.

Table 14.16.040 Standards for Signs in Commercial Zones C-L, C-G, and C-CS					
Sign Type	Area	Height	Location	Number	Illumination¹
Wall signs	Max. 20% of building face. ⁵	Not above roofline or top of parapet wall, whichever is higher.	NA.	No limit.	Permitted

⁵ If a projecting sign is located on the same building face as a wall sign, the total of all sign surfaces shall not exceed 20% of the face of the building. In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.

14.16.050 MANUFACTURING ZONE

No sign shall be installed or maintained in an M or BI Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.050.

Table 14.16.050 Standards for Signs in Manufacturing Zones M or BI					
Sign Type	Area	Height	Location	Number	Illumination¹
Wall signs	Max. 10% of building face. ⁴	Not above roofline or top of parapet wall, whichever is higher.	NA.	No limit.	Permitted

⁴ Includes signs painted directly on the building surface. In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.

CHAPTER 14.16.060 DOWNTOWN ZONES

No sign shall be installed or maintained in the DC, DS, DO, DR and DOS Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in this section.

B. Wall Sign

1. Area

The maximum permitted area of a wall sign shall be 20% of the building face.

a. In the DR and DOS Zones the maximum permitted area of a wall sign shall be 16 square feet.

b. In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the

size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.

Clean Amendments

TITLE 14 SIGNS

CHAPTER 14.04 GENERAL PROVISIONS

14.04.030 DEFINITIONS

The following words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section:

"Sign" means the physical components of materials placed or constructed primarily to convey a message or other display and which can be viewed from a right-of-way or lot under other ownership. Displays permitted through Title 20 Public Art are not signs for purposes of Title 14.

CHAPTER 14.08 ADMINISTRATION AND ENFORCEMENT

14.08.090 CONDITIONAL AND COMMUNITY SERVICE USE SIGNS

- D. In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.
-

CHAPTER 14.12 SIGNS PROHIBITED OR EXEMPTED

14.12.010 EXEMPTED SIGNS

The following signs shall not require a sign permit but shall conform to all other applicable provisions of this chapter and shall be allowed outright in all zones, except as otherwise noted:

- M. Art murals, and any identified subcategories, as permitted by Title 20. Such displays are not considered signs and are exempt from all provisions of Title 14.
-

CHAPTER 14.16 SIGN DISTRICTS

14.16.020 RESIDENTIAL-OFFICE-COMMERCIAL ZONE

No sign shall be installed or maintained in an R-O-C or R-1-B Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.020.

Table 14.16.020				
Standards for Signs in Residential-Office-Commercial Zones R-O-C or R-1-B				
Sign Type	Area	Height	Number	Illumination¹
Signs at entrances to subdivisions	Max. 2 SF per dwelling unit to max. 32 SF per sign; 16 SF per display surface; total sign area for all display surfaces may not exceed 64 SF.	Max. 6 ft. above grade.	1 per entrance.	External only
Freestanding signs on multifamily properties	Max. 2 SF per dwelling unit to max. 32 SF per sign; 16 SF per display surface.	Max. 6 ft. above grade.	1 per street frontage.	External only
Wall signs on multifamily properties	Limited to 2 SF per dwelling unit to a max. 32 SF.	Cannot extend above roofline at wall or top of parapet wall, whichever is higher.	1 per street frontage.	External only
Awning signs on multifamily properties	Max. display surface is 25% of awning area, up to a max. of 32 SF.		1 per street frontage.	External only
Freestanding signs on commercial property	Max. 32 SF per display surface; total sign area for all display surfaces may not exceed 64 SF.	Max. 12 ft.	1 permitted. ²	External only
Wall signs on commercial property ³	Max. 10% of building face related to commercial use.	Cannot extend above roofline at wall or top of parapet wall, whichever is higher.	1 permitted. ⁴	External only
Awning signs related to a commercial use	Max. display surface is 25% of surface of awning not to exceed 10% of the building face related to commercial use.	May not extend higher than the point where the roofline intersects the exterior wall.	1 per frontage.	External only

Table 14.16.020 CONTINUED				
Standards for Signs in Residential-Office-Commercial Zones R-O-C or R-1-B				
Sign Type	Area	Height	Number	Illumination¹
Hanging sign suspended beneath awning	Max. 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground level to lowest portion of awning or suspended sign.	1 per street frontage. ⁵	External only
Daily display sign ⁶	Max. 8 SF per display surface; total sign area may not exceed 16 SF.	Max. 6 ft. above ground level.	1 per property or occupancy.	External only

¹ Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

² 1 freestanding sign is permitted in addition to 1 wall sign.

³ In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.

⁴ 1 wall sign is permitted in addition to 1 freestanding sign or 2 wall signs permitted.

⁵ For awnings related to residential use, either 1 sign on an awning or 1 sign hanging beneath an awning is allowed.

⁶ Location. A daily display sign shall not be located within required landscaped areas, and is only allowed within the public right-of-way subject to the standards of Section 14.20.040.

14.16.030 NEIGHBORHOOD COMMERCIAL ZONE

No sign shall be installed or maintained in a C-N Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.030.

Table 14.16.030				
Standards for Signs in Neighborhood Commercial Zones C-N				
Sign Type	Area	Height	Number	Illumination¹
Freestanding signs	1.5 SF per lineal ft. of street frontage, not exceeding 40 SF per display surface and 80 SF overall.	May not project over the top of a building or max. 20 ft., whichever is less.	1 permitted. ²	External only
Wall signs ³	Max. 20% of building face. ⁴	Cannot extend above roofline or top of a parapet wall, whichever is higher.	Dictated by area requirements. ⁵	External only
Awning signs	Max. 25% of surface of awning, not to exceed 20% of building face.	No higher than the point where the roofline intersects the exterior wall.	1 per frontage per occupancy.	External only

Table 14.16.030 CONTINUED				
Standards for Signs in Neighborhood Commercial Zones C-N				
Sign Type	Area	Height	Number	Illumination¹
Hanging sign suspended beneath awning	Max. 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground level to the lowest portion of awning or suspended sign.	1 hanging sign per awning.	External only
Daily display signs ⁶	Max. 8 SF per display surface and 16 SF overall.	Max. 6 ft. above ground level.	1 per property or occupancy.	External only

¹ Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

² In addition to 1 wall sign.

³ Location: limited to the building surface or surfaces facing the public right-of-way.

⁴ In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.

⁵ Wall signs are permitted in addition to 1 freestanding sign.

⁶ Shall not be located within required landscaped area, and is only allowed within the public right-of-way subject to the standards of Section 14.20.040.

14.16.040 COMMERCIAL ZONE

No sign shall be installed or maintained in the C-L, C-G, and C-CS Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.040.

Table 14.16.040					
Standards for Signs in Commercial Zones C-L, C-G, and C-CS					
Sign Type	Area	Height	Location	Number	Illumination¹
Wall signs	Max. 20% of building face. ⁵	Not above roofline or top of parapet wall, whichever is higher.	NA.	No limit.	Permitted

⁵ If a projecting sign is located on the same building face as a wall sign, the total of all sign surfaces shall not exceed 20% of the face of the building. In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.

14.16.050 MANUFACTURING ZONE

No sign shall be installed or maintained in an M or BI Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.050.

Table 14.16.050 Standards for Signs in Manufacturing Zones M or BI					
Sign Type	Area	Height	Location	Number	Illumination¹
Wall signs	Max. 10% of building face. ⁴	Not above roofline or top of parapet wall, whichever is higher.	NA.	No limit.	Permitted

⁴ Includes signs painted directly on the building surface. In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.

CHAPTER 14.16.060 DOWNTOWN ZONES

No sign shall be installed or maintained in the DC, DS, DO, DR and DOS Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in this section.

B. Wall Sign

1. Area

The maximum permitted area of a wall sign shall be 20% of the building face.

- a. In the DR and DOS Zones the maximum permitted area of a wall sign shall be 16 square feet.
- b. In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.



CITY OF MILWAUKIE
"Dogwood City of the West"

Ordinance No.

An ordinance of the City Council of the City of Milwaukie, Oregon, to establish Milwaukie Municipal Code Title 20 Public Art, Chapter 20.04 Art Murals, with Sections 20.04.050 Public Art Murals and 20.04.060 Original Art Murals, containing rules and procedures for allowing public art murals and original art murals within the City.

WHEREAS, the City of Milwaukie finds that murals are a unique form of public art that add visual interest to buildings and spaces, build community identity, and celebrate the history, culture, and values of the city; and

WHEREAS, the City of Milwaukie desires to allow murals as a form of public art in order to realize the beneficial aspects of murals; and

WHEREAS, the City does not regulate signage on the basis of sign content, and currently regulates murals in the same manner as other signage; and

WHEREAS, the City of Milwaukie has worked with mural artists, art professionals, and community stakeholders in devising a program for public art murals; and

WHEREAS, the City Council held a duly advertised public hearing on the establishment of Title 20, with notice provided per the requirements of the Milwaukie Municipal Code and Oregon Revised Statutes;

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Amendments. Title 20 Public Art is enacted, as described in Exhibit A.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

(See Page 2 for Signatures)

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Amendments

TITLE 20 PUBLIC ART

CHAPTER 20.04 ART MURALS

20.04.010 PURPOSE

The purpose of this title, and the policy of the City of Milwaukie, is to permit and encourage art murals under certain terms and conditions. Art murals comprise a unique medium of expression that serves the public interest. Art murals have purposes distinct from signs and confer different benefits. Such purposes and benefits include: improved aesthetics; avenues for original artistic expression; public access to original works of art; community participation in the creation of original works of art; community building through the presence of, and identification with, original works of art; and a reduction in the incidence of graffiti and other crime. Art murals can increase community identity and foster a sense of place and enclosure if they are located at heights and scales visible to pedestrians and are retained for periods of 5 years or more.

20.04.020 DEFINITIONS

Words used in this title have their normal dictionary meaning unless they are listed in this chapter or unless this title specifically refers to another title. Words listed in this chapter have the specific meaning stated or referenced unless the context clearly indicates another meaning.

"Applicant" means the party that is primarily responsible for the design and installation of an art mural.

"Original art mural" means a hand-painted image on the exterior wall of a building that may comprise up to 40% of the surface area of a building wall.

"Public art mural" means a hand-painted, hand-tiled, or digitally printed image on the exterior wall of a building where the wall or surface is either on City-owned property or has a public art easement and is viewable from another property or right-of-way.

"Mural easement" means an easement granted to the City of Milwaukie by a property owner for purposes of installing and maintaining a public art mural on the surface of a structure or building.

"Compensation" means the exchange of something of value. It includes, without limitation, money, securities, real property interest, barter of goods or services, promise of future payment, or forbearance of debt. "Compensation" does not include goodwill, or an exchange of value, that a building owner (or leaseholder with a right to possession of the wall upon which the mural is to be placed) provides to an artist, muralist, or other entity, where the compensation is only for the creation and/or maintenance of the mural on behalf of the building owner or leaseholder, and where the building owner or leaseholder fully controls the content of the art mural.

"Owner" means the entity(ies) that own(s) the real property that contains the building or structure upon which a public art mural is installed. In the case where a public art mural is installed in the right-of-way, the owner means the entity(ies) with jurisdiction over that right-of-way.

"Right-of-way" means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-

of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned.

"Ad Hoc Mural Committee" means the committee assembled on an ad hoc basis to review and make a recommendation to the Milwaukie Arts Committee regarding a mural application, based on criteria established in the Milwaukie Mural Arts Program administrative rules and procedures.

20.04.030 PROHIBITION OF COMPENSATION

No compensation will be given or received for the display of art murals or for the right to place the mural on another's property. The applicant shall certify in the permit application that no compensation will be given or received for the display of the mural or the right to place the mural on the property.

20.04.040 VIOLATIONS AND ENFORCEMENT

It is unlawful to violate any provision of this title; any administrative rules adopted by the City of Milwaukie pursuant to this title; or any representations made, or conditions or criteria agreed to, in an art mural permit application. This applies to any applicant for an art mural permit, the proprietor of a use or development on which a permitted art mural is located, or the owner of the land on which the permitted art mural is located.

A. Notice of Violations

The City Manager, or designee, must give written notice of any violation to the property owner. Failure of the property owner to receive the notice of the violation does not invalidate any enforcement actions taken by the City.

B. Responsibility for Enforcement

The regulations of this title, and the conditions of art mural permit approvals, shall be enforced by the City Manager, or designee.

20.04.050 PUBLIC ART MURALS

A. Standards for Public Art Murals

1. Allowed Locations

Public art murals are only allowed on buildings or structures as described below, unless a public art mural is specifically prohibited by Subsection 20.04.050.A.2. Zoning designations refer to the base zones established in Title 19.

a. Downtown Zones

Public art murals are allowed in areas zoned Downtown Commercial, Downtown Office, Downtown Storefront, Downtown Residential, or Downtown Open Space.

b. Commercial Zones

Public art murals are allowed in areas zoned General Commercial or Community Shopping Commercial.

c. Industrial Zones

Public art murals are allowed in areas zoned Manufacturing or Business Industrial.

d. Community Service Uses

Public art murals are allowed on uses that have received approval as a community service use, per Section 19.904.

2. Specifically Prohibited Locations

Public art murals are specifically prohibited on buildings or structures that are designated as a Contributing or Significant Historic resource per Section 19.403.

B. Public Ownership, Duration and Alteration

1. Public Ownership

The mural must be on the surface of a building or structure that is either on property owned by the City of Milwaukie or for which a mural easement to the City has been granted.

2. Duration and Alteration

The public art mural shall remain in place, without alteration, for a minimum period of 5 years. "Alterations" includes any change to a permitted mural, including, but not limited to, any change to the image(s), materials, colors, or size of the permitted mural. "Alteration" does not include naturally occurring changes to the mural caused by exposure to the elements or the passage of time. Minor changes to the permitted mural that result from the maintenance or repair of the mural shall not constitute "alteration." Such minor changes may include slight and unintended deviations from the original image, colors, or materials that occur when the permitted mural is repaired due to the passage of time or as a result of vandalism.

Public art murals may be removed within the first 5 years of the date of registration, per the terms of the public art easement and under any of the following circumstances:

- a. The property on which the mural is located is sold.
- b. The structure or property is substantially remodeled or altered in a way that precludes continuance of the mural.
- c. The property undergoes a change of use authorized by the Planning Department.

C. Physical Standards

1. Dimensions

A public art mural may wrap around a wall edge or corner and/or may extend above the wall height.

2. Materials

Public art mural materials may include the following: paint, painted wood or plastic surfaces affixed to a building or structure, mosaics of ceramic tile and/or glass, vinyl or pella, or similar materials. The Ad Hoc Mural Committee and Milwaukie Arts Committee may consider other materials in their review of a proposed public art mural.

3. Placement

No new public art mural shall obstruct the functioning of any building opening, including, but not limited to, windows, doors, and vents.

D. Structural Permit

Public art murals that are affixed to a building, or contain elements that extend above or around a wall, shall require structural permit approval as deemed necessary by the Milwaukie Building Official.

E. Lighting

No new or existing public art mural may consist of, or contain, electrical or mechanical components or changing images; i.e., moving structural elements, flashing or sequential lights, lighting elements, or other automated methods that result in movement, the appearance of movement, or change of mural image or message. Static illumination, which is turned off and back on not more than once every 24 hours, is permitted.

Lighting may be required for safety or crime deterrent purposes with consideration to impacts to surrounding on properties, as determined by the City Building Official.

F. Application

An applicant shall initiate a proposal to place a public art mural by filing an application with the City. The application shall be made on forms provided by the City, include the application fee for review of a public art mural, and include any accompanying materials deemed necessary by the City for review of the public art mural proposal (such as proposed designs, site photos, and building or structure elevation drawings).

Any fees shall be in accordance with the City's fee schedule.

G. Administrative Review

1. Upon submission of a complete application for a public art mural, the City Manager, or designee, shall review the proposal for conformance with the standards in Subsection 20.04.050.A.
2. Upon finding that the proposed public art mural conforms with the standards in Subsection 20.04.050.A, the City Manager, or designee, shall inform the applicant in writing that the proposed public art mural meets the standards in Subsection 20.04.050.A. The City Manager, or designee, shall then provide the applicant with the materials necessary to complete the public notice requirements in Subsection 20.04.050.H.2.
3. Prior to the Ad Hoc Mural Committee review, the applicant shall provide documentation to the City Manager, or designee, that they complied with the public notice requirements of Subsection 20.04.050.H.2.

H. Public Notice

1. Mailed Notice

Mailed notice is intended as a courtesy and to provide the Neighborhood District Associations (NDAs) a chance to invite the applicant to discuss the proposal.

- a. The City Manager, or designee, shall mail a notice to the chairperson of the NDA(s) containing, or whose boundary is within 300 feet of, the site of the proposed mural.
- b. The notice shall be mailed at least 14 days prior to the Ad Hoc Mural Committee's review of the proposed mural.
- c. The notice shall include instructions for submitting comments; the name and contact information for the applicant and owner; contact information for the City

Manager, or designee; and a legibly-sized color representation of the proposed public art mural.

2. Posted Notice

A notice shall be posted at the site of the proposed public art mural and shall conform to the following standards.

- a. The notice shall be posted at least 14 days prior to the Ad Hoc Mural Committee's meeting to review the proposed mural. The City Manager, or designee, shall provide the applicant with materials to be posted. The applicant shall be responsible for ensuring that the notice is posted and remains posted. If the notice is damaged or removed, the applicant shall replace the notice as soon as practicable.
- b. The notice shall be durable and waterproof.
- c. The notice shall be clearly visible from the public right-of-way and be at least 11 x 17 in. The City Manager, or designee, may require more than 1 sign to be posted, depending on specific site characteristics.
- d. The notice shall include the name and contact information for the applicant and owner; contact information for the City Manager, or designee; and a legibly-sized color representation of the proposed public art mural.

I. Ad Hoc Mural Committee Review

The Ad Hoc Mural Committee shall review the proposed public art mural. The intent of this review is to explore the feasibility of the mural, evaluate the community support for the proposed mural, assess the mural given its context and its placement on either a City building or building with a public art easement, and to make a recommendation to the Milwaukie Arts Committee for approval, approval with conditions, or denial of the public art mural application.

1. Committee Composition

The Ad Hoc Mural Committee shall be selected by the City Manager, or designee, and will be comprised of a minimum of 3 members and maximum of 5 members. A majority of the members shall be professional mural artists and/or professional public art administrators. At least 1 member shall also reside, own property, or own a business within the neighborhood where the mural is proposed.

Further selection criteria may be set forth in the Milwaukie Mural Arts Program administrative rules and procedures.

2. Review Process

The Ad Hoc Mural Committee shall be convened by the City Manager, or designee, and shall meet within 30 business days of the submitted mural application being deemed complete.

3. Review Criteria

a. Scale

Appropriateness of scale to the wall upon which the mural will be painted/attached and to the surrounding physical features.

- b. Context
Architectural, geographical, sociocultural, and/or historical relevance to the site.
- c. Community Support
General support/advocacy from the building owner/user, surrounding neighborhood, adjacent businesses, and/or arts community.
- d. Feasibility
Demonstrated ability to complete the proposed mural on time and within budget.
- e. Media
Appropriate media proposed to ensure the mural's longevity and durability.
- f. Structural and Surface Stability
Commitment to repair the mural surface as necessary before painting and a plan for mitigating graffiti through design and/or graffiti coating.
- g. Signed Easement Form from Building Owner
Commitment to keep the mural in place as approved for a minimum of 5 years and to maintain the mural during that time.
- h. Public Accessibility, Safety and Lighting
Compliance with City codes for safety, accessibility, and lighting.

J. Milwaukie Arts Committee Review

1. Authority

The Milwaukie Arts Committee shall have the authority to determine if an application for a public art mural substantially meets all of the applicable requirements and to issue a final approval, approval with conditions, or denial of the public art mural application.

2. Notice of Decision

The City Manager, or designee, shall issue the notice of decision in writing. The decision shall include the following information:

- a. A brief summary of the proposal.
- b. A description of the subject property reasonably sufficient to inform the reader of its location, including street address, if available, map and tax lot number, and zoning designation.
- c. A statement of the facts that the review authority relied upon to determine whether the application satisfied, or failed to satisfy, each applicable approval criterion.
- d. The decision to approve or deny the application and, if approved, any conditions of approval necessary to ensure compliance with the applicable criteria.
- e. The date upon which the decision rendered shall become final, unless appealed. The decision shall state the date and time by which an appeal must be filed. The statement shall reference the requirements for filing an appeal of the decision.
- f. A statement that the complete public art mural application file is available for review, including findings, conclusions, and any conditions of approval. The decision shall list when and where the case file is available and the name and

telephone number of the City representative to contact about reviewing the case file.

K. Appeals

A decision on the approval, approval with conditions, or denial of the public art mural application may be appealed by filing a written request to the City Manager within 15 days of the date on the notice of decision. If the 15th day falls upon a weekend or legal holiday, the end of the appeal period shall be extended to the end of the next business day.

L. Mural Maintenance

Public art murals shall be maintained by the property owner for 5 years and per the terms outlined in the public art easement.

20.04.060 ORIGINAL ART MURALS

A. Standards for Original Art Murals

1. Original art murals are allowed on properties described in this subsection.
 - a. Properties in the sign districts 14.16.020 Residential-Office-Commercial Zone, 14.16.030 Neighborhood Commercial Zone, 14.16.040 Commercial Zone, 14.16.050 Manufacturing Zone, and 14.16.060 Downtown Zones.
 - b. Community service use properties, as defined in Subsection 19.904.2, regardless of the sign district in which the property is located.
 - c. Irrespective of Subsections 20.04.060.A.1.a and b, properties designated as significant or contributing historic resources, per Section 19.403, are not eligible for original art murals as allowed in this subsection. This does not prohibit any signage otherwise allowed by the sign district in which the historic resource is located or under Section 14.12.010.
2. An original art mural may comprise up to 40% of the surface area of a building wall. The area allowed for an original art mural is considered in conjunction with the size regulations for other wall signs, as allowed by the sign districts in Chapter 14.16, so that the combination of the wall sign and original art mural shall not exceed 40% of the wall face.
3. An original art mural may wrap around the corner of a building, but the area of the mural on each wall shall be calculated separately.
4. The area of an original art mural includes the area within a rectangular-shaped perimeter enclosing the limits of any lettering, writing, representation, emblem, symbol, figure, drawing, character, or large-scale pattern. If the mural consists of more than 1 section without a painted background, each section area will be calculated and all areas will be totaled. If the mural consists of more than 1 section with a painted image background, the area is calculated within a perimeter enclosing the entire limits of the mural. To simplify area calculation, the smallest dimension of any rectangular-shaped perimeter enclosing a section of the mural shall measure two feet.
5. No compensation may be given or received for placement of an original art mural. Prior to issuance of a sign permit for an original art mural, the building owner shall provide an affidavit that no compensation was or will be received for placement of the original art mural.

6. Where compensation is involved, nothing in Subsections 20.04.060.A.1 or 5 shall prohibit an original art mural from being permitted as a wall sign, as allowed per the sign district in which the property is located.

B. Review and Permitting of Original Art Murals

1. Authority

The Milwaukie Planning Director, or designee, shall have the authority to determine if an application for an original art mural meets all of the applicable requirements and to issue a final approval, approval with conditions, or denial of the original art mural application.

2. Notice of Decision

The Planning Director, or designee, shall issue the original art mural permit in writing.

Comments Received

No comments were received.

Public Art Murals - History and Outreach

History of Prior Actions and Discussions

- **April 8, 2014:** Planning Commission held a public hearing and unanimously approved file ZA-14-01, which exempts Original Art Murals, as regulated by Title 20, from the provisions of Title 14 (Sign Ordinance.) The Planning Commission's role in municipal code amendments is to make a recommendation to the City Council for amendments that affect a land use regulation. The amendments to Title 14 were the only land use regulations being amended with this proposal, and were the only portion of the mural program for which the Planning Commission made an official recommendation.

While Planning Commission's authority was limited to exempting murals from the City's sign regulations, Planning Commissioners expressed support for both the Original Art Mural and Public Art Mural permitting paths as defined.

As proposed, Original Art Murals would be limited to a maximum of 40% of the wall face. Planning Commission discussed this proposed size restriction and recommended that the calculation of wall coverage be done in a way that does not count 'negative space.'

- **October 22, 2013:** Ryan Marquardt, Senior Planner and Beth Ragel, Program Coordinator, met with the Planning Commission during a work session. They gave an overview of the proposed mural project and noted current public opinion of the project. The proposed mural code included two permitting options: one was an objective review with a permit fee, and the other was a discretionary review that could include matching grant funds. Ms. Ragel noted the project timeline to return to the Commission with code language by the end of the year.
- **January 29, 2013:** Beth Ragel, Program Coordinator, met with the City Council during a work session seeking guidance on establishing a mural program in Milwaukie and talked about potential legal challenges and possible associated costs. She discussed program options.
- **November 6, 2012:** Beth Ragel, Program Coordinator, and the City attorney, provided a briefing to Council during a work session regarding the broad free speech protections afforded by Article 1 Section 8 of the Oregon Constitution and the possible implications for reviewing and permitting murals. The City attorney advised Council that providing grant funding for a mural program could reduce the risk of free-speech related claims.
- **September 25, 2012:** The Milwaukie Planning Commission held a public hearing and recommended approval of Zoning Text Amendments to the Sign Ordinance (File #ZA-12-01). The amended regulations, if adopted by City Council, would exclude public art murals from the definition of 'sign' in Subsection 14.04.030, Definitions in Title 14, Sign Ordinance. Given input from the City attorney following this hearing, staff determined it should be presented at a work session to City Council.
- **May 22, 2012:** Beth Ragel, Program Coordinator, briefed the Planning Commission on the proposed Mural Program at a worksession.
- **April 3, 2012:** Staff briefed City Council on community outreach and reported the results from the mural survey. Council directed staff to continue work on the project, including developing the code language to take to the Planning Commission for review.

- **September, 2011:** City Council gave staff the approval to start public outreach and to begin drafting the program and code language.
- **2006:** When the Planning Commission updated the Sign Code in 2006, the difficulty of permitting murals as signs was acknowledged as a problem yet to solve. At that time, no model was in place that adequately addressed Oregon's free speech laws. As such, public murals fell under sign regulations by default. Since then, Portland has finalized two review and permit processes—one in 2005 and one in 2008. These have not been challenged and have paved the path for other jurisdictions to adopt a similar approach.

Outreach

The proposed mural program has been developed with the following input:

- Milwaukie Arts Committee (artMOB): Program Coordinator Beth Ragel is the liaison to the Milwaukie Arts Committee (known as "artMOB") and has discussed a mural program with them at several meetings from 2009 to the present. A key meeting on February 1, 2012 was a meeting with regional mural experts. At this meeting, regional art coordinators from Beaverton/Hillsboro, Clackamas County and Portland shared their jurisdictions' experiences with murals. This meeting was promoted through the City website, Facebook and Twitter pages; the artMOB website and Facebook page; and sent via email to the NDAs. A press release was sent regarding this meeting and a feature was posted on OregonLive.com and ClackamasReview.com. This meeting provided an opportunity for residents to ask any question or share any concerns they had regarding murals in Milwaukie. All current artMOB members and three residents attended the meetings and discussions with Cheryl Snow of the Clackamas Art Council and representatives from Portland, Hillsboro, RACC and Beaverton discussing mural programs.
- In February 2012, artMOB members and staff liaison Beth Ragel attended each of the seven NDAs to give them an update on the project and solicit feedback. Representatives from artMOB took information about the proposed project (project brochure, a zoning map, and project timeline) plus a paper survey for residents to complete at the meetings.
- An on-line survey was posted for citizens to provide feedback on establishing a mural program. The survey was online from February 1, 2012 to March 19, 2012. A total of 78 responses were received with 11 submitted on paper and 67 online. The survey depicted 10 photos of murals and respondents were asked to rate which types of murals they would like to see in Milwaukie. The survey also included a series of ranking questions and open-ended questions. Survey results indicated a high level of agreement that murals can highlight the uniqueness of a community (95%); can offer a positive opportunity to feature niche businesses (88%); and that murals can enhance public spaces (94%). The majority of respondents agreed that Milwaukie should carefully balance the rights of property owners with the aesthetics of the community (85%) and that the City should exempt murals from the sign code which limits their size (77%). The majority of respondents said that even if a mural is not their taste, they support the freedom of expression (83%).

The survey showed support for an ad hoc mural review committee, with 72% in agreement. Respondents believed the most important members to include on the review committee are neighborhood or business representatives (85%) while Milwaukie Arts Committee members, experienced mural artists and public arts professionals also

received high marks as important to include (all 70%+). The majority of respondents thought murals should be allowed on commercial buildings (97%) and industrial buildings (95%). There was support for murals on school buildings even if in residential zones (68%) and less support for murals on religious buildings (46%) and private homes or small businesses in residential zones (35%).

Mural Examples and Budgets

1) Types of murals possibly permitted through the objective permit/ Original Art Mural path:

Murals that reflect the type of business inside:



Hand painted mural signs:



Murals at 40% of wall face or less:



2) Types of murals possibly permitted through the subjective permit/ Public Art Mural path:

School and community murals typically seek grant support and engage the community in the process, as in this mural wrapping around Parkrose High School.



Larry Kangas—Horses at Park Rose High, Portland

Murals covering more than 40% of wall face must go through this path:



Robin Corbo—BARK mural on 55th and SE Powell, Portland



Mother's Quilt, Philadelphia

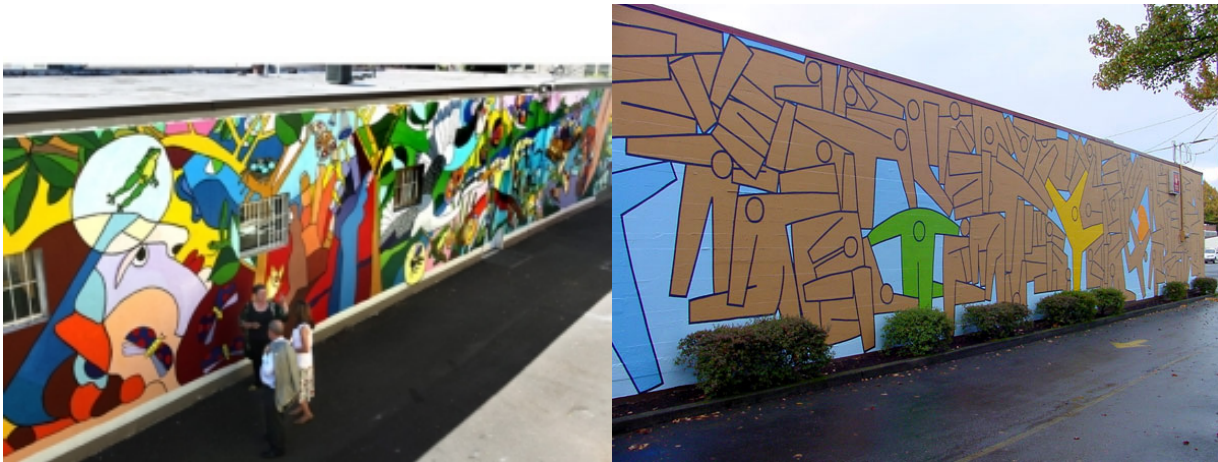
Mural Funding in Other Cities

City of Beaverton:

In Beaverton, the City has allocated between \$7,000 and \$10,000 annually for their mural program. Individual murals have ranged from \$3,000 to \$10,000 to create. The City requires a match by the applicant in cash or in-kind donations. Three murals have been installed since 2008. The City has also funded other initiatives such as a sculpture program.

Here are photos of the three murals installed in Beaverton:





City of Portland:

In Portland, the Public Art Mural Program managed through the Regional Arts and Culture Council (RACC) provides matching funds up to \$10,000 per approved project. Large scale murals can cost upwards of \$30,000 or more, depending on their complexity, size, location, donations and volunteers, and other factors.

While large scale and complex murals may cost \$30,000 or more, experienced mural artists have been able to install large scale murals in the region for less. Below is a mural that Larry Kangas finished at Parkrose High School. Painted on pelon in his studio and then affixed, the mural wraps around the building. At over 200 feet long, it is the largest mural in the Portland region. The entire out-of-pocket cost came to \$15,000 which was covered by RACC through a “Communities and Schools” grant. (Larry Kangas is the artist that painted the historic mural that was on the side of Chopstick’s Express in downtown. He also painted the mural that is behind Bernard’s garage. He worked with Milwaukie High School Students to plan and install both. He is interested in working in Milwaukie in the future.)

Here are photos of the Parkrose Horse Mural:





City of Sandy:

In 2011 the City of Sandy funded a mural to celebrate its centennial. It is sixty feet long and painted on panels (which includes 24 pieces of composite steel for hanging the work). Painting the mural on panels increased the cost but made the mural moveable should it be necessary to relocate it in the future. The cost was around \$30,000.

Below are photos of the left section and right sections of the mural:



Typical Mural Budget

Larry Kangas, one of the region’s most prolific and well-known mural artists, has provided the following mural budget examples.



To do this 25’ x 35’ mural today on a local building

would cost: Design fee.....	\$ 1500
Primer and masking....	\$ 325
80 hours to paint	\$ 8000
UV coating (applied)	\$ 450
Lift	\$ 1200
Total	\$ 11,475

This is assuming that there was no wall prep like scraping and sealing, and that the artist not get involved with the fundraising



After recording return to:

City of Milwaukie
Mural Program Coordinator c/o the City Manager
10722 SE Main St.
Milwaukie OR 97215

PUBLIC MURAL EASEMENT

THIS AGREEMENT, effective on _____ (month/day/year), is between _____ (“Grantor”), and the City of Milwaukie, an Oregon municipal corporation (“City”).

RECITALS

A. The City has adopted a program for the placement of art in and on public and private locations throughout the City of Milwaukie.

B. Grantor owns the property legally described in Exhibit A (attached hereto and incorporated herein) and is willing to make said property available to the City for the placement of public art, as defined in Milwaukie City Code section 5.74.020c. (hereinafter, “Artwork”). Said Artwork is described in Exhibit B, attached hereto and incorporated herein.

IN CONSIDERATION of the mutual promises and performances set forth below, the parties agree as follows:

1. Grant of Easement. Grantor conveys, grants and warrants to the City, its successors and assigns, an easement for the purpose of installing, maintaining, operating and exhibiting the Artwork described in Exhibit B on and in the real property described in Exhibit A, including any building and structure thereon (“property”). The location of the Artwork shall be as approved by the Milwaukie Arts Committee per Title 20, Chapter 20.04 “Public Murals.”

2. Term of Easement. This easement shall be for a period of five (5) years from the date of execution. Unless terminated as provided in section 3, below, the easement shall automatically renew thereafter, and shall remain in full force and effect unless and until terminated.

3. Termination.

a) At the expiration of the five year easement period, the easement may be terminated by either party upon 30 days written notice to the other party. Grantor expressly agrees and warrants that upon expiration, the Artwork shall be removed and the Property restored to its prior condition. Such removal shall occur within 30 days of the termination of the easement, unless this period is extended in writing by the City.

b) Within the initial five year easement term or at any time thereafter, the easement may be terminated by Grantor with the City's consent in writing upon Grantor's showing of any of the following: i) that the property is to be sold and the buyer requires removal of the easement as a condition of the purchase and sale; or ii) that the property is to be refinanced and the lender requires removal of the easement as a condition of the refinancing; or iii) that the property is to be substantially remodeled or altered in a way that precludes continued maintenance of the Artwork; or iv) that circumstances have materially changed and the continued existence of the easement or maintenance of the Artwork substantially impedes Grantor's reasonable use and enjoyment of the Property. The City shall not unreasonably withhold consent to termination upon Grantor's satisfactory demonstration of any of the foregoing conditions of termination.

c) The City may terminate the easement at any time at its sole discretion upon 30 days written notice to Grantor, should Grantor fail to substantially perform Grantor's obligations under Section 4, below. Should the City elect to exercise this right of termination, Grantor expressly agrees and warrants that the Artwork shall be removed and the Property restored to its prior condition. Such removal shall occur within 30 days of the termination of the easement, unless this period is extended in writing by the City.

4. Maintenance and Removal of Artwork. Grantor shall be responsible for maintaining and if necessary repairing the Artwork described in Exhibit B during the existence of the easement. The City may remove the Artwork from the property if, in the sole judgment of the City, the Artwork is being excessively damaged, and Grantor fails or refuses to maintain or repair the Artwork after 30 days written notice from the City requesting Grantor to do so. If the City removes the Artwork from the property, the City will restore the property to its original condition. Alternatively, at the City's sole discretion, the City may enter upon the property to maintain or repair the Artwork if Grantor has failed to do so after 30 days written notice from the City that the Artwork requires maintenance or repair.

5. Right of Entry. The City shall have the right to enter the property described in Exhibit A during normal business hours, and at all other times with advance approval of the Grantor, for any and all of the purposes described in this agreement.

6. Binding Effect. The easement granted in this agreement shall run with the land and be binding upon and inure to the benefit of the Grantor and the City, and their respective successors or assigns, and any person or entity acquiring any right, title, or interest in the property.

7. Contractual Relationships. Assignment. This agreement does not constitute either party as the agent or legal representative of the other for any purpose whatsoever. The parties are not granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of the other or to bind the other in any manner whatsoever. The parties shall not assign this agreement without the prior written consent of the other.

8. Notice. Notice shall be made to the following addresses, unless otherwise provided for in writing:

City of Milwaukie Grantor (name and mailing address)

City of Milwaukie
City Manager
10722 SE Main St.
Milwaukie OR 97215

AND

Milwaukie City Attorney's Office
Jordan Ramis PC
Two Centerpointe Drive
6th Floor
Lake Oswego, OR 97035

9. Amendments. The parties expressly reserve the right to modify this agreement, from time to time, by mutual agreement. No modification or amendment of the provisions of this agreement shall be effective unless in writing and signed by authorized representatives of the parties.

10. Remedies. The parties acknowledge that breaches of this Agreement will effect substantial harm to the public interest which harm is difficult or impossible to prove as actual damages in an action hereunder. The parties agree that the prevailing party in an action for the breach of this agreement shall be entitled to a) liquidated damages in an amount of \$2500 per material breach; b) specific performance of the terms of this agreement, and each of them; c) reasonable attorney's fees; and d) any other remedies available at law or in equity. The rights under this agreement are cumulative. The failure to exercise on any occasion any right shall not operate to forfeit the right on another occasion. The use of one remedy shall not be taken to exclude or waive the right to use another.

11. Invalidity of Particular Provisions. Should any term, provision, condition or other portion of this agreement or the application thereof be held to be inoperative, invalid or unenforceable, the remainder of this agreement or the application of the term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

12. No Waiver. No waiver of full performance by any party shall be construed, or operate, as a waiver of any subsequent default or breach of any of the terms, covenants or conditions of this agreement.

13. Term. This agreement may be terminated upon delivery of a letter of termination executed by any party, provided that any such letter shall provided for a 180 day period for the Artwork to be removed.

IN WITNESS WHEREOF, the City of Milwaukie, Oregon, has caused this instrument to be executed by its duly authorized representative(s) on _____ (date).

CITY OF MILWAUKIE, OREGON

By: _____

(print name of city representative)

(print title of city representative)

IN WITNESS WHEREOF, GRANTOR has caused this instrument to be executed by its duly authorized representative(s) on _____.

GRANTOR:

By: _____

"NAME OF GRANTOR REPRESENTATIVE"

(print name of grantor representative)

(print title of grantor representative)

STATE OF _____)

) ss.

County of _____)

This instrument was acknowledged before me on _____, 20____ by
_____ as _____ of the Grantor.

Notary Public – State of _____



**Regular Session
Agenda Item No.**

6

Other Business



Agenda Item: RS 6. A.
Meeting Date: June 3, 2014

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Expedited Annexation (File #A-14-01)

Prepared By: Vera Koliass, Associate Planner
Dept. Head Approval: Denny Egner, Planning Director
City Manager Approval: Bill Monahan, City Manager
Reviewed by City Manager: May 21, 2014

ISSUE BEFORE THE COUNCIL

Consideration of an expedited annexation for the property at 10021 SE Wichita Ave. (File #A-14-01)

STAFF RECOMMENDATION

Approval of application A-14-01.

KEY FACTS & INFORMATION SUMMARY

The property owner has requested that the subject property be annexed so that it can be connected to the City's sewer system in the Northeast Sewer Extension (NESE) area. The property would be in the Residential R-10 zone upon annexation. The existing residential structure on-site is a single-family home, which is allowed outright in the R-10 zone. Staff does not believe there are any adverse impacts to annexing this property into the City.

OTHER ALTERNATIVES CONSIDERED

Council can approve or deny the requested annexation.

CITY COUNCIL GOALS

n/a

ATTACHMENT LIST

1. Annexation Ordinance
 - Exhibit A. Findings in Support of Approval
 - Exhibit B. Legal Description and Tax Map
2. Annexation Site Map
3. Applicant's Annexation Application

FISCAL NOTES

Minimal fiscal impact is expected. It is expected that property taxes received by the City for this property will be roughly offset by the cost of providing services to the property.



To: Mayor and City Council

Through: Bill Monahan, City Manager
Denny Egner, Planning Director

From: Vera Kolas, Associate Planner

Subject: File #A-14-01 – Expedited Annexation of 10021 SE Wichita Ave.

Date: May 23, 2014, for June 3, 2014, Regular Session

ACTION REQUESTED

Approve application A-14-01, an expedited annexation petition, and adopt the attached ordinance and associated findings in support of approval (Attachment 1). Approval of this application would result in the following actions:

- Annexation of 10021 SE Wichita Ave. (the "Annexation Property") into the City (Tax Map 1S2E30DD Tax Lot 03401).
- Application of a Low Density (LD) land use designation and a Residential (R-10) zoning designation to the Annexation Property.
- Amendments to the City's Land Use Map and Zoning Map to reflect the City's new boundary and the Annexation Property's new land use and zoning designations.
- Withdrawal of the Annexation Property from the following urban service providers and districts:
 - Clackamas County Service District for Enhanced Law Enforcement
 - Clackamas County Service District No. 5 for Street Lights

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

June 2010: Council approved the first annexation of property in the Northeast Sewer Extension (NESE) Project Area, at 5840 SE Morris St (Ordinance #2016, Land use file #A-10-01). Since then, Council has approved the annexation of approximately 140 additional properties in the NESE area.

January 2010: Council annexed the rights-of-way in the Northeast Sewer Extension (NESE) Project Area making all properties in this area contiguous to the City limits and eligible for annexation (Ordinance #2010).

September 2009: Council initiated annexation of the rights-of-way in the NESE Project Area by resolution (Resolution No. 58-2009).

August 2009: Staff briefed Council on the status of the NESE Project and the need to annex the rights-of-way in this area.

July 1990: Clackamas County Order No 90-726 established an Urban Growth Management Agreement in which the City and County agreed to coordinate the future delivery of services to the unincorporated areas of North Clackamas County. With respect to Dual Interest Area “A,” the agreement states: *“The City shall assume a lead role in providing urbanizing services.”*

BACKGROUND

Proposal

The owner of the Annexation Property wishes to annex to the City to access City services, namely sewer service. The owner has paid the Reimbursement Fee and applicable System Development Charges for the Annexation Property.

The Annexation Property has a County zoning designation of R10; the City equivalent zoning will be R-10, with a Low Density Residential designation. The property is developed with a single-family home. Upon annexation, the existing residential use will be a conforming use, subject to the City's zoning ordinance for review and approval of any proposed alterations.

Site and Vicinity

The Annexation Property is contiguous to the existing city limits as a result of the NESE right-of-way annexation in 2010. The Annexation Property is within the City's urban growth management area (UGMA) and the NESE project area. The area surrounding the site is developed with single-family residential uses.

Annexation Petition

The petition is being processed as an expedited annexation at the request of the Annexation Property's owner. Under the expedited process, a City land use and zoning designation is automatically applied to the Annexation Property upon annexation. Any property that is within the UGMA and contiguous to the city limit may apply for an expedited annexation so long as all property owners of the area to be annexed and at least 50% of registered voters within the area to be annexed consent to the annexation. Clackamas County has certified that these thresholds are met for the Annexation Property.

As set forth in MMC Table 19.1104.1.E, the expedited annexation process automatically assigns City land use and zoning designations to the Annexation Property based on the existing Clackamas County land use and zoning designations. The existing County land use designation for the Annexation Property is Urban Low Density Residential (LDR),

which would assign the City’s Low Density Residential (LD) Comprehensive Plan designation to them upon annexation. The current county zoning designation is Residential R10, which would assign a city zoning designation of Residential zone R-10 upon annexation.

Pursuant to City, regional, and State regulations on expedited annexations, all necessary parties, interested persons, and residents and property owners within 400 feet of the site were notified of these proceedings, under MMC 19.1103.4.1.C. A public hearing is not required for an expedited annexation; however, Council must adopt an ordinance to implement the annexation.

Expedited Annexation Approval Criteria

Expedited annexations must meet the approval criteria of MMC Subsection 19.1102.3. Compliance with the applicable criteria is detailed in Attachment 1 (Exhibit A, Findings).

Utilities, Service Providers, and Service Districts

The City is authorized by ORS Section 222.120(5) to withdraw the Annexation Property from non-City service providers and districts upon annexation to the City. This allows for a more unified and efficient delivery of urban services to newly annexed properties and is in keeping with the City’s Comprehensive Plan policies relating to annexation.

- Wastewater: The Annexation Property is within the City’s sewer service area and served by the City’s 8-inch sewer lines.
- Water: The Annexation Property is currently served by Clackamas River Water (CRW). Pursuant to the City’s IGA with CRW, CRW will continue to serve the property, and it should not be withdrawn from this district at this time.
- Storm: The Annexation Property is not connected to a public storm water system. Treatment and management of on-site storm water will be required when new development occurs.
- Fire: The Annexation Property is currently served by Clackamas County Fire District No. 1 and will continue to be served by this fire district upon annexation, since the entire City is within this district.
- Police: The Annexation Property is currently served by the Clackamas County Sheriff’s Department and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The City has its own police department, and this department can adequately serve the site. In order to avoid duplication of services, the site should be withdrawn from Clackamas County Service District for Enhanced Law Enforcement upon annexation to the City.

- Street Lights: The Annexation Property is currently within Clackamas County Service District No. 5 for Street Lights (the “District”). As of July 1, 2011, an intergovernmental agreement between the City and the District transferred operational responsibility to the City for the street lights and street light payments in the NESE area, though the property itself remains in the District until it annexes to the City. The Annexation Property should be withdrawn from the District upon annexation, as the City provides street lighting for properties within the city as part of its package of city services.
- Other Services: Planning, Building, Engineering, Code Enforcement, and other municipal services are available through the City and will be available to the site upon annexation. The Annexation Property will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control District, etc.

CONCURRENCE

All City departments, necessary parties, interested persons, and residents and property owners within 400 feet of the Annexation Property were notified of these annexation proceedings as required by City, regional, and State regulations. The Lewelling Neighborhood District Association and the Southgate Planning Association also received notice of the annexation petition and meeting.

The City received one comment from Clackamas River Water, a necessary party, who stated that they had no objections to the proposed annexation.

FISCAL IMPACT

The annexation will have minimal fiscal impact on the City. Costs of providing governmental services will likely be off-set by the collection of property taxes. Per Clackamas County Assessor data, the total assessed value of the Annexation Property in 2013 was \$166,718. Total property tax collection of approximately \$2,696 is anticipated for the Annexation Property, and the City will receive approximately \$679 of this total. No incremental costs in the general fund are anticipated as a result of the annexation of this property.

WORK LOAD IMPACTS

Work load impacts will be minimal and will likely include, but are not limited to, the following: utility billing; provision of general governmental services; and the setting up and maintenance of property records.

ALTERNATIVES

The application is subject to Milwaukie Comprehensive Plan Chapter 6 City Growth and Governmental Relationships, Oregon Revised Statutes Chapter 222 City Boundary Changes, Metro Code Chapter 3.09 Local Government Boundary Changes, and MMC Chapter 19.1100 Annexations and Boundary Changes.

The City Council has two decision-making options:

1. Approve the application and adopt the ordinance and findings in support of approval.
2. Deny the application and adopt findings in support of denial.

ATTACHMENTS

1. Annexation Ordinance
 - Exhibit A. Findings in Support of Approval
 - Exhibit B. Legal Description and Tax Map
2. Annexation Site Map
3. Applicant's Annexation Application

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS TAX LOT 1S2E30DD-03401 AND LOCATED AT 10021 SE WICHITA AVENUE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS. (FILE #A-14-01).

WHEREAS, the territory proposed for annexation is contiguous to the City's boundary and is within the City's urban growth management area; and

WHEREAS, the requirements of the Oregon Revised Statutes for initiation of the annexation were met by providing written consent from all owners of land in the territory proposed for annexation; and

WHEREAS, the requirements of the Oregon Revised Statutes for initiation of the annexation are further satisfied in that written consent from a majority of electors is not required given that there are no electors residing on the property; and

WHEREAS, the territory proposed for annexation lies within the territory of Clackamas County Service District No. 5 for Street Lights and Clackamas County Service District for Enhanced Law Enforcement; and

WHEREAS, the annexation and withdrawals are not contested by any necessary party; and

WHEREAS, the annexation will promote the timely, orderly, and economic provision of public facilities and services; and

WHEREAS, Table 19.1504.1.E of the Milwaukie Municipal Code provides for the automatic application of City zoning and Comprehensive Plan land use designations; and

WHEREAS, the City conducted a public meeting and mailed notice of the public meeting as required by law; and

WHEREAS, the City prepared and made available an annexation report that addressed all applicable criteria, and, upon consideration of such report, the City Council favors annexation of the tract of land and withdrawal from all applicable districts based on findings and conclusions attached hereto as Exhibit A;

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. The Findings in Support of Approval and attached as Exhibit A are hereby adopted.

Section 2. The tract of land described and depicted in Exhibit B is hereby annexed to the City of Milwaukie.

Section 3. The tract of land annexed by this ordinance and described in Section 2 is hereby withdrawn from Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights.

Section 4. The tract of land annexed by this ordinance and described in Section 2 is hereby assigned a Comprehensive Plan land use designation of Low Density Residential and a Municipal Code zoning designation of Residential zone R-10.

Section 5. The City shall immediately file a copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.030 and ORS 222.005 and 222.177. The annexation and withdrawals shall become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

**EXHIBIT A.
FINDINGS IN SUPPORT OF APPROVAL**

Based on the expedited annexation staff report for 10021 SE Wichita Avenue (the “Annexation Property”), the Milwaukie City Council finds:

1. The Annexation Property consists of one tax lot comprising 0.25 acres (Tax Map 1S2E30DD, Tax Lot 03401). The site is contiguous to the existing city limits via Wichita Avenue along its eastern border. The Annexation Property is within the regional urban growth boundary and also within the City’s urban growth management area (UGMA).

The Annexation Property is developed with a single-family dwelling unit. The surrounding area consists of single-family dwellings.
2. The property owner seeks annexation to the City to access City services, namely sewer service.
3. The annexation petition was initiated by Consent of All Owners of Land on March 26, 2014, with an application for annexation submitted to the City on the same day (March 26, 2014). It meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsection 19.1102.2.A.1.
4. The annexation petition was processed and public notice was provided in accordance with ORS Section 222.125, Metro Code Section 3.09.045, and MMC 19.1104.
5. The annexation petition is being processed as an expedited annexation at the request of the property owner. It meets the expedited annexation procedural requirements set forth in MMC 19.1104.
6. The expedited annexation process provides for automatic application of City land use and zoning designations to the Annexation Property based on its existing land use designation in the County, which is Residential R10. Pursuant to MMC Table 19.1104.1.E, the automatic City Comprehensive Plan land use and zoning designations for the Annexation Property are Low Density Residential and Residential Zone R-10, respectively.
7. The applicable City approval criteria for expedited annexations are contained in MMC 19.1102.3. They are listed below with findings in italics.
 - A. The subject site must be located within the City’s urban growth management area (UGMA);

The Annexation Property is within the City’s UGMA.
 - B. The subject site must be contiguous to the existing city limits;

The Annexation Property is contiguous to the existing city limits along its eastern edge.

- C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;

Scott Ohman, owner of the Annexation Property, consented to the annexation by signing the petition. There are no registered voters residing at the Annexation Property. As submitted, the annexation petition meets the Oregon Revised Statutes requirements for initiation pursuant to the "Consent of All Owners of Land" initiation method, which requires consent by all property owners and a majority of the electors, if any, residing at the Annexation Property.

- D. The proposal must be consistent with Milwaukie Comprehensive Plan Policies;

Chapter 6 of the Comprehensive Plan contains the City's annexation policies. Applicable annexation policies include: (1) delivery of City services to annexing areas where the City has adequate services and (2) requiring annexation in order to receive a City service. City sewer service is available to the Annexation Property in Wichita Avenue. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.

- E. The proposal must comply with the criteria of Metro code Sections 3.09.050(d) and, if applicable, (e).

The annexation proposal is consistent with applicable Metro Code sections for expedited annexations as detailed in Finding 8.

- 8. Prior to approving an expedited annexation, the City must apply the provisions contained in Section 3.09.045.D of the Metro Code. They are listed below with findings in italics.

- A. Find that the change is consistent with expressly applicable provisions in:

- (1) Any applicable urban service agreement adopted pursuant to ORS 195.205;

There are no applicable urban service agreements adopted pursuant to ORS 195 in the area of the proposed annexation. The City, however, has an UGMA agreement with Clackamas County that states that the City will take the lead in providing urban services in the area of the proposed annexation. Pursuant to this agreement, the City recently completed construction of a public sewer system in this area. The proposed annexation is in keeping with the City's policy of requiring properties to annex to the City in order to connect to City services such as the new sewer line.

- (2) Any applicable annexation plan adopted pursuant to ORS 195.205;

There are no applicable annexation plans adopted pursuant to ORS 195 in the area of the proposed annexation.

- (3) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;

There are no applicable cooperative planning agreements adopted pursuant to ORS 195 in the area of the proposed annexation.

- (4) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

Clackamas County completed a North Clackamas Urban Area Public Facilities Plan in 1989 in compliance with Goal 11 of the Land Conservation and Development Commission for coordination of adequate public facilities and services. The City subsequently adopted this plan as an ancillary Comprehensive Plan document. The plan contains four elements:

- *Sanitary Sewerage Services*
- *Storm Drainage*
- *Transportation Element*
- *Water Systems*

The proposed annexation is consistent with the four elements of this plan as follows:

Sewer: *The City is the identified sewer service provider in the area of the proposed annexation and recently completed construction of a public sewer system that can adequately serve the Annexation Property.*

Storm: *The Annexation Property is not connected to a public storm water system. Treatment and management of on-site storm water will be required when new development occurs.*

Transportation: *The City will require public street improvements along the Annexation Property's frontage when new development occurs.*

Water: *Clackamas River Water (CRW) is the identified water service provider in this plan. However, the City's more recent UGMA agreement with the County identifies the City as the lead urban service provider in the area of the proposed annexation. The City is in the process of developing a water service master plan for all of the territory within its UGMA and discussing possible service provision changes with CRW. In the meantime, CRW will continue to provide water service to the Annexation Property.*

- (5) Any applicable comprehensive plan.

The proposed annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described on the previous page. The Clackamas County Comprehensive Plan contains no specific language regarding City annexations. It does,

however, contain the City-County UGMA agreement, which identifies the area of the proposed annexation as being within the City's UGMA. The UGMA agreement requires that the City notify the County of proposed annexations, which the City has done. The agreement also calls for City assumption of jurisdiction of local streets that are adjacent to newly annexed areas. The City has already annexed and taken jurisdiction of the Wichita Avenue right-of-way adjacent to the proposed Annexation Property.

B. Consider whether the boundary change would:

- (1) Promote the timely, orderly and economic provision of public facilities and services;

The City is the identified urban service provider in the area of the proposed annexation, and the proposed annexation will facilitate the timely, orderly, and economic provision of urban services to the Annexation Property.

The City has recently expanded City sewer service into this area via Wichita Ave. The area is currently served by CRW, and the City does not propose to duplicate CRW's water system to serve the Annexation Property.

- (2) Affect the quality and quantity of urban services; and

The Annexation Property is a tax lot developed with a single-family residence. Annexation of the site is not expected to affect the quality or quantity of urban services in this area, given the surrounding level of urban development and the existing level of urban service provision in this area.

- (3) Eliminate or avoid unnecessary duplication of facilities and services.

The Annexation Property will be served by the Milwaukie Police Department upon annexation. In order to avoid duplication of law enforcement services, the site will be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement.

CRW is the current water service provider in the area of the proposed annexation. Until such time as the existing IGA between the City and CRW is renegotiated, the City does not intend to duplicate CRW's existing water supply system or withdraw private properties being served by CRW from the CRW district. CRW will continue to be the water service provider in this area.

9. The City is authorized by ORS Section 222.120 (5) to withdraw annexed territory from non-City service providers and districts upon annexation of the territory to the City. This allows for more unified and efficient delivery of urban services to newly annexed properties and is in keeping with the City's Comprehensive Plan policies relating to annexation.

Wastewater: The Annexation Property is within the City's sewer service area and is served by the City's 8-inch sewer lines accessible in Wichita Ave.

Water: The Annexation Property is currently served by CRW through a CRW water line in Laurel St. Pursuant to the City's IGA with CRW, the site should not be withdrawn from this district at this time.

Storm: The Annexation Property is not connected to a public storm water system. Treatment and management of on-site storm water will be required when new development occurs.

Fire: The Annexation Property is currently served by Clackamas County Fire District No. 1 and will continue to be served by this fire district upon annexation, since the entire City is within this district.

Police: The Annexation Property is currently served by the Clackamas County Sheriff's Department and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The City has its own police department, and this department can adequately serve the site. In order to avoid duplication of services, the site should be withdrawn from Clackamas County Service District for Enhanced Law Enforcement upon annexation to the City.

Street Lights: The Annexation Property is currently within Clackamas County Service District No. 5 for Street Lights (the "District"). As of July 1, 2011, an intergovernmental agreement between the City and the District transfers operational responsibility to the City for the street lights and street light payments in the NESE area, though the properties themselves remain in the District until they annex to the City. The Annexation Property should be withdrawn from the District upon annexation, as the City provides street lighting for properties within the city as part of its package of city services.

Other Services: Planning, Building, Engineering, Code Enforcement, and other municipal services are available through the City and will be available to the site upon annexation. The Annexation Property will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control District, etc.

Exhibit B
Annexation to the City Of Milwaukie
LEGAL DESCRIPTION

Milwaukie Annexation File No. A-14-01

Property Address: 10021 SE Wichita Ave., Milwaukie, OR 97222

Tax Lot Description: 1S2E30DD 03401

Legal Description: A part of the Hector Campbell D.L.C. No. 41 in the Southeast one quarter of the Southeast one quarter of Section 30, Township 1 South, Range 2 East, of the W.M., in the County of Clackamas and State of Oregon, more particularly described as follows:

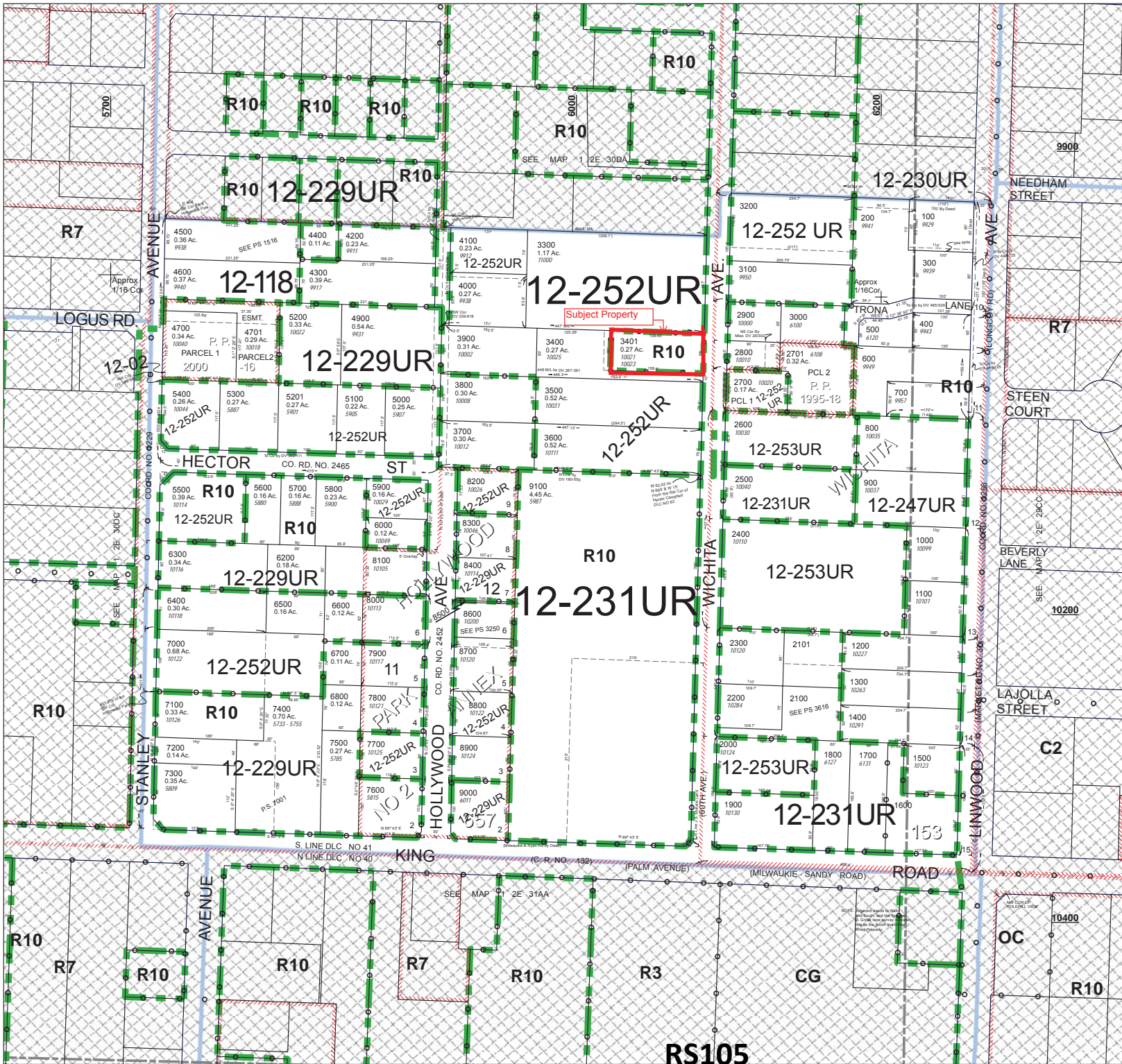
Beginning on the Westerly line of Wichita Road which is 794 feet Northerly from the Southeast corner of that tract conveyed to School District No 119 in Book 109, Page 128, Deed Records, said point being the Southeast corner of that tract sold to Brian C. Kincaid, et ux, by contract Recorded November 4, 1981, as Recorder's Fee No 81-38085, Deed Records, thence North 0°56'09" West 15.00 feet to an iron rod at the true point of beginning of the tract herein described. From the true point of beginning thence South 89°43'00" West parallel with the Southerly line of the Kincaid Tract, 158.60 feet to an iron rod; thence North 0°48'25" West 68.00 feet to an iron rod on the Northerly line of the Kincaid Tract; thence North 89°43'00" East along the said Northerly line 158.45 feet to an iron rod at the Northeast corner of the said tract, said point being on the West line of Wichita Road; thence South 0°56'09" East along the said West line 68.00 feet more or less to the true point of beginning of the tract herein described.

S.E. 1/4 S.E. 1/4 SEC. 30 T. 1S. R. 2E. W.M.
CLACKAMAS COUNTY
1" = 100'

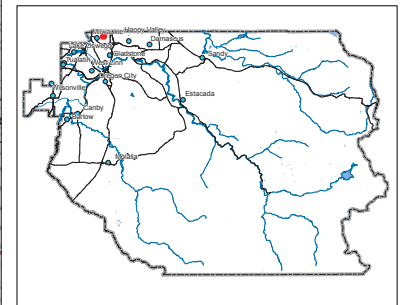
D. L. C.
HECTOR CAMPBELL NO. 41

Cancelled Taxlots

- 4800
- 5401
- 5501
- 6100
- 6900
- 7301



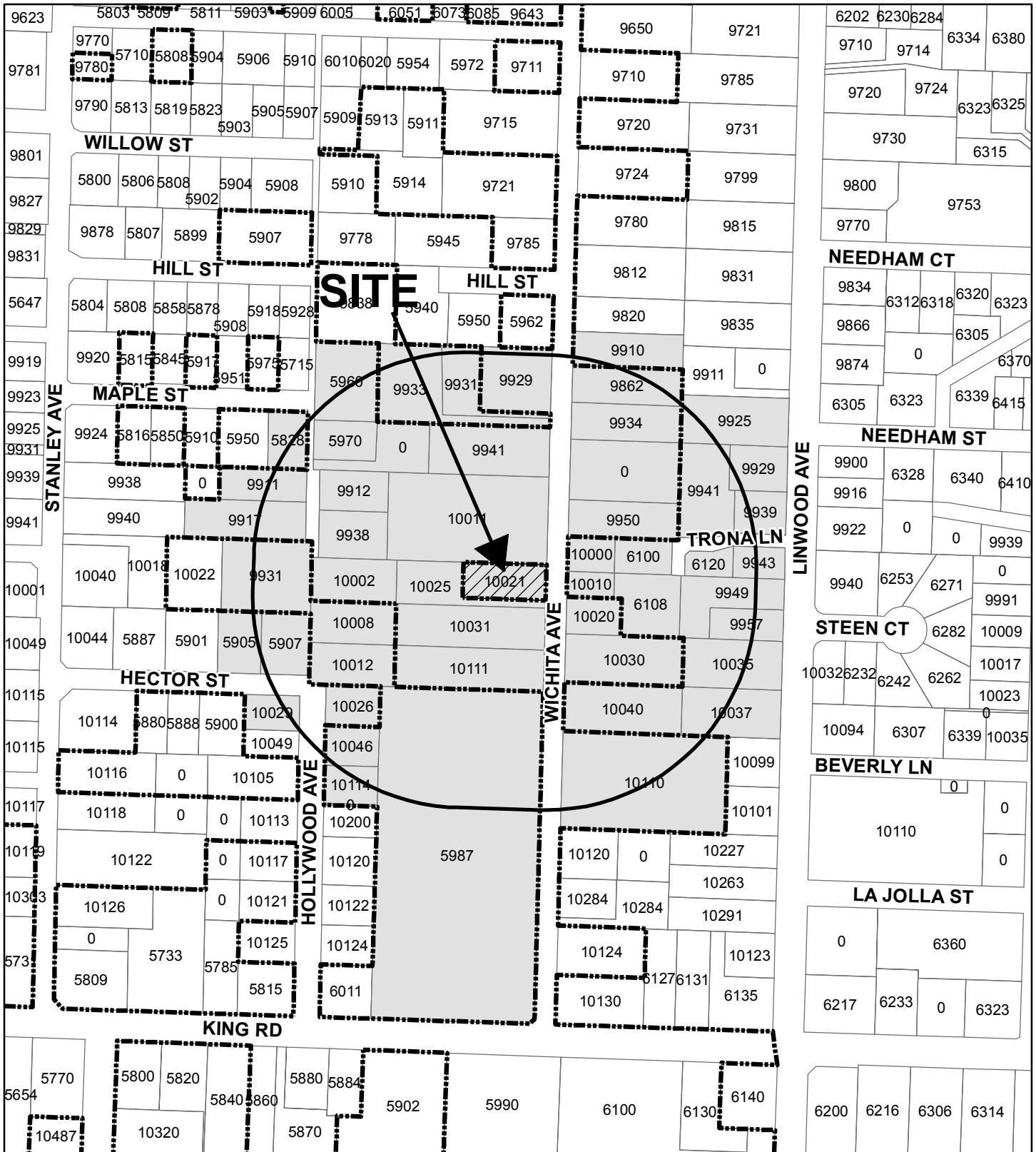
- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxCode Lines
- Map Index
- WaterLines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT PURPOSES ONLY






RS105

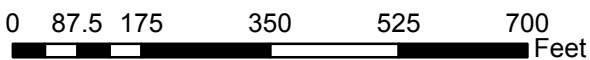
ATTACHMENT 2



Site Map
10021 SE Wichita Ave.
(1S2E30DD03401)
File#A-14-01

Legend

-  A-14-01 Site
-  400-FT public notice area
-  Properties receiving notice
-  City Limit
-  Tax lots



RS106



PLANNING DEPARTMENT
 6101 SE Johnson Creek Blvd
 Milwaukie OR 97206

PHONE: 503-786-7630
 FAX: 503-774-8236
 E-MAIL: planning@ci.milwaukie.or.us
 WEB: www.cityofmilwaukie.org

Expedited Annexation Application

File #: A-14-01

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant): <u>Scott E. Ohman</u>	
Mailing address: <u>10021 SE Wichita Ave., Milwaukie, OR</u>	Zip: <u>97222</u>
Phone(s): <u>(c) 503-407-4831</u>	E-mail: <u>ohman3803@comcast.net</u>
APPLICANT'S REPRESENTATIVE (if different than above):	
Mailing address:	Zip:
Phone(s):	E-mail:

SITE INFORMATION:

Address(es): <u>10021 SE Wichita Ave.</u>	Map & Tax Lot(s): <u>12E300003401</u>	Property size: <u>158.45 x 68 ft.</u>
Existing County zoning: <u>Single family (R-10)</u>	Proposed City zoning: <u>R-10</u>	
Existing County land use designation: <u>LDR</u>	Proposed City land use designation: <u>LD (Low Density)</u>	

PROPOSAL (describe briefly):

<u>Sewer pipe installation to connection to sewer.</u>
--

LIST OF ALL CURRENT UTILITY PROVIDERS:

Check all that apply (do not list water or sewer service providers)

Cable, internet, and/or phone:	<input checked="" type="checkbox"/> Comcast	<input type="checkbox"/> CenturyLink (formerly Qwest)
Energy:	<input checked="" type="checkbox"/> PGE	<input checked="" type="checkbox"/> NW Natural Gas
Garbage hauler:	<input type="checkbox"/> Waste Management	<input checked="" type="checkbox"/> Mel Deines
	<input type="checkbox"/> Wichita Sanitary	<input type="checkbox"/> Oak Grove Disposal
<input type="checkbox"/> Hoodview Disposal and Recycling		<input type="checkbox"/> Clackamas Garbage
<input type="checkbox"/> Other (please list):		

SIGNATURE: Scott Ohman

ATTEST: I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. I have attached all owners' and voters' authorizations to submit this application. I understand that uses or structures that were not legally established in the County are not made legal upon annexation to the City. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: Scott Ohman Date: 3/24/2014

CONTINUED ON REVERSE

THIS SECTION FOR OFFICE USE ONLY:

File #: <i>A-14-01</i> Fee: \$ <i>150</i> Receipt #: <i>541295</i> Rcd. by: <i>Atkins</i>	Date stamp:
Associated application file #'s:	RECEIVED MAR 26 2014 CITY OF MILWAUKIE PLANNING DEPARTMENT
Neighborhood District Association(s): <i>Lowelling</i>	
Notes (include discount if any): <i>Tax code - 012-229</i> <i>Average = 0.25 acres</i>	

PETITION SIGNERS

NOTE: This petition may be signed by qualified persons even though they may not know their property description or voter precinct number.

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
<i>Scott O'Hara</i>	SCOTT O'HARA	4			
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	
10021 S E Wichita Ave	1	2	30	3401	By mail

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

*PO = Property Owner RV = Registered Voter OV = Owner and Registered Voter

PRELIMINARY REPORT
(Continued)

Order No.: 472512505579SD-CT45

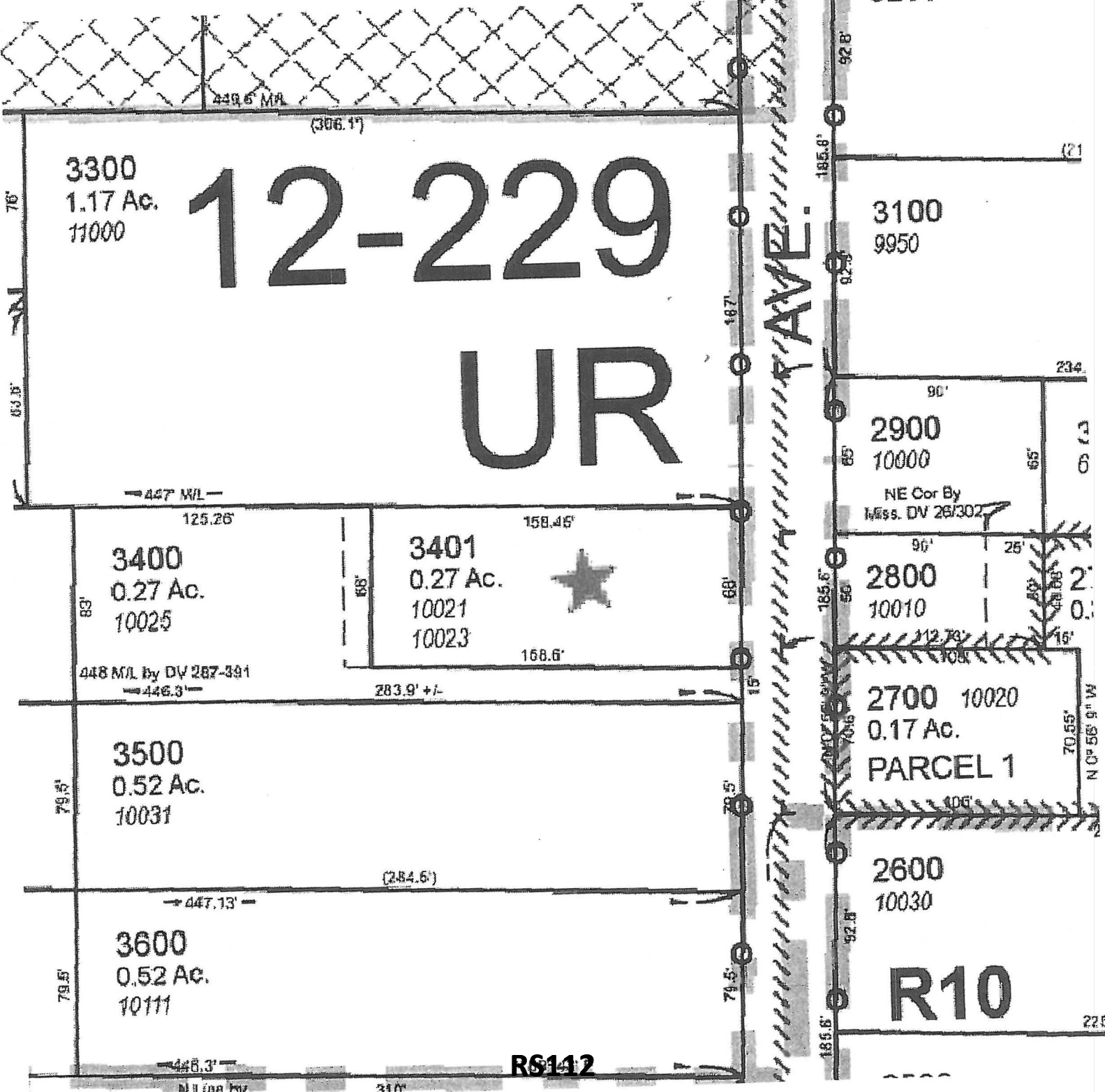
EXHIBIT "ONE"

Part of the Hector Campbell D.L.C. No. 41 in the Southeast one quarter of the Southeast one quarter of Section 30, Township 1 South, Range 2 East, Willamette Meridian., in the County of Clackamas and State of Oregon, more particularly described as follows.

Beginning on the Westerly line of Wichita Road which is 794 feet Northerly from the Southeast corner of that tract conveyed to School District No 119 in Book 109, Page 128, Deed Records, said point being the Southeast corner of that tract sold to Brian C. Kincaid, et ux, by contract Recorded November 4, 1981, as Recorder's Fee No 81-38085, Deed Records, thence North 0°56'09" West 15.00 feet to an iron rod at the true point of beginning of the tract herein described. From the true point of beginning thence South 89°43'00" West parallel with the Southerly line of the Kincaid Tract, 158.60 feet to an iron rod; thence North 0°48'25" West 68.00 feet to an iron rod on the Northerly line of the Kincaid Tract; thence North 89°43'00" East along the said Northerly line 158.45 feet to an iron rod at the Northeast corner of the said tract, said point being on the West line of Wichita Road; thence South 0°56'09" East along the said West line 68.00 feet more or less to the true point of beginning of the tract herein described.

Map # 12E30DD03401

This map has been copied from the public records and is provided solely for the purpose of assisting in locating the premises. No liabilities are assumed for inaccuracies contained herein or for variations, if any, in dimensions, area or location of the premises or the location of improvements ascertained by actual survey.



12-229
UR

RS112

R10

2700 10020
0.17 Ac.
PARCEL 1

3401
0.27 Ac.
10021
10023

2900
10000

2800
10010

3100
9950

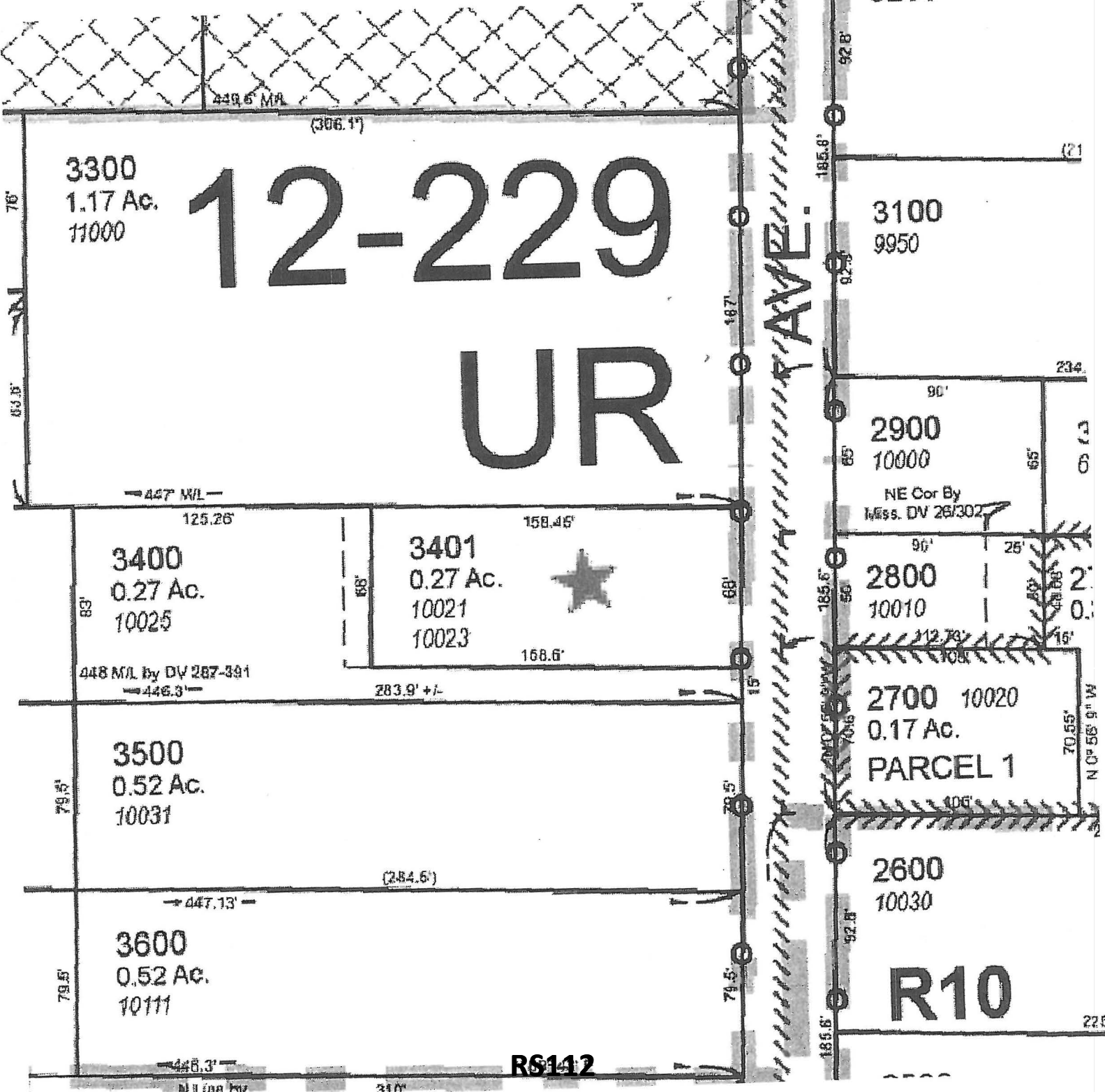
3400
0.27 Ac.
10025

3500
0.52 Ac.
10031

3600
0.52 Ac.
10111

3300
1.17 Ac.
11000

AVE.



**CERTIFICATION OF PROPERTY OWNERSHIP OF
100% OF LAND AREA**

I hereby certify that the attached petition contains the names of the owners¹ (as shown on the last available complete assessment roll) of 100% of the land area of the territory proposed for annexation as described in the attached petition.

Name Ben Blessing
Title GIS Cartographer
Department Assessor
County of Clackamas
Date 3-26-2014

¹ Owner means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If a parcel of land has multiple owners, each consenting owner shall be counted as a percentage of their ownership interest in the land. That same percentage shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.

CERTIFICATION OF LEGAL DESCRIPTION AND MAP

I hereby certify that the description of the territory included within the attached petition (located on Assessor's Map 12E30DD) has been checked by me. It is a true and exact description of the territory under consideration and corresponds to the attached map indicating the territory under consideration.

Name Ben Blessing
Title GIS Cartographer
Department Assessor
County of Clackamas
Date 3-26-2014

CERTIFICATION OF REGISTERED VOTERS

I hereby certify that the attached petition contains the names of at least a majority of the electors registered in the territory proposed for annexation as described in the attached petition.

* NO REGISTERED
VOTERS. *FT*

Name FLOYD THOMAS

Title DEPUTY CLERK

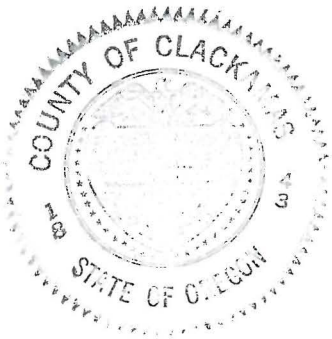
Department ELECTIONS

County of CLACKAMAS

Date 3-26-14

Floyd Thomas

CLACKAMAS COUNTY ELECTIONS
SHERRY HALL, COUNTY CLERK
1710 RED SOILS CT, SUITE 100
OREGON CITY, OR 97045



NOTICE LIST

(This form is NOT the petition)

LIST THE NAMES AND ADDRESSES OF ALL PROPERTY OWNERS AND REGISTERED VOTERS IN THE TERRITORY PROPOSED FOR ANNEXATION.

	Name of Owner/Voter	Mailing Street Address	Property Address
		Mailing City/State/Zip	Property Description <small>(township, range, ¼ section, and tax lot)</small>
1	Scott E. Ohman	10021 SE Wichita Ave. Milwaukie, OR 97222	10021 SE Wichita Ave. Milwaukie, OR 97222
2			
3			
4			
5			
6			
7			
8			
9			
10			

	Name of Owner/Voter	Mailing Street Address	Property Address
		Mailing City/State/Zip	Property Description (township, range, ¼ section, and tax lot)
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			

CONFIDENTIAL

Census Form

Use one form per housing unit

Date 3/24/2014

CITY OF MILWAUKIE, OREGON

ADDRESS 10021 S.E. WICHITA AVE

HOUSING TYPE:

- Single Unit Structure
- Multiple Unit Structure
- Trailer or Mobile Home

TENURE:

- Owner Occupied
- Renter Occupied
- Vacant
- Seasonal

RESIDENTS:

	<u>Last Name</u>	<u>First Name</u>
Respondent	<u>OHMARA</u>	<u>SCOTT</u>
2)	_____	_____
3)	_____	_____
4)	_____	_____
5)	_____	_____
6)	_____	_____
7)	_____	_____
8)	_____	_____
9)	_____	_____
10)	_____	_____

POPULATION RESEARCH CENTER

PORTLAND STATE
UNIVERSITY

(503) 725-3922

6/3/14



MILWAUKIE CITY COUNCIL
STAFF REPORT

To: Mayor and City Council

Through: Bill Monahan, City Manager
 Steve Bartol, Police Chief
 Mark Dye, Police Captain

Subject: **Protest of Abatement of 2840 SE Boyd St**

From: Tim Salyers, Code Compliance Coordinator

Date: May 30, 2014

ACTION REQUESTED

Declare the property a nuisance, upholding the decision of City Staff, which would then authorize the City of Milwaukie's Code Enforcement Department to proceed with the abatement process to remove nuisances occurring on the property at 2840 SE Boyd St, Milwaukie, OR 97222, Tax Lot ID 11E25BD01200, if the property is not in compliance by June 13, 2014.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

None by Council

BACKGROUND

General Code Enforcement Actions

The code compliance staff attempts to gain compliance through letters, phone calls, site visits, citations and even sentencing recommendations through the Court. Abatements take more staff time and therefore costs the City and its citizens more money than if compliance is achieved through the other processes. The money that is expended on abatement is most likely not to be repaid within a few months or even a few years of the abatement summary bill issued at the end of the process. Therefore, abatement is always a last resort for the City.

Code Compliance Steps Taken For This Property

Since the spring of 2011, the code enforcement department has received nuisance complaints regarding the property at 2840 SE Boyd St in Milwaukie owned by Ms. Deanna Martinot. The nuisances include: overgrown weeds and blackberries, inoperable vehicles, junk, junk machinery and debris. In addition to those complaints a fence was installed in the public right-of-way, which is also a violation of Milwaukie Municipal Code's (MMC) Zoning Code, and therefore makes it a nuisance violation of MMC 8.04.135.

The following list describes the chronological events regarding this property:

- **April 18, 2011**- A letter was sent to the property owner for the removal of all debris and inoperable vehicles from the property. The compliance date was set for May 1, 2011. One photo was taken that day. **Attachment 3**

- **June 2, 2011**- An additional letter was sent regarding the debris and the inoperable vehicles. It gave a compliance date of June 12, 2011. Three photos were taken that day.
- **June 14, 2011**- A final letter was sent regarding the debris and inoperable vehicles. It gave a compliance date of June 26, 2011.
- **July 20, 2011**- A citation was issued for a violation of MMC 8.04.070B Debris on Private Property to Ms. Martinot. Four photos were taken that day.
- **September 7, 2011**- Ms. Martinot entered a guilty plea and was fined \$2000 plus a \$50 assessment. She was granted more time to remedy the situation and the judge would have reduced the fine if compliance was met.
- **October 25, 2011**- Ms. Martinot reappeared and compliance had not been met. Judge granted more time and said the fine would be lowered to \$500 if property was in compliance.
- **November 8, 2011**- Ms. Martinot failed to appear for sentencing and the judgment of \$2000 plus a \$50 assessment was issued. She was able to work out a payment plan which is an additional \$25 administrative fee. She paid \$450 and then stopped making payments. The remaining \$1,625 was sent to collections and has gone unpaid.
- **September 27, 2012**- A Notice of Violation was left at the front door of the house on the property. The Notice of Violation stated that all debris needed to be removed from property, all inoperable vehicles needed to be removed from the property or made operable and all weeds needed to be cut to height of eight inches or less. The compliance date was October 7, 2012. Nine photos were taken that day. **Attachment 3**
- **October 10, 2012**- A site inspection with the property owner and another resident of the property, Norman Yee, resulted in another Notice of Violation given to the property owner with similar instructions, it specified that the work needed to be completed in the front and back yards. The compliance date was set for October 21, 2012.
- **December 17, 2012**- I visited the neighbor's property. I was given access by the neighbor to view outside his upstairs windows to see what his view was. This was a meeting that the neighbor requested. While I was there I took numerous pictures from the inside of the house and from along the property line. This site visit was when we discovered the fence in the public right-of-way. **Attachment 3**
- **January 29, 2013**- Another site visit from the neighbor's property resulted in 28 pictures.
- **February 5, 2013**- A citation was issued for three different violations on the property. The citation was issued for violation of MMC 8.04.070B Debris on Private Property (junk, junk machinery, inoperable vehicles and debris), MMC 8.04.110A Weeds and Noxious Growth (blackberries and other weeds over 8" in height) and MMC 8.04.135 Compliance with Zoning Regulations (fence built in the public right-of-way). A citation was issued to the property owner and an additional citation for the same violations was issued to another occupant Norman Yee.
- **May 1, 2013**- A trial was held for both defendants. Ms. Martinot was found guilty of all three violations and Mr. Yee was found guilty of only one violation (Debris on Private Property- inoperable vehicles are registered to him). Ms. Martinot was fined a total amount of \$6500 and Mr. Yee was fined \$4000. The fines have gone unpaid. Ms. Martinot's and Mr. Yee's fines have been put into suspension and a lien is being prepared.
- **January 29, 2014**- Upon seeing no change in the condition of the property, a Notice of Violation was sent to Ms. Martinot and Mr. Yee. The Notice required removal of junk, debris and inoperable vehicles from the property, the cyclone fence in the public right-of-way, and all invasive species like Himalayan blackberry needed to be cut and maintained on the entire

property with a compliance date of March 1, 2014. It also stated that “No extensions will be given. If compliance is not met a citation will be issued.”

- **March 5, 2014**- A citation was issued to the property owner for three different violations on the property. The citation was issued for violation of MMC 8.04.070B Debris on Private Property (junk, junk machinery, inoperable vehicles and debris), MMC 8.04.110A Weeds and Noxious Growth (blackberries and other weeds over 8” in height) and MMC 8.04.135 Compliance with Zoning Regulations (fence built in the public right-of-way). On that day, numerous pictures were taken of the property. **Attachment 3**
- **April 2, 2014**- Ms. Martinot entered a plea of Not Guilty and the matter was set for trial in May 14, 2014.
- **April 24, 2014**- Ms. Martinot’s attorney submitted a motion to extend trial date and was granted a new trial date for July 23, 2014.
- **May 16, 2014**- Site visit from adjoining property resulted in numerous pictures. **Attachment 3**
- **May 19, 2014**- City Manager signs abatement notice and the notice is posted at the property and mailed certified and regular first class mail to Ms. Martinot’s mailing address. **Attachment 2**
- **May 28, 2014**- The City Recorder’s office received a written protest from Ms. Martinot’s attorney. **Attachment 1**

The MMC 8.04.180 states that, “Within ten days after the posting and mailing of the (Abatement) notice..., the owner or person in charge of the property shall remove the nuisance or show that no nuisance exists...The owner or person in charge protesting that no nuisance exists shall file with the city recorder a written statement which shall specify the basis for so protesting.”

Milwaukie Municipal Code requires that, City Council at its earliest meeting will have a hearing regarding the property. “...the council shall thereupon determine whether or not a nuisance in fact exists...” The code continues, “If the council determines that a nuisance does in fact exist, the owner or other person shall within ten(10) days (June 13, 2014) after such council determination abate such nuisance.”

Property Owner’s Protest

The protest submitted by Ms. Martinot’s attorney gives two reasons to not proceed with the City’s abatement process. The first argument is that, “she has already initiated the abatement process.” It provides examples of some removal of blackberries and other invasive species claiming that the removal would take place within the next 20 days. It also argues that the forced abatement by the city may interfere with her plans to remedy the other alleged nuisances.

The second argument is that, “Some if not all of the alleged violations are in dispute.” He further writes, “She protests the enforcement of an Abatement Notice until after (a) the Municipal Court has tried this matter or (b) an appropriate Stipulated Abatement Order has been entered.”

Rebuttal of Property Owner’s Protest

As documented in the history of this property compliance has never been achieved. After the first citation the court granted her two separate extensions in an effort to get the property into compliance and to lower the fine that had been issued. She failed to comply. Through multiple notices and citations compliance has never been achieved. The City believes that the only way to gain compliance is to

remedy the violations ourselves, because history has proven that Ms. Martinot has been unable to achieve compliance.

It is true that the current citations are set for trial and have not been adjudicated. However, this property has been in roughly the same condition since the beginning of the code enforcement actions in April 2011. Nearly all the current conditions of the property that are going before the Municipal Court Judge, were there when the previous citations were found guilty at the trial on May 1, 2013. The difference between the last set of citations and the new set of citations is simply the timeframe for which the violations existed.

CONCURRENCE

The City Manager, Chief of Police and Captain of Operations of the Milwaukie Police Department concur with the abatement.

FISCAL IMPACTS

This is a very opportune time for the abatement of this property. The budget cycle is nearing completion and funds are available in the abatement budget. The City has the money now, before July 1, 2014, to do this project. It is imperative that the City abate this property, if Ms. Martinot is unable to gain compliance, because it will affect the Code Enforcement section's abatement abilities during the next budget cycle. Code Enforcement cases and abatements are hard to predict and the money budgeted in the next two fiscal years needs to be preserved for whatever compliance issues occur in the future.

If declared a nuisance, costs of abatement would depend on what work is done. Without obtaining a warrant and a bid from a contractor, costs are hard to determine. Staff is confident that the abatement fund in FY 2014 budget is sufficient to cover most if not all the costs of this project.

If no nuisance is declared and if violations continue, costs are hard to estimate due to continued City of Milwaukie employees' time spent on ongoing violations related to the property.

WORK LOAD IMPACTS

If declared a nuisance, workload would include: re-inspecting the property on June 14, 2014 and if violations are still occurring, setting up a contractor, obtaining a warrant from Judge Graves, agreeing on a contract with the contractor, towing of numerous vehicles, supervising removal of overgrown invasive species and debris, junk and junk machinery, a non-compliance fence and issuing a staff report (if bill is not paid) to City Council for another lien to be entered on the property, and closing current case.

If no nuisance is declared and if violations continue, workload would be hard to estimate due to continued City of Milwaukie employees' time spent on ongoing violations related to the property. Additional citations at a maximum of \$1000 per day per violation, could cost the property owner more money in the long run than if abatement is done.

ALTERNATIVES

Declare that the property is not a nuisance.

ATTACHMENTS

1. Protest Letter from Attorney Haddad
2. Abatement Notice
3. Pictures from 4/18/2011, 9/27/2012, 12/17/2012, 3/5/2014 & 5/16/2014
4. Milwaukie Municipal Code Sections 8.04.010, 8.04.070B, 8.04.110A, 8.04.135, 8.04.180, 19.201 portions & 19.502.2 portions

Attachment 1

From: Anca Burdea

Fax: (503) 552-1467

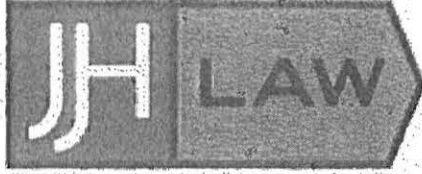
To:

Fax: +1 (503) 653-2444

Page 2 of 10 05/28/2014 3:14

3515 NW 13TH AVE PORTLAND, OR 97209

TEL: 503-552-1467 FAX: 503-552-1467 E-MAIL: anca@burdealaw.com



May 28, 2014

City Recorder for the City of Milwaukie
Pat DuVal
City Hall
10722 SE Main St
Milwaukie, OR 97222
Fax: 503-653-2444

VIA FACSIMILE AND FIRST CLASS MAIL

Re: Deanna Martinot, 2840 SE Boyd St.

Dear Ms. DuVal:

My office represents Deanna Martinot for purposes of responding to the City of Milwaukie's Citation #229377 01, 02, and 03. We have previously submitted my Notice of Representation on her behalf, and I am authorized to communicate the following Protest of Abatement Notice.

On May 19, 2014, Ms. Martinot received the City's Notice to Abate, attached to my letter as Exhibit A. In particular, the City seeks to abate alleged nuisances at 2840 SE Boyd St., Milwaukie, OR 97269, for debris, junk, junk machinery, inoperable vehicles, overgrown invasive species and grass, and a fence constructed in the right-of-way. The City also alleges that the fence may be "possibly too tall for the front yard."

Ms. Martinot respectfully protests this Abatement Notice for the following reasons:

1. She has already initiated the abatement process. The blackberry bushes and clematis previously growing on the property – and which supported the City's citation for having overgrown invasive species and grass – have been significantly abated, and Ms. Martinot plans to complete the removal of any other invasive species that could be found on the property in the next twenty (20) days. Any forced abatement by the City may interfere with her existing plans to remedy the other alleged nuisances, such as the removal of debris and junk from the property, and these plans are currently underway.

INFORMATION CONTAINED HEREIN MAY BE PRIVILEGED AND CONFIDENTIAL

RS124

2. Some if not all of the alleged violations are in dispute. Ms. Martinot has a trial date scheduled for July 23, 2014, for the purpose of adjudicating her guilt as to the above-referenced citation. While she wishes to be cooperative and hopes to satisfactorily address the City's concerns relating to the conditions found on her property, her efforts at abatement are not an admission of noncompliance. Accordingly, she protests the enforcement of an Abatement Notice until after (a) the Municipal Court has tried this matter or (b) an appropriate Stipulated Abatement Order has been entered.

We ask that the City accept Ms. Martinot's protest and suspend any enforcement of the Abatement Notice until this matter has been resolved before Municipal Court, or until Ms. Martinot has executed her current plans to remedy the alleged nuisances existing on her property. Ms. Martinot is elderly, thus requiring a little more time to complete the tasks she believes will fully remedy the concerns of the City. Nonetheless, she plans to continue working on the property and the conditions which affect the property in the immediate future so that all possible nuisances are abated well before the set trial date for this matter.

Thank you for your attention to this matter.

Sincerely,

/s/ Joseph J. Haddad

Joseph J. Haddad



NOTICE TO ABATE

Pursuant to Milwaukie Municipal Code, Section 8.04.170,
the City of Milwaukie hereby gives:

Deanna Martinot

And/or

Any other owner or person in charge of this property.

Notice that nuisances exist on the property located at:

2840 SE Boyd St,

Milwaukie, Clackamas County, State of Oregon

The nuisances on this property include debris, junk, junk machinery, inoperable vehicles, overgrown invasive species and grass, and a fence constructed in the public right-of-way and possibly too tall for the front yard and therefore violate Milwaukie Municipal Code Sections 8.04.070B Debris on Private Property, 8.04.110A Weeds and Noxious Growth, and 8.04.135 Compliance with Zoning Regulations.

The nuisance on this property MUST be abated within ten (10) days of the date of this notice. If the nuisance is not abated within that ten (10) day time period, the City may abate the nuisance and the cost of abatement shall be a lien against the property.

The owner or other person in charge of this property may protest this notice to abate to the City Recorder within ten (10) days from the date of this notice.

This notice is dated the 19th day of May 2014.

Determination of Nuisance Made and Abatement Ordered by:

A handwritten signature in blue ink, which appears to read "Bill Monahan".

Bill Monahan
City Manager
City of Milwaukie

April 18, 2011



September 27, 2012



RS128



RS129



RS130



RS131



RS132

December 17, 2012



RS133



RS134



RS135



RS136



RS137



RS138

March 5, 2014



RS139

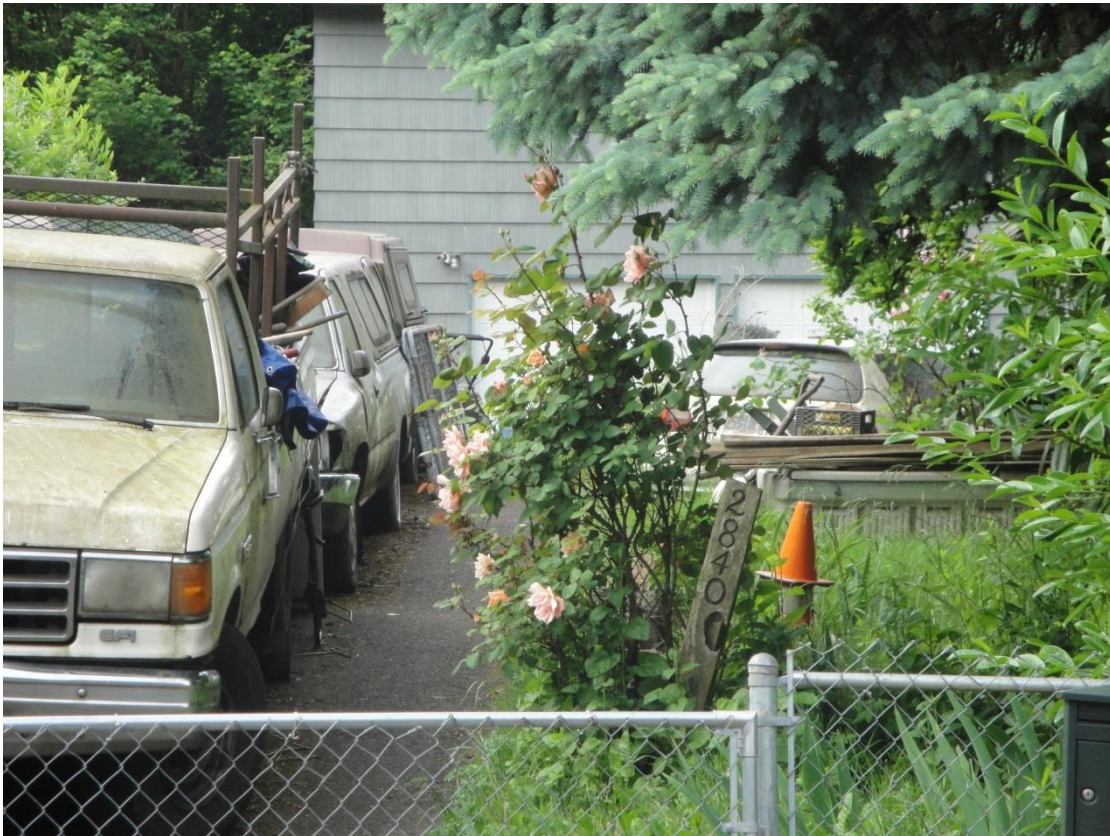


RS140



RS141

May 16, 2014



RS142



RS143



RS144

Attachment 4

8.04.010 DEFINITIONS

Except where the context indicates otherwise, the singular number includes the plural and the masculine gender includes the feminine, and the following definitions shall apply:

“Inoperable vehicle” means any vehicle which has no current valid state vehicle license, or which cannot be moved without being repaired or dismantled, or which is no longer usable for the purposes for which it was manufactured, and which has been in that condition for at least fifteen (15) days. Inoperable vehicle does not include any vehicle kept in an enclosed building or any vehicle kept on the premises of a business lawfully engaged in wrecking, junking, or repair of vehicles.

8.04.070 NUISANCES AFFECTING PUBLIC HEALTH

No person may permit or cause a nuisance affecting public health. The following are nuisances affecting the public health and may be abated as provided in this chapter:

B. Debris on Private Property

Accumulations of debris, rubbish, manure, and junk, junk machinery, or junk vehicles of any kind, inoperable vehicles, and other refuse located on private property that are not removed within a reasonable time.

8.04.110 WEEDS AND NOXIOUS GROWTH

The following things, practices, or conditions on any real property are nuisances. For purpose of this section, “real property” includes any portion of a right-of-way adjacent to the real property.

A. Grass, thistles cockleburs, brambles, wild blackberry bushes, weeds listed under any weed category in the Oregon State Noxious Weed List maintained by the Oregon State Weed Board, or other noxious vegetation, where the plant has:

1. Grown to greater than eight (8) inches in height;
2. Gone to seed; or
3. Become a fire hazard.

8.04.135 COMPLIANCE WITH ZONING REGULATIONS

No owner of real property may permit such property, or any improvement thereon, to be used in a manner inconsistent with all State, County, or City land use and zoning regulations and decisions pertaining to the property.

8.04.180 ABATEMENT—BY OWNER

A. Within ten (10) days after the posting and mailing of the notice as provided in Section 8.04.170, the owner or person in charge of the property shall remove the nuisance or show that no nuisance exists.

B. The owner or person in charge protesting that no nuisance exists shall file with the City Recorder a written statement which shall specify the basis for so protesting.

C. The statement shall be referred to the Council as a part of the Council's regular agenda at the next succeeding meeting. At the time set for consideration of the abatement, the owner or other person may appear and be heard by the Council and the Council shall thereupon determine whether or not a nuisance in fact exists and such determination shall be entered in the official minutes of the Council. Council determination shall be required only in those cases where a written statement has been filed as provided.

D. If the Council determines that a nuisance does in fact exist, the owner or other person shall within ten (10) days after such Council determination abate such nuisance.

19.201 DEFINITIONS

"Accessory structure or accessory use" means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use, including accessory parking.

"Structure" means something constructed or built and having a fixed base or fixed connection to the ground or another structure. (Streets and utilities are excluded from this definition.)

19.502.1 General Provisions

A. No accessory structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way including but not limited to streets, alleys, and public and private easements.

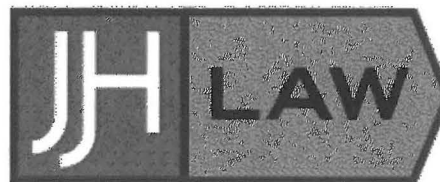
19.502.2 Specific Provisions for Accessory Structures

B. Fences, walls, and plantings may be constructed or maintained in yards with the following limitations:

1. Fences, walls, and plantings shall be constructed or maintained in yards only so as to permit unobstructed vision of passenger vehicle operations when approaching intersecting streets or driveways. Fences, walls, and plantings shall meet clear vision standards provided in Chapter 12.24. Fences and walls on lot perimeters in areas other than those obstructing the vision of passenger vehicle operators shall be constructed or maintained to the following standards:

- a. Residential Zones and Residential Uses in All Zones

Maximum height is 6 ft for rear, street side, and side yards; 42 in for front yards, except that for flag lots fences in the front yard may be 6 ft. No electrified, barbed, or razor wire fencing is permitted. Specific standards for fences on cottage cluster developments are contained in Subsection 19.505.4.D.2.h.



351 NW 12TH Avenue
Portland, OR 97209
TEL 503-552-1467
FAX 503-552-1467

Fax

To:	City Recorder for the City of Milwaukie Pat DuVal
Date:	5.28.14
Re:	Deanna Martinot, 2840 SE Boyd St.
Fax:	5036532444
From:	JJH LAW P.C.
4 pages plus cover	

If there is any problem with this transmission, contact Joseph Haddad at (503) 552-1467.



May 28, 2014

City Recorder for the City of Milwaukie
Pat DuVal
City Hall
10722 SE Main St
Milwaukie, OR 97222
Fax: 503-653-2444

VIA FACSIMILE AND FIRST CLASS MAIL

Re: Deanna Martinot, 2840 SE Boyd St.

Dear Ms. DuVal:

My office represents Deanna Martinot for purposes of responding to the City of Milwaukie's Citation #229377 01, 02, and 03. We have previously submitted my Notice of Representation on her behalf, and I am authorized to communicate the following Protest of Abatement Notice.

On May 19, 2014, Ms. Martinot received the City's Notice to Abate, attached to my letter as Exhibit A. In particular, the City seeks to abate alleged nuisances at 2840 SE Boyd St., Milwaukie, OR 97269, for debris, junk, junk machinery, inoperable vehicles, overgrown invasive species and grass, and a fence constructed in the right-of-way. The City also alleges that the fence may be "possibly too tall for the front yard."

Ms. Martinot respectfully protests this Abatement Notice for the following reasons:

1. She has already initiated the abatement process. The blackberry bushes and clematis previously growing on the property – and which supported the City's citation for having overgrown invasive species and grass – have been significantly abated, and Ms. Martinot plans to complete the removal of any other invasive species that could be found on the property in the next twenty (20) days. Any forced abatement by the City may interfere with her existing plans to remedy the other alleged nuisances, such as the removal of debris and junk from the property, and these plans are currently underway.

2. Some if not all of the alleged violations are in dispute. Ms. Martinot has a trial date scheduled for July 23, 2014, for the purpose of adjudicating her guilt as to the above-referenced citation. While she wishes to be cooperative and hopes to satisfactorily address the City's concerns relating to the conditions found on her property, her efforts at abatement are not an admission of noncompliance. Accordingly, she protests the enforcement of an Abatement Notice until after (a) the Municipal Court has tried this matter or (b) an appropriate Stipulated Abatement Order has been entered.

We ask that the City accept Ms. Martinot's protest and suspend any enforcement of the Abatement Notice until this matter has been resolved before Municipal Court, or until Ms. Martinot has executed her current plans to remedy the alleged nuisances existing on her property. Ms. Martinot is elderly, thus requiring a little more time to complete the tasks she believes will fully remedy the concerns of the City. Nonetheless, she plans to continue working on the property and the conditions which affect the property in the immediate future so that all possible nuisances are abated well before the set trial date for this matter.

Thank you for your attention to this matter.

Sincerely,

/s/ Joseph J. Haddad

Joseph J. Haddad

To: Joe Haddad

Fax 503-299-6748

Phone 503-552-1467



NOTICE TO ABATE

Pursuant to Milwaukie Municipal Code, Section 8.04.170,
the City of Milwaukie hereby gives:

Deanna Martinot

And/or

Any other owner or person in charge of this property.

Notice that nuisances exist on the property located at:

2840 SE Boyd St,

Milwaukie, Clackamas County, State of Oregon

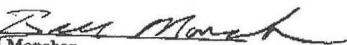
The nuisances on this property include debris, junk, junk machinery, inoperable vehicles, overgrown invasive species and grass, and a fence constructed in the public right-of-way and possibly too tall for the front yard and therefore violate Milwaukie Municipal Code Sections 8.04.070B Debris on Private Property, 8.04.110A Weeds and Noxious Growth, and 8.04.135 Compliance with Zoning Regulations.

The nuisance on this property MUST be abated within ten (10) days of the date of this notice. If the nuisance is not abated within that ten (10) day time period, the City may abate the nuisance and the cost of abatement shall be a lien against the property.

The owner or other person in charge of this property may protest this notice to abate to the City Recorder within ten (10) days from the date of this notice.

This notice is dated the 19th day of May 2014.

Determination of Nuisance Made and Abatement Ordered by:


Bill Monahan
City Manager
City of Milwaukie

CITY OF MILWAUKIE
MUNICIPAL COURT
10722 SE MAIN STREET
MILWAUKIE OR 97222
503-786-7543

May 6, 2014

DEANNA EILENE MARTINOT
PO BOX 22981
MILWAUKIE, OR 97269

RE: Citation #: 229377 01, 02 & 03
Violation: DEBRIS ON PRIVATE PROPERTY, WEED AND NOXIOUS GROWTH
COMPLIANCE WITH ZONING REGULATIONS

Ms. Martinot:

This is to notify you that the court is rescheduling your trial date and time as follows:

NEW TRIAL DATE AND TIME OF APPEARANCE IS July 23, 2014 AT 11:00 AM.

Please be at least 10 minutes early. Court staff can only reschedule a trial date once.

COURT RULES:

1. No minor children in courtroom unless they are a witness who will testify.
2. No shorts or swimsuits. Appropriate clothing must be worn.
3. All cell phones and pagers must be turned off.
4. No weapons of any kind in courtroom.
5. No food or drinks in courtroom.

Please keep the Court informed of any change in your mailing address and telephone number. If you have any questions, please contact the court.

Sincerely,



Carla Bantz
Court Operations Supervisor

Cc: Joseph Haddad

Rhett Bernstein - City Prosecutor