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MILWAUKIE
CITY COUNCIL MEETING
March 1, 1983
7 p.m.

COUNCIL CHAMBERS

1427th Meeting

At 5:45 prior to the regular Council meeting, the City Council interviewed the following applicants for a position on the Planning Commission:

John Boyle, 17507 SE Rose St. Milwaukie
John Foster, 1516 SE Eton Lane, Milwaukie
Don Trotter, 2323 SE Harrison St., Milwaukie

Also scheduled to be interviewed were Mel Bass, 12827 SE 22nd and James McDonald, 3902 SE Wake. Mr. Bass indicated he was no longer interested in the position and Mr. McDonald did not appear for the interview.

The one thousand four hundred and twenty seventh meeting of the Milwaukie City Council was held on March 1, 1983 with the following Councilors present:

Mayor Joy Burgess	Don Graf
Ron Kinsella	Roger Hall
Mike Richmond	

Also present:

Hugh Brown, City Manager	Dick Bailey, Fire Chief
Greg Eades, City Attorney	Topaz Faulkner, Comm. Serv. Dr.
Steve Hall, Public Works Dr.	Gordon Erickson, Finance Dr.
	Laurie Perkin, Secretary

The invocation was given by Mayor Burgess and the pledge of allegiance was recited.

AUDIENCE PARTICIPATION

Jim Backenstos said that the city should abide by the constitution in regard to the adult businesses but he felt that there was no need for further public hearings on this matter.

LEGISLATION

It was MOVED by Graf, SECONDED by Hall, that the bills listed for March 1, 1983 be approved for payment. MOTION CARRIED unanimously.

Library Serial Levy

The Library Board has submitted memo dated February 9, 1983 requesting Council support of the Countywide Serial Levy which will run from July 1, 1983 to June 30, 1986. City Manager said he supported the idea of the levy. Topaz Faulkner, Community Services Director said there was an error in the memo, that 65% of the library's actual expenditures came from the library serial tax levy in 1981-82 not 88% as it states in the memo.

It was MOVED by Graf, SECONDED by Hall, to adopt Resolution 1-1983 (A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE SUPPORTING PASSAGE OF THE CLACKAMAS COUNTYWIDE LIBRARY SERVICE MEASURE). MOTION CARRIED unanimously.

Appointment to Planning Commission

Burgess NOMINATED John Foster, Graf NOMINATED Don Trotter. Voting for Foster: Burgess, Kinsella, Richmond. John Foster was appointed to the Planning Commission.

George Cathey, member of the Planning Commission, expressed his disappointment that Don Trotter was not reappointed to the Planning Commission. He said he has never seen anyone better prepared and would feel very uncomfortable without Trotter at the meetings.

Public Hearing Date

An appeal has been filed by William R. Davis, 4301 SE Hill Rd. regarding Planning Commission decision on Conditional Use Request C-83-2. It was decided to hold a public hearing on this issue on April 5, 1983. City Attorney will prepare a list of procedures for appeals.

Cable TV Franchise

City Manager said that Les Page, consultant, has assisted staff in the evaluation of the Tribune proposal and the primary question appears to be whether or not the city wants a stand alone system which is regulated by the city or whether staff should approach other companies in the area. Les Page, Cable TV consultant, addressed the Council. He said that the Tribune offer was a good one but that a larger company such as MACC (Metro Area Communications Commission) or Cablesystems could offer many advantages such as scrambler system, improved billing techniques, inter-active services. He said there could be problems with inter-connect with Tribune and a problem with public access. There were questions from Council regarding rate control, length of franchise, possibility of inter-connect, non-entertainment services, pay per view, inter-active services and the possibility of allowing more than one company to provide service.

A recess was called at 8:30 p.m.

The meeting reconvened at 8:40 p.m.

Bill Cullen, President of Tribune, gave a brief review of Tribune's service offerings including a 60 channel system, satellite services, service to schools, libraries and City Hall. There was discussion on equipment available, institutional network, inter-connect and addressability. Cullen said his company had a commitment to seek out other services, that a local studio would be an advantage Tribune could offer. He said he felt that Tribune could inter-connect but could not guarantee it since they would have no control over other companies. There was extended discussion on the advantages of narrowcasting, rate control, length of franchise, amount of equipment to be provided by Tribune (\$40,000 worth of equipment), services to schools and local government and computerization.

Les Page commented on Cullen's statements. He said he thought there would be a problem with inter-connect if the city awarded a franchise to Tribune Co. He spoke about specific issues in regard to this area including social service inter-tie.

The following persons from the audience made comments: Dave Strauss said he didn't think the social service inter-tie would be a problem since Clackamas Community College provided this service.

Bill McConnel suggested the city end negotiations with Tribune and talk to Storer since they already provide service in this area.

It was MOVED by Kinsella, SECONDED by Richmond, that the city complete negotiations with Tribune and award the franchise to Tribune. Under discussion: Kinsella said he made the motion because he felt the Council had received good answers from Tribune and because of the time factor, the costs incurred thus far and the uncertainty of attaining a better agreement with another company. City Attorney asked whether the Council would accept the draft agreement that has been prepared or if they wanted to review an ordinance or have a public hearing. It was MOVED by Graf, SECONDED by Kinsella, to extend the meeting to no later than 11 p.m. MOTION CARRIED unanimously.

Further discussion on the first MOTION. Page cautioned the Council against making a final decision at this time. Cullen said he would be glad to work with City Attorney to tighten up the language on some of the remaining issues. Kinsella reworded his MOTION to state that the city complete negotiations with Tribune and direct staff to return to Council with a franchise ordinance at the first meeting in April. City Manager suggested that rather than "the first meeting in April", the motion state "as soon as possible". As amended MOTION CARRIED unanimously.

CONSENT AGENDA

Approval of minutes- February 9, 15, 1983

Liquor licenses - Joe's Warehouse, Onion Ring, Cavett's River Road House, Milwaukie Bowl, Kellogg Bowl. It was MOVED by Hall, SECONDED by Kinsella to adopt the consent agenda. MOTION CARRIED unanimously.

INFORMATION

It was the concurrence of Council that staff advertise for the vacant position on the PARC's Commission.

Graf asked about the second hand business that he heard was starting in town. City Attorney said that the intention of Mr. Woods, the owner of the new business, was to operate a piano-organ outlet - new and used. City Attorney suggested that the Council not get involved in these kinds of issues, that the Planning Commission should deal with them in the Comprehensive Plan and the Zoning Ordinance.

Graf suggested that the city retain the services of Les Page as a Cable TV consultant. There was discussion on the cost and time frame and further discussion on inter-connect. It was MOVED by Kinsella, SECONDED by Graf, to retain Les Page

through the completion of the franchise award. MOTION CARRIED unanimously. It was agreed that City Attorney and Les Page would work out the scope of the agreement.

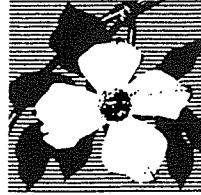
The meeting adjourned at 10:50 to go into executive session under ORS 40.225, consultation with City Attorney.

The executive session adjourned at 11:10 p.m.

Joy Burgess, Mayor

Laurie Perkin, Secretary

CITY OF MILWAUKIE



OFFICE OF THE CITY MANAGER
in the City Hall • phone 659-5171

CITY COUNCIL AGENDA
March 1, 1983
7 p.m.

COUNCIL CHAMBERS

REGULAR MEETING
(1427th)

Interviews- Planning Commission 5:45

- I CALL TO ORDER
 - a) Call to order
 - b) Invocation
 - c) Pledge of allegiance

- II AUDIENCE PARTICIPATION

- III LEGISLATION
 - a) Payment of bills
 - b) Library Serial LevyRESOLUTION
 - c) Appointment to Planning Commission

- IV OTHER BUSINESS
 - a) Cable T.V. Franchise - Les Page, Consultant

- V CONSENT AGENDA
 - a) Approval of minutes- February 9, 15, 1983
 - b) Liquor licenses
 - 1. Joe's Warehouse
 - 2. Onion Ring

- VI INFORMATION
 - a) MIS report re anti-trust exposure
 - c) Letter to/from Councilor Schlenker
 - d) Letter to legislature re federal revenue sharing
 - e) Solid Waste Task Force Progress Report
 - f) Letter of resignation- PARC'
 - g) Minutes - PARC, 1-24-83
 - h) Minutes - Planning Commission - 1-25-83
 - i) Minutes - Civil Service Commission - 2-8-83
 - j) Minutes- Traffic Safety Commission- 12-13-82 & 1-10-83
 - k) Annual Report- Traffic Safety Commission
 - l) LOC Bulletin re tax reform

- VII ADJOURN

INTERVIEW SCHEDULE

March 1, 1983

5:45 P.M. ----- John Boyle
6:00 P.M. ----- James McDonald
6:15 P.M. ----- Mel Bass
6:30 P.M. ----- John Foster
6:45 P.M. ----- Don Trotter

PLANNING COMMISSION

FUNCTION

To make decisions and/or recommendations to City Council on land use issues related to maintaining and improving the city's environment, as well as managing and guiding development.

NUMBER OF BOARD MEMBERS

7

LENGTH OF TERM:

4 years

SCHEDULE OF MEETINGS

The Planning Commission meets on the second and fourth Tuesday of each month and/or on other days as required under special circumstances.

QUALIFICATIONS

Mandated:

The Commission shall consist of seven members. Five voting members must be residents of the city. No more than two members shall be engaged in the same kind of occupation.

Desirable:

Desire to serve in local government.

Familiarity and understanding of general principles and issues of land use planning.

Sensitivity and ability to make impartial decisions in public interest.

Experience in working with public committees.

TYPICAL TASKS

1. Become familiar with Comprehensive Plan and implementing Ordinances
2. Make decisions on conditional uses, variances, exceptions, subdivisions, expansion of nonconforming uses, plan reviews, other land use issues.
3. Make recommendations to City Council on amendments to the Comprehensive Plan and Zoning Ordinance, Zone Changes, Planned Developments, street vacations and other land use issues.
4. To establish new or revised land use guidelines.

CITY OF MILWAUKIE

CITY HALL • 10722 S.E. MAIN STREET
MILWAUKIE, OREGON 97222
TELEPHONE (503) 659-5171



Application For Appointment To City Advisory Bodies FOR 1982

NAME: John L. Boyle
ADDRESS: 17507 S.E. Rose St Jennings Lodge 77267
TELEPHONE: (HOME) 654-9116 (WORK) 280-7627 7602
MILWAUKIE RESIDENT SINCE: 1979
PREVIOUS CITY APPOINTMENTS, OFFICES: _____

EMPLOYMENT OR PROFESSIONAL ACTIVITIES: Retired Res. Dept Sheriff
Multnomath County Fair Board Member U.S.S.E. Union
Hyster. Co.
OTHER COMMUNITY AFFILIATIONS OR ACTIVITIES: _____

WILL YOU BE ABLE TO ATTEND REGULAR MEETINGS AT NIGHT? Yes
DURING THE DAY? No

WHAT ARE YOUR SPECIAL INTERESTS, GOALS FOR MILWAUKIE? I would like
to see better Parks + Safety + Safety in the parks.

OTHER BACKGROUND OR INPUT YOU FEEL WOULD BE BENEFICIAL TO THIS COMMITTEE OR COMMITTEES: _____

Please Check Committee or Committees on Which You Would Like to Serve:

- | | | | |
|--------------------------------|-------|---------------------------------|-------------------------------------|
| Budget Committee | _____ | Milwaukie Center Advisory Comm. | _____ |
| Building Code Board of Appeals | _____ | Parks & Recreation Commission | <input checked="" type="checkbox"/> |
| Civil Service Commission | _____ | Planning Commission | <input checked="" type="checkbox"/> |
| Fire Code Board of Appeals | _____ | Senior Citizen Advisory Comm. | _____ |
| Library Board | _____ | Traffic Safety Commission | <input checked="" type="checkbox"/> |

This information will be kept on file with the City for use in consideration of appointments to city advisory bodies. Please feel free to attach any additional background information you think would be of value to the City Council.

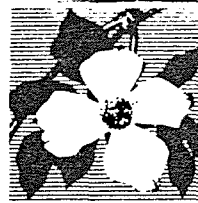
Thank you.

John L. Boyle
Signature

8-23-82
Date

CITY OF MILWAUKIE

CITY HALL • 10722 S.E. MAIN STREET
MILWAUKIE, OREGON 97222
TELEPHONE (503) 659-5171



Application For Appointment To City Advisory Bodies FOR 1982

NAME: James E McDonald

ADDRESS: 3902 SIE Wake

TELEPHONE: (HOME) 654-6903 (WORK) 285-4591

MILWAUKIE RESIDENT SINCE: 1952

PREVIOUS CITY APPOINTMENTS, OFFICES: Chairman Neighborhood Council

EMPLOYMENT OR PROFESSIONAL ACTIVITIES: Purchasing Agent

Lored Bros. Contractors — Real Estate Salesperson

OTHER COMMUNITY AFFILIATIONS OR ACTIVITIES: _____

WILL YOU BE ABLE TO ATTEND REGULAR MEETINGS AT NIGHT? yes
DURING THE DAY? SPECIAL OCCASIONS

WHAT ARE YOUR SPECIAL INTERESTS, GOALS FOR MILWAUKIE? _____

to improve and make the best possible use of Milwaukie government and money

OTHER BACKGROUND OR INPUT YOU FEEL WOULD BE BENEFICIAL TO THIS COMMITTEE OR COMMITTEES: _____

Please Check Committee or Committees on Which You Would Like to Serve:

- | | | | |
|--------------------------------|-------|---------------------------------|----------|
| Budget Committee | _____ | Milwaukie Center Advisory Comm. | _____ |
| Building Code Board of Appeals | _____ | Parks & Recreation Commission | _____ |
| Civil Service Commission | _____ | <u>Planning Commission</u> | <u>X</u> |
| Fire Code Board of Appeals | _____ | Senior Citizen Advisory Comm. | _____ |
| Library Board | _____ | Traffic Safety Commission | _____ |

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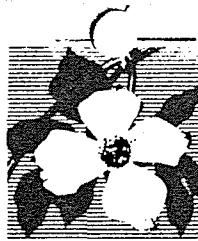
Thank you.

James E McDonald
Signature

3-5-82
Date

CITY OF MILWAUKIE

CITY HALL • 10722 S.E. MAIN STREET
MILWAUKIE, OREGON 97222
TELEPHONE (503) 659-5171



Application For Appointment To City Advisory Bodies

NAME: Melvern Stephen Bass

ADDRESS: 12827 S.E. 22ND

TELEPHONE: (HOME) 653-5716 (WORK) 652-2183

MILWAUKIE RESIDENT SINCE: 1977

PREVIOUS CITY APPOINTMENTS, OFFICES: _____

EMPLOYMENT OR PROFESSIONAL ACTIVITIES: BATTERY X-change, MANAGER,
Milwaukie USA. BUSINESS ASSOC., N. CLACK chamber of commerce

OTHER COMMUNITY AFFILIATIONS OR ACTIVITIES: AMERICAN Legion, ELKS,
OREGON MARINE TRADES ASSOCI.

WILL YOU BE ABLE TO ATTEND REGULAR MEETINGS AT NIGHT? yes
DURING THE DAY? SOME

WHAT ARE YOUR SPECIAL INTERESTS, GOALS FOR MILWAUKIE? To help take
Milwaukie out of the DARK AGES and back AS A working
community which will SET STANDARDS FOR OTHERS TO FOLLOW
IF WE DON'T DO THIS, WE WILL DIE AS AN INDEPENDANT community

OTHER BACKGROUND OR INPUT YOU FEEL WOULD BE BENEFICIAL TO THIS
COMMITTEE OR COMMITTEES: A STRONG desire to see & help
Milwaukie GROW

Please Check Committee or Committees on Which You Would Like to Serve:

- | | | | |
|--------------------------------|-------------------------------------|---------------------------------|-------------------------------------|
| Budget Committee | ___ | Milwaukie Center Advisory Comm. | ___ |
| Building Code Board of Appeals | ___ | Parks & Recreation Commission | ___ |
| Civil Service Commission | <input checked="" type="checkbox"/> | Planning Commission | <input checked="" type="checkbox"/> |
| Fire Code Board of Appeals | ___ | Senior Citizen Advisory Comm. | ___ |
| Library Board | ___ | Traffic Safety Commission | <input checked="" type="checkbox"/> |

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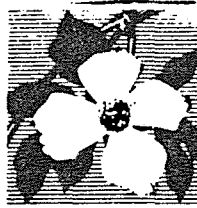
Thank you.

Melvern Bass
Signature

8-12-82
Date

CITY OF MILWAUKIE

CITY HALL • 10722 S.E. MAIN STREET
MILWAUKIE, OREGON 97222
TELEPHONE (503) 659-5171



Application For Appointment To City Advisory Bodies

NAME: JOHN W. FOSTER

ADDRESS: 1516 SE ETON LANE

TELEPHONE: (HOME) 654-8111 (WORK) X

MILWAUKIE RESIDENT SINCE: 1942

PREVIOUS CITY APPOINTMENTS, OFFICES: PLANNING COMMISSION

EMPLOYMENT OR PROFESSIONAL ACTIVITIES: ARCHITECT: 30 YRS PRACTICE
LICENSED IN MILWAUKIE TO PRACTICE ARCHITECTURE

OTHER COMMUNITY AFFILIATIONS OR ACTIVITIES: OREGON BUILDING CONGRESS
AMERICAN ARBITRATION ASS'N.

WILL YOU BE ABLE TO ATTEND REGULAR MEETINGS AT NIGHT? YES
DURING THE DAY? YES

WHAT ARE YOUR SPECIAL INTERESTS, GOALS FOR MILWAUKIE?
CONTINUE FAIR & PROGRESSIVE POLICIES

OTHER BACKGROUND OR INPUT YOU FEEL WOULD BE BENEFICIAL TO THIS
COMMITTEE OR COMMITTEES: SHOP IN MILWAUKIE AND CONCERNED FOR
BUSINESSES.

Please Check Committee or Committees on Which You Would Like to Serve:
This form valid for only one year from date of application.

- | | | | |
|--------------------------------|--------------------------|-------------------------------|-------------------------------------|
| Budget Committee | <input type="checkbox"/> | Parks & Recreation Commission | <input type="checkbox"/> |
| Building Code Board of Appeals | <input type="checkbox"/> | Planning Commission | <input checked="" type="checkbox"/> |
| Civil Service Commission | <input type="checkbox"/> | Senior Citizen Advisory Comm. | <input type="checkbox"/> |
| Fire Code Board of Appeals | <input type="checkbox"/> | Traffic Safety Commission | <input type="checkbox"/> |
| Library Board | <input type="checkbox"/> | | |

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Thank you.

Signature John W. Foster

Date 1983/FEB/9



CITY OF MILWAUKIE

appointed

8E2

APPLICATION FOR APPOINTMENT TO: Planning Commission

NAME: Donald L. Trotter

ADDRESS: 2323 SE Harrison Apt 18, Milwaukie

TELEPHONE: (HOME) 653-9960 (WORK) 221-3841

MILWAUKIE RESIDENT SINCE: 1976

PREVIOUS CITY APPOINTMENTS, OFFICES: None

EMPLOYMENT OR PROFESSIONAL ACTIVITIES: Supervisory Architect,
U. S. Army Corps of Engineers

OTHER COMMUNITY AFFILIATIONS OR ACTIVITIES: _____

WILL YOU BE ABLE TO ATTEND REGULAR MEETINGS AT NIGHT: yes

WILL YOU BE ABLE TO ATTEND REGULAR MEETINGS IN THE DAY: Occasionally

WHAT ARE YOUR SPECIAL INTERESTS, GOALS FOR MILWAUKIE: To con-
tinue the developement of Milwaukie as a planned community, not a bed-
room suburb of Portland,

OTHER BACKGROUND OR INPUT YOU FEEL WOULD BE BENEFICIAL TO
THIS COMMITTEE: As a Registered Architect, I have a working knowledge
of building design and construction. I feel that sharing these exper-
iences will be a valuable contribution toward the continuing success
of the planning commission.

This information will be kept on file with the City for use
in consideration of appointments to City advisory bodies.

Thank you.

Donald L Trotter
SIGNATURE

Oct. 15, 1979
DATE

27 JAN 83 10:11

0-512 04778-

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12102 S.E. 36th Street
Milwaukie, Oregon 97222
January 26, 1983

Milwaukie City Council
Milwaukie, Oregon 97222

Council Members:

On February 28, 1983, I will have served three years on the Milwaukie City Planning Commission. This will complete the term started by Mark Landis. I have enjoyed serving on the Planning Commission and feel I have gained valuable experience in the planning issues facing Milwaukie. In order to fully utilize this experience, I request that I be re-appointed to the Planning Commission.

Sincerely,

Donald L. Trotter
Donald L. Trotter

5 FEB 83 14: 42

MILWAUKIE-01

12435 S.E. 43rd
Milwaukie OR 97222
February 23, 1983

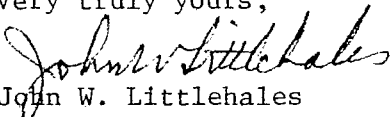
Honorable Mayor Joy Burgess
City of Milwaukie
10722 S.E. Main Street
Milwaukie OR 97222

Dear Mayor Burgess:

It is my understanding that the City Council is in the process of interviewing candidates for a position on the Planning Commission. Reviewing the performance of members who come to the end of a term as well as looking for new talent is a very healthy and farsighted policy by the Council.

My purpose in writing to you is to recommend your reappointment of Mr. Don Trotter to another term on the Planning Commission. I am writing first as a citizen of Milwaukie who has observed his work and leadership on the Commission. Secondly, and more currently, is my perspective as a member of the Planning Commission for the past eleven months. It has been an enriching experience for me to observe him as the chairman of the Commission. He is very qualified; he is the only architect on the Commission. He is experienced; although he has served less than one full term, he has more tenure than the four most recent appointees combined. He is always prepared; he does an inordinate amount of preparation on every issue. He has no predetermined stance on any given problem; he weighs the issue against the comprehensive plan, zoning ordinance and testimony presented to insure his approach is in the best interests of the citizens of Milwaukie and the growth of the community. Mr. Trotter is an effective leader; our meetings are efficient, allowing all sides to be heard but remaining on task to reach conclusions in a direct manner.

In summary, I recommend Mr. Trotter's reappointment to the Planning Commission. The Commission and the citizens of Milwaukie need his expertise, ability, interest and concern.

Very truly yours,

John W. Littlehailes

CITY OF MILWAUKIE
BILLS PAYABLE MARCH 1, 1983

II

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1.	AM Multigraphics	74.24	1-24	74.24
2.	Airweld	23.79	1-62	23.79
3.	Alder Street Clock Shop, Inc.	24.60	1-34	24.60
4.	American Library Association	21.05	1-34	21.05
5.	American Society of Building	35.00	1-93	35.00
6.	Baker & Taylor (New York)	29.40	1-34	29.40
7.	Baker & Taylor (San Francisco)	30.37	1-34	30.37
8.	Barisich, D.G.	12.00	1-52	12.00
9.	Began Equipment Co.	138.05	4-	46.02
			20-	46.02
			30-	46.01
10.	Ben-Ko-Matic Brush & Equipment Co.	166.80	7-	166.80
11.	Bernard's Garage	359.00	1-52	359.00
12.	Bernard's Garage	15.00	7-	15.00
13.	Boise Cascade	429.29	1-22	87.14
			1-23	195.41
			1-34	75.92
			1-35	12.08
			1-53	58.74
14.	Bowen, Ron	2,250.25	3-	2,250.25
15.	Bruning Division	162.20	1-92	162.20
16.	Bureau of Governmental Research	4.50	1-22	4.50
17.	Business Equipment Bureau	169.26	1-32	169.26
18.	Carver Equipment & Excavation Co.	1,005.00	30-	1,005.00
19.	Chevron U.S.A.	283.80	4-	283.80
20.	Clean One	110.46	1-36	107.50
			1-53	2.96
21.	Cole Publications	113.75	1-34	113.75
22.	Columbia Equipment	325.48	4-	125.40
			7-	200.08
23.	Consolidated Supply	367.57	30-	367.57
24.	Craftsman Industries, Inc.	32.00	1-52	32.00
25.	Clackamas County Computer Usage	16.98	1-23	16.98
26.	" " Recorder	4.00	1-92	4.00
27.	" " Surveyor	25.00	1-92	25.00
28.	" " Stores	82.90	1-37	14.40
			1-53	68.50
29.	Cunningham Associates, Inc.	159.83	30-	159.83
30.	Daily Journal of Commerce	104.13	1-36	50.58
			4-	53.55
31.	" " "	179.03	6-	179.03
32.	Dee Thomason Ford Company	23.40	7-	23.40
33.	Demco	463.21	1-34	463.21
34.	Downes, Ken	1,703.54	1-22	1,703.54
35.	EBSCO Subscription Service	86.50	1-34	86.50
36.	Eades, Greg	16.84	1-22	16.84
37.	Executive Department LEDS Terminal	300.00	1-53	300.00
38.	Exhaust Specialties	103.60	1-52	103.60
39.	Fowler Manufacturing	226.03	20-	226.03
40.	Fred Meyer	65.20	1-52	65.20

CITY OF MILWAUKIE
BILLS PAYABLE MARCH 1, 1983

III
a (2)

41.	Goodyear Truck Tire Center	158.74	7-	158.74
42.	Graham's Book & Stationery	29.25	1-62	29.25
43.	Graphic Products, Inc.	89.49	1-92	89.49
44.	Halton Tractor	70.00	7-	70.00
45.	Harney, William	5.00	1-31	5.00
46.	Helm, Inc. Service Publications	42.00	1-62	42.00
48.	Holiday Park Hospital	210.00	1-35	210.00
49.	Horton Electric	64.80	30-	64.80
50.	IBM	86.75	12-	86.75
51.	International Conference Bldg. Officials	75.00	1-63	75.00
52.	ICMA	45.00	1-10	45.00
53.	International City Management Assn.	18.50	1-23	18.50
54.	Krider, K.D.	44.90	1-52	44.90
55.	League of Oregon Cities	15.00	1-35	15.00
56.	Lee, Hugh S.	13.00	1-32	13.00
57.	Leonard Reloading	547.00	1-52	547.00
58.	Light Truck Parts	350.00	6-	350.00
59.	McFarlane Bark	20.00	1-36	20.00
60.	Masons Supply Company	73.48	20-	73.48
61.	Milwaukie Auto Parts	69.07	7-	69.07
62.	Motorola Inc.	144.25	1-62	144.25
63.	National Public Works Week	5.00	1-91	5.00
64.	Northwest Forensics Laboratory, Inc.	30.00	1-33	30.00
65.	Northwest Law Enforcement Equipment	81.40	1-52	81.40
66.	Northwest Natural Gas	1,270.15	1-32	429.65
			1-34	488.35
			30-	352.15
67.	NW Samco	30.52	20-	30.52
68.	Nudelman Brothers	60.00	1-52	60.00
69.	Olson Bros. Service	77.35	1-52	77.35
70.	" " "	11.00	1-52	11.00
71.	The Oregonian	27.45	1-35	27.45
72.	Oregon Real Estate	10.50	1-35	10.50
73.	Oregon State Bar	90.00	1-22	90.00
74.	Oregon State Council, Senior Citizens	4.50	1-32	4.50
75.	Oregon State Library	10.00	1-34	10.00
76.	Oregon Toro	.98	1-36	.98
77.	PGE	4,834.66	1-25	10.45
			1-37	468.88
			1-61	46.59
			4-	200.55
			6-	17.70
			20-	178.18
			30-	3,912.31
78.	Pacific Coast Laundry	315.75	1-34	27.00
			1-37	24.00
			1-52	6.00
			1-62	20.25
			4-	79.50
			20-	79.50
			30-	79.50

CITY OF MILWAUKIE
BILLS PAYABLE MARCH 1, 1983

III
a (3)

79.	Pacific Northwest Bell	1,172.34	1-53	635.82
			4-	281.92
			20-	81.50
			30-	173.10
80.	Pacific Water Works Supply Co.	11.46	30-	11.46
81.	Petty Cash	115.31	1-10	4.33
			1-21	20.60
			1-23	5.99
			1-62	37.17
			1-91	13.66
			7-	20.99
			30-	12.57
82:	Portland Road & Driveway	520.00	4-	520.00
83.	Piper's Pub	47.40	1-10	47.40
84.	Price Waterhouse	688.00	12-	688.00
85.	Rean Constructors	6,014.69	30-	6,014.69
86.	Robben Oil Company	498.65	1-53	498.65
87.	Robben & Sons Heating	825.00	1-53	825.00
88.	Rock Creek Sand & Gravel	493.00	4-	493.00
89.	Safety-Kleen	40.75	4-	13.58
			20-	13.58
			30-	13.59
90.	Samuels Steel Products	42.00	7-	42.00
91.	Sanderson Safety Supply	30.80	1-36	30.80
92.	Schetkey Equipment Corp.	126.30	7-	126.30
93.	Schwab, Les	27.50	1-62	27.50
94.	Servicemaster	149.00	1-53	149.00
95.	Smith Brothers	32.50	1-23	32.50
96.	Stevens Automotive	233.20	7-	233.20
97.	T & L Manufacturing	25.00	1-62	25.00
98.	U.S. Postmaster	2,000.00	1-23	2,000.00
99.	United Grocers	51.83	1-10	51.83
100.	Valley Communications	866.00	1-36	21.00
			1-52	611.00
			1-91	34.00
			4-	100.00
			30-	100.00
101.	Valley River Inn	135.00	1-63	135.00
102.	Volunteer Bureau	50.00	1-32	50.00
103.	Weiler Chevrolet	10.50	1-52	10.50
104.	Western-Pacific Construction Materials	604.06	4-	604.06
105.	Wichita Feed	218.04	1-36	28.35
			4-	59.05
			7-	9.90
			20-	17.20
			30-	103.54
107.	Zellerbach	203.70	1-37	91.20
			1-53	37.50
			4-	25.00
			20-	25.00
			30-	25.00
		\$34,005.57		\$34,005.57

CHART OF ACCOUNTS
FUNDS, DEPARTMENTS & DIVISIONS

III
 2 (4)

Effective July 1, 1982

CITY COUNCIL	01-10	BONDED DEBT FUND	02
CITY ADMINISTRATION	01-21	EQUIPMENT RESERVE FUND	03
LEGAL	01-22	STATE TAX STREET FUND	04
COMPTROLLER	01-23	IMPROVEMENT BOND SINKING	
COMPTROLLER/PURCHASING	01-24	FUND	05
COMPTROLLER/GENERAL GOVERNMENT	01-25	STREET IMPROVEMENT FUND	06
		EQUIPMENT REPAIR FUND	07
COMMUNITY SERVICES ADMINISTRATION	01-31	BIKE AND FOOTPATH FUND	09
MILWAUKIE CENTER	01-32	FIXED ASSET ACCOUNT GROUP	10
MUNICIPAL COURT	01-33	REVENUE SHARING FUND	12
LIBRARY	01-34	COMMUNITY DEVELOPMENT GRANT	
PLANNING	01-35	FUND	13
PARKS & RECREATION	01-36	SEWER FUND	20
CITY HALL	01-37	WATER FUND	30
		GENERAL LEDGER/INVENTORY	GL
POLICE ADMINISTRATION	01-51		
FIELD SERVICES	01-52		
SUPPORT SERVICES	01-53		
FIRE ADMINISTRATION	01-61		
FIRE SUPPRESSION	01-62		
FIRE PREVENTION	01-63		
PUBLIC WORKS ADMINISTRATION	01-91		
PUBLIC WORKS ENGINEERING	01-92		
PUBLIC WORKS BUILDING	01-93		

MEMORANDUM

IV B(1)
February 9, 1983

TO: CITY COUNCIL
FROM: LIBRARY BOARD
SUBJECT: COUNTYWIDE LIBRARY LEVY

We are now in the final year of the current three-year Clackamas Countywide Library Service Measure which was approved in 1980. The election date for the proposed new levy which will run from July 1, 1983 to June 30, 1986 has been set for March 29, 1983.

Established in 1977, the countywide library levy has had a very beneficial effect on library services to this community. Before the levy existed the residents of Milwaukie carried the entire burden of funding of our library. The serial levy has spread this cost out so that, in 1981-82, 88% of our library's actual expenditures came from the library serial tax levy.

In addition to the fiscal savings the library serial levy provides to Milwaukie it has also provided the means to form a truly cooperative library system in Clackamas County: Any resident of the county can use any of the public libraries; we have a courier system so that residents of Milwaukie can get materials from other libraries, it has funded the new computerized circulation and catalog system which is creating significant savings in our current and future operating costs and, it is the sole source of funding for the Clackamas County Library.

On behalf of the Milwaukie Public Library and the estimated 7,228 residents of Milwaukie who are registered library users, your support for this library measure and your passage of the attached resolution are respectfully requested.

DATE 2-9-83

Signed Cherie Brown

RESOLUTION NUMBER _____

III B(2)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE SUPPORTING PASSAGE OF THE CLACKAMAS COUNTYWIDE LIBRARY SERVICE MEASURE.

WHEREAS, Clackamas County has, for the past six years, had a countywide serial levy supporting library services and;

WHEREAS, the library serial levy has provided a very significant level of funding to the City of Milwaukie for the operation of the public library; and

WHEREAS, the City Council of Milwaukie considers the continuation of the countywide library serial levy to be a great benefit to the citizens of Milwaukie and Clackamas County.

NOW THEREFORE, IT IS HEREBY RESOLVED, that the City Council of the City of Milwaukie supports the passage of the Clackamas Countywide Library Service Measure and urges all citizens to vote "YES" for the measure on March 29, 1983.


Introduced and adopted by the City Council on March 1, 1983.

Joy Burgess, Mayor

ATTEST:

Laurie Perkin, City Recorder

Approved as to form:



Greg Eades, City Attorney

George L. Page

CATV Consultant
4242 Lakeview Boulevard
Lake Oswego, Oregon 97034
(503) 635-2658

IV A ①

February 23, 1983

Mr. Greg Eades
City Attorney
City of Milwaukee
City Hall,
10722 S.E. Main St.
Milwaukee, OR 97222

Dear Greg:

This is in response to the City's request for my review of the differences in levels of services represented by the presumed possibilities of:

- the City awarding a CATV franchise to Tribune-Harmon in accordance with the City's draft franchise agreement.
- the City joining the Metropolitan Area Communications Commission (MACC) under its franchise agreement with Storer Metro Communications, Inc.
- the City awarding a franchise to Cablesystems Pacific, Inc., assuming system description and services based on extension of Cablesystems' Portland system to the City of Milwaukee.

Firstly, it should be recognized that the level of services provided for in the draft franchise agreement is considered to be equivalent or greater to that one might expect in a new build award for a City with the demographics of Milwaukee. It should also be noted that except for the fact of the City's close proximity to the two major cable systems, i.e., Storer Metro and Cablesystems, the City could not expect to obtain the level of CATV technology provided by those systems. It would not be economically feasible for a stand alone system to provide such levels of technology for a community of 3,500 to 4,000 subscribers.

The following comments largely treat the possibilities of the City joining MACC or awarding a franchise to Cablesystems for extension of their Portland system as representing roughly equivalent levels of technology/services. Both those companies are using Zenith SAAVI technology, which is addressable and interactive in the fullest sense.

TV
A (2)

It should be remembered in considering the following comments that it is problematical as to whether the City of Milwaukee can expect to join the MACC as an equal partner or if Cablesystems would be willing to extend its Portland dual cable system/services throughout the City of Milwaukee for the service rates enjoyed by the City of Portland. The following comments merely address the question posed, i.e., the significant differences between the level of services as represented by draft franchise agreement and that represented by the two larger systems.

Comments:

- 1) The major differences are largely a function of scale. Because of the appreciably greater numbers of potential subscribers expected by both of the two larger systems, it was economically feasible to offer significantly more technically advanced systems. Storer Metro can expect to serve 30,000 or more subscribers within the MACC service area, not counting East Clackamas, etc. Cablesystems can expect to serve over twice that many. Milwaukee, as indicated above, can expect about 3,500 to 4,000.
- 2) The Zenith technology as being installed by the two systems provides addressability virtually for all subscribers and interactive services for those who wish to subscribe to such services. The draft franchise agreement appears to call for addressability and "interactive" services when economically feasible. The word interactive is in quotation marks because it is an often misconstrued term. A simple data or voice circuit can be interactive; whereas, the interactive services provided via the Zenith interactive converters represent highly sophisticated technology. It should be noted that the Tribune-Harmon proposal proformas would indicate that the first monies allocated for possible system upgrade to addressability appear in year ten. It is doubtful under current technical/economic parameters that upgrade to full scale interactive residential services will prove economically feasible during the franchise period for Milwaukee as a stand alone system.
- 3) The Zenith technology offers numerous other advantages such as security against theft of signal, rapid response in change of a subscribers services, cost effective offering of pay-per-view services, less likelihood of service installation error, less labor in installation and repair, better billing capability, etc.

IV
a (3)

- 4) Another major difference is the institutional networks. The draft franchise calls for a separate dedicated institutional cable system serving selected institutions and commercial enterprises. It is my opinion that the potential for use of a dedicated 300 MHz institutional system for a city the size of Milwaukee is very low indeed, particularly without the close intertie with other systems in the Metropolitan area. And, the draft franchise is rather indefinite about the interconnection for provision of institutional/commercial services.

The Storer Metro system includes two dedicated and largely separate institutional systems. One to be operated by Storer Metro for support of commercial and non-municipal institutional service needs. The other institutional system is to be under the control of the MACC for the support of inter and intra municipal telecommunications needs/services. The MACC franchise calls for Storer Metro to conduct some fifteen demonstration projects associated with the municipal service institutional system, such as telemetry control/monitor circuits, etc.

The Cablesystems institutional system is integrated with their residential system, at least for the most part. Their system on the east side of Portland is a dual cable 440 MHz system. Thus their institutional system on the east side of Portland runs throughout the City, i.e., for some 900 miles or more. Cablesystems' original concept was a dedicated system serving all major institutions plus commercial enterprises with 300 or more employees. They found that those large businesses have in-house computer systems, and small businesses with about ten employees are more likely to be customers for data services, etc. They are much more optimistic about the economic viability of the larger coverage institutional network than they were about the originally planned system.

IV a (4)

- 5) Another major difference is that of operator support for both local origination and access programming. The number of such channels to be made available is not nearly as significant as the overall support in facilities, equipment, staff, and materials for the production of meaningful programming. The draft franchise calls for a reasonable production capability for a community the size of Milwaukee; however, the ready availability of the significant local origination and access programming of the larger systems poses a potential benefit to the Milwaukee community. The draft franchise addresses interconnect for this purpose; however, again the actual accomplishment of such interconnect must be considered problematical.

- 6) Rates and charges are another area where the larger subscriber bases should offer some advantage. The Basic service rates of the larger systems are comparable to those called for in the draft franchise; however, the Premium service rates are appreciably less than those of the draft franchise, e.g., \$6.95 and \$7.50 as compared to \$8.95. There are the various rate guarantee periods; however, all tend to terminate about the time frame. It is difficult to predict with any certainty what will happen to the rates once the rate guarantee periods expire, but it would seem the larger based systems should experience lesser upward pressures on rates than a smaller system.

- 6) The final issue of this rather lengthy discourse is that of Grantor regulation. It is my understanding that one of the reasons the City did not originally elect to join the MACC was the wish to retain individual control of the regulation of the franchise. There are of course pluses and minuses to both arrangements. Joining MACC would have the advantage of less overall cost to the City in administration of the franchise for it would cost more to set up an office to administer the franchise than the City would forfeit in franchise fee to have MACC administer the franchise.

It would seem that if the City were to award the franchise to Cablesystems that the City could retain the desired sole regulatory control; however, that would not necessarily be the case for it must be recognized that much of the systems services description and operations would be dictated by the Portland system services and operations.

Mr. Greg Eadess
February 23, 1983
Page 5

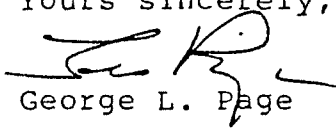
TV
a (5)

In summary, there are some very significant differences in the levels of system services represented by the City's draft franchise and the larger more technologically advanced neighboring systems to the north and west of the City. It is my opinion that the potential for incorporation of the more sophisticated cable services in a largely stand alone system the size of that of Milwaukee, even when interconnected to some degree, is limited as compared to the much larger systems.

I do believe, as stated above, that the draft franchise represents a respectable level of services as an individual system for a community the size of Milwaukee.

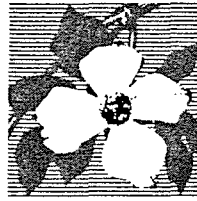
If you have any questions regarding any of the information or comments included in this letter, or otherwise regarding this subject, please do not hesitate to call me. I hope this coverage of the subject meets your needs.

Yours sincerely,


George L. Page

GLP:lvp

CITY OF MILWAUKIE



CITY ATTORNEY
in the City Hall • phone 659-5171

February 25, 1983

TO: CITY COUNCIL

FROM: CITY ATTORNEY *gfe*

SUBJECT: CABLE TV.

TU
a (6)

As you requested, I reviewed the other three proposals we received last fall and compared these with the franchise offer from Tribune. I also asked Les Page to provide the attached comparison of the Tribune offer and the services provided by the other two major Portland systems. I believe you can consider the following alternatives:

1. Complete negotiations and award to Tribune.
2. Reject Tribune and select a second firm for negotiations.
3. Reject all current proposals and begin again, either with an RFP or not.
4. Reject all proposals and decide not to regulate Cable TV. One or more firms could be granted a franchise on a first-come, first-served basis.

I'm preparing a report analyzing each of the above choices, which will be delivered to you on Monday. I wasn't able to prepare the specific deficiency list that Mr. Cullen requested at the last meeting, because I didn't receive Mr. Page's report until this morning. Since the Page report suggests that Tribune may not be able to include certain services even if we request them, I think you should decide what you want before we ask someone to provide it.

If you have any questions after you receive my report, please let me know.

MEMORANDUM

TO: CITY COUNCIL
FROM: GREG EADES, CITY ATTORNEY
SUBJECT: CABLE TV
DATE: FEBRUARY 28, 1983

Following is a discussion of the various alternatives you may want to consider for providing cable TV services:

1. Complete negotiations and award to Tribune.

Advantages: Adequate entertainment services can be provided to Milwaukie citizens as fast as construction can be completed. Attractive franchise provisions include a 12 year franchise term, annual performance reviews, good regulatory framework and a guarantee of reimbursement of city franchising costs and advance franchise fees.

Disadvantages: Certain non-entertainment services soon to be available in the Portland area may not be available in Milwaukie. These include interactive (two-way) services and adequate institutional and local programming services. Interconnection with other systems can't be assured. We may have to accept several unusual franchise provisions, including a rate change procedure guaranteeing the operator a reasonable return on its investment and disincentives for city acquisition of the system.

Comment: This is probably the quickest and least risky alternative. We would get a reasonably good system, with a high degree of regulatory control. Future, very desirable services would be uncertain, however. If you select this choice, I will attempt to make reasonable improvements in Tribune's offer and bring you the franchise ordinance for consideration at the next meeting.

2. Reject Tribune's proposal and select a second proposal for negotiations.

Advantages: The Storer and Liberty proposals are better than Tribune's offer in some respects. Both include grants-in-aid for local pro-

Advantages cont:

gramming, data demonstration projects and **certain more** attractive rates. Liberty proposed addressable converters, future interactive services and an elaborate studio facility. Both have the ability to guarantee interconnection with some other systems.

Disadvantages: Negotiations with Storer and Liberty would pose different problems. Storer's proposal does not address a number of city requirements, such as penalties, performance evaluation, rate regulation and most of the financial provisions. Liberty's proposal is nearly complete, but includes many objections to city requirements. Negotiations with either firm could result in the same or different problems we have with Tribune. In addition, Tribune may challenge the selection of a second firm. Finally, we would be forced to continue to use the original RFP requirements, since we insisted that Tribune accept them.

Comment: This alternative would be difficult, time-consuming and risky. There is no guarantee that we would do better than we have with Tribune, since many of the problems are the result of the city's requirement for a "stand alone" system. If you decide on this alternative, I suggest we have Mr. Page review the Liberty and Storer proposals to determine which should be the next choice.

3. Reject all proposals and begin again with a new RFP.

Advantages: I think we all agree that we got bad advice in the preparation of the initial Request for Proposals. Certain of the RFP requirements have adversely affected negotiations with both Liberty and Tribune and are likely to discourage anyone else as well. A new RFP would allow us to take advantage of what we've learned the last two years and more accurately describe what we're interested in. Mr. Page would be available to assist us.

Disadvantages: Preparation and distribution of a new RFP would be costly and time-consuming. While the new requirements may appear more acceptable to the companies, we may have already discouraged many bidders by the amount of time we've taken with this. In order to finance a new RFP, we would probably have to collect another application fee from each bidder. Award of a franchise could be delayed 6-8 months.

Comments: While I'm anxious to encourage new bidders utilizing more reasonable requirements, it's probably too late to start over completely. The possible advantage of attracting better proposals than we've received is outweighed by the delay necessary to try to accomplish it.

4. Reject all proposals and through individual discussions with the available operators, select a franchise.

Advantages: This alternative provides the advantages of starting over with the possibility of avoiding the delay associated with releasing a new RFP. At least three very sophisticated cable systems are within easy reach of Milwaukie and some or all of them would be willing to extend service to us if asked. This alternative would allow us to receive many of the services available only to much larger systems, especially interactive, institutional and local programming services.

Disadvantages: Whether we get services available to others in the Portland area may depend on whether we can accept some or all of the franchise provisions of the other systems. We may not be able to get the same services unless we are willing to adopt the same or similar franchise. This alternative could result in loss of local regulatory control.

Comment: Mr. Page's letter summarizes the benefits of joining a larger franchise area. If this is the type of service you want for the city, you may have to do without the local authority we've sought from the beginning. Within a short period of time, we should be able to summarize what's available under what terms from each of the companies and allow you to make the choice.

5. Reject Tribune and offer franchise in a "first-come, first-served" basis.

Advantages: City would not necessarily have to establish service minimums or review proposals. Operators would have no reason to complain about the city's selection process or anti-trust implications, since only market place controls would apply. The city would have little or no regulatory responsibility.

Disadvantages: No guarantee of any specific level of service, unless city insisted on minimum requirements. No guarantee of any significant competition, since cable operators are hesitant to compete in the same areas.

Comment: This would be the easiest alternative to implement, since nothing is expected of the city except adoption of the franchises. There is the potential of industry competition and therefore lower rates. There is also the potential of a single franchise with only marginal services. Mr. Page will be at the meeting on Tuesday, and he can probably expand on (or correct) these comments. If you have questions before then, please let me know.

MILWAUKIE
CITY COUNCIL MEETING
February 15, 1983
7 p.m.

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COUNCIL CHAMBERS

1426th Meeting

At 6 p.m., prior to the regular Council meeting an executive session was held under ORS 192.660 (1) (d) to discuss labor negotiations. All Council members were present.

The one hundred twenty sixth meeting of the Milwaukie City Council was held on February 15, 1983 with the following councilors present:

Mavor Joy Burgess
Ron Kinsella
Mike Richmond

Don Graf
Roger Hall

Also present:

Hugh Brown, City Manager
Greg Eades, City Attorney
Steve Hall, Pub. Works Director

Ron Schanaker, Police Chief
Dick Bailey, Fire Chief
Gordon Erickson, Finance Dir.
Laurie Perkin, Secretary

The invocation was given by Don Graf and the pledge of allegiance was recited.

Mayor Burgess announced that there would be a continuation of the executive session after the regular meeting.

AUDIENCE PARTICIPATION

Don Paul of the European Spa and Raquet Center, addressed the Council regarding construction of a fitness trail in North Clackamas Park. The trail would accomodate handicapped persons and seniors and would be funded through a series of road runs sponsored by the spa. Steve Lebwohl of Wildwood Playgrounds, the company which would provide the equipment, explained the design of the trail and the types of equipment and exercise. Randy Westrick, Parks and Recreation Superintendent, said the the Parks and Recreation Commission had approved the project. He described the location of the trail and said it would not interfere with the senior center. He said the project fit in with the master plan for the park and would be turned over to the city when completed. Council approved the project and asked to be kept informed of the progress.

Louis Bruneau, Chairman of the Traffic Safety Commission, requested Council approval for the Traffic Safety Commission to become involved in legislation in the areas of drunk driving and child safety seats. This would involve members of the commission going to Salem to some meetings and writing letters of recommendation to the legislature. He said the Commission did not plan to get involved in anything controversial. It was the concurrence of Council that the Traffic Safety Commission be allowed to represent the city regarding the two

issues mentioned and if they planned to become involved in other issues Council would be informed.

Bill Hupp provided staff with a newspaper article on double taxation and asked that copies be made for the Council. The City Manager said this has been discussed by staff, that there was a study being done in Washington County on this matter, and that the city planned a similar investigation.

Jim Backenstos provided Council with pictures of repair work done at the Fire Department and commended the Fire Department personnel for their cost cutting efforts. He referred to Chief Schanaker's memo of February 11 regarding downtown patrol. He said he was still convinced that volunteers could mark cars and that more squad cars should be seen in the downtown area to serve as a warning to burglars, etc. He suggested giving an award to defensive drivers.

Police Chief responded to Backenstos's remarks. He said that 50% of citations issued were courtesy citations. He mentioned working with young people in drivers training and said that there has been a significant drop in accidents.

LEGISLATION

It was MOVED by Graf, SECONDED by Hall, that the bills listed for February 15 be approved for payment. There were questions from Council regarding the roof at the Center. City Attorney said the city was close to getting a contract for a new roof. Bill Hupp asked about the Allens Press Clipping service. The City Manager said it had been discontinued. Backenstos asked why the city shops were not doing work on the police cars. Steve Hall, Public Works Director, mentioned the equipment repair fund and said that this program is just getting off the ground, that the shops are now in a position to do work on the police cars. The Mayor asked about washing the cars at the shop. Public Works Director said this was not cost effective. Police Chief said that the Police Department had its cars washed at Rub-A-Dub for one dollar. Backenstos suggested high school students and community corrections people could do this sort of thing. On the MOTION to approve payment of the bills, MOTION CARRIED unanimously.

Street Vacation- Jefferson Street

Public Works Director said that the County Surveyor was not satisfied with the legal description contained in Ordinance 1534 passed by the Council on January 18. He said that staff will have the legal descriptions approved by the surveyor before they are put in ordinance form from now on. It was MOVED by Graf, SECONDED by Hall, to read Ordinance 1536 the first time by title only. (AN ORDINANCE OF THE CITY OF MILWAUKIE VACATING A PORTION OF JEFFERSON STREET RIGHT-OF-WAY FROM MCLOUGHLIN BLVD. TO THE OLD PORTLAND TRACTION COMPANY RIGHT-OF-WAY ALONG THE SOUTH SIDE OF 10993 SE MCLOUGHLIN BLVD., AND REPEALING ORDINANCE NO. 1534.) MOTION CARRIED unanimously.

V
a (3)

It was MOVED by Graf, SECONDED by Hall, to read the ordinance the second time by title only. MOTION CARRIED unanimously. It was MOVED by Graf, SECONDED by Kinsella, to adopt Ordinance 1536. MOTION CARRIED with the following roll call vote: AYES: Burgess, Kinsella, Richmond, Hall, Graf. NOES: none.

Progress pay estimate # 4

Public Works Director has requested Council approval of payment in the amount of \$6,014.69 to Rean Constuctors, Inc. for pump house and equipment installation on Well # 7. It was MOVED by Graf, SECONDED by Richmond, to approve request as stated. MOTION CARRIED unanimously.

OTHER BUSINESS

City Manager said that the 911 consortium proposal has been taken off the agenda due to recent questions which have arisen concerning costs.

Audit Report

Finance Director said since Council had received the audit report on January 31, he wished to discuss major changes from prior reports and summarize major activities. He introduced Bill Landwehr of Coopers and Lybrand who presented the official report. Mr. Landwehr discussed the importance of fixed asset records. He said the city had made an effort to do this in the past year but needed to continue these efforts. He discussed the importance of monitoring revenues on a month by month basis and said the city should pay close attention to delinquent property taxes. There were questions from Council concerning cash flow, investments in local banks, fixed asset accountability, delinquent assessments and methods of record keeping.

Goal Statement

City Manager has asked official endorsement of the goals formulated by the Council in January. Graf said it should be pointed out that the goals were not listed in priority order and that number five regarding maintenance of services should be number one priority. Council agreed that a statement explaining that the goals were not listed in priority be added to the Goal Statement. Mayor Burgess suggested adding a number 5.6 under Service Provision to read "encourage citizen participation through volunteerism". The Parks and Recreation Commission have asked that the word "reestablish" be deleted from 5.5 under Service Provision. It was MOVED by Richmond, SECONDED by Kinsella, to adopt goals as amended. MOTION CARRIED unanimously.

Enforcement of Sewer Connections

Public Works Director has submitted memo dated January 11, 1983 regarding enforcement of sewer connections and requesting that staff be allowed to proceed with the enforcement of city ordinances 981 and 1098 which grant the authority to require sewer connection. There are at least 114 properties which are not connected he said. He has listed recommendations which included the redrafting of current ordinances and consideration of city loans to low income property owners.

V
a (4)

Hall suggested that people be given a time frame within which to pay for this. Public Works Director said six months to a year was normally given unless there was a public health problem. It was MOVED by Graf, SECONDED by Hall, that the City Attorney prepare an ordinance which would incorporate the suggestions of the Public Works Director. MOTION CARRIED unanimously.

It was MOVED by Kinsella that the City Manager and his Administrative Assistants, Jo Durand and Bill McDonald be appointed the negotiating team for the city with City Attorney providing technical assistance. MOTION FAILED for lack of a second. It was MOVED by Richmond, that the City Manager be appointed director of labor negotiations using his staff as he sees fit with City Attorney included as an advisory person primarily to the Council. MOTION FAILED for lack of a second. It was MOVED by Graf. SECONDED by Hall, that Cascade Employers Association be hired for a ~~period~~ of two years to handle all labor negotiations for the city. MOTION FAILED with the following vote: AYES: Graf, Hall. NOES: Burgess, Richmond, Kinsella. It was MOVED by Kinsella, SECONDED by Burgess, that the City Manager and Bill McDonald be appointed as main spokesmen in the negotiations with Jo Durand and City Attorney providing technical assistance. MOTION FAILED with the following vote: AYE: Kinsella, NOES: Burgess, Richmond, Graf, Hall. It was MOVED by Burgess, SECONDED by Hall, that the City Manager have overall responsibility for labor negotiations with City Attorney and Jo Durand as the negotiating team. MOTION CARRIED with the following vote: AYES: Kinsella, Richmond, Burgess, Hall. NO: Graf.

Graf said that he had seen in Time Magazine an article on cities which had developed "wish books" listing articles or services which could be donated. One of the cities, he said, was Oregon City and he thought this would be a good idea for Milwaukie. The City Manager said that staff was currently working on such a project.

CONSENT AGENDA

Approval of minutes - February 1 and 3, 1983

Request for Leave of Absence - Cleo Kielbowicz, Library Page
Liquor license renewals - Plaid Pantries Inc., Pal's Shanty,
American Legion Post No. 180.

It was MOVED by Hall, SECONDED by Graf, to adopt the consent agenda. MOTION CARRIED unanimously.

INFORMATION

Mayor Burgess said that if any Council member saw the need for a separate work session to deal with departmental reports, it should be brought up at a later date.

V
a (5)

City Manager said that the city is going through an investigation of employee withdrawal from the Social Security System and he would have a report to bring to Council at a later meeting.

Mayor Burgess commented on an article in the LOC report regarding Federal Revenue Sharing and suggested that a letter be sent to the legislature as well as to the two congressmen mentioned in the article who are sponsoring bills which would continue Federal Revenue Sharing. The letter should state the city's support for the continuation of Federal Revenue Sharing. The Council concurred that such a letter should be written.

The meeting adjourned at 9:45 to go into executive session under ORS 192.660 (1) (d) to discuss labor negotiations.

The executive session adjourned at 10:55 p.m.

Mayor Joy Burgess

Laurie Perkin, Secretary

MILWAUKIE
CITY COUNCIL MEETING
February 9, 1983

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THE MILWAUKIE CENTER

SPECIAL MEETING

The Milwaukie City Council met with the Board of Directors of the Milwaukie USA Business Association on February 9, 1983.

The following Council members were present:

Mayor Joy Burgess	Don Graf
Ron Kinsella	Roger Hall
Mike Richmond	

Board of Directors present:

Topaz Faulkner, Community Services Director
Pete Sinclair
Paul Graham
Doug Naef
Pat Milligan
Dave McDowell

Also present:

Hugh Brown, City Manager
Greg Eades, City Attorney
Bill McDonald, Administrative Assistant
Laurie Perkin, Secretary

Faulkner said there were three purposes for this meeting; to provide information, to come to some agreement on downtown development, and to begin developing a public-private partnership. She submitted a list of goals developed by the City Council as well as a list of goals developed by the business association and pointed out the similarities. She provided also a list of definitions and descriptions of key terms having to do with urban renewal, development commissions, LID's, types of financing and descriptions of organizations such as HUD (Housing and Urban Development) and EDA (Economic Development Administration).

Bill McDonald gave an update on Lake Oswego's local development corporation.

There was discussion on various approaches used in starting a local development corporation or commission. Graf suggested that staff be involved in any such organization.

Pete Sinclair spoke of the need to create a positive environment for new businesses in town. He said recent ideas discussed by the business association included a clean up day and an open house for realtors. He spoke of waterfront development and said that if the business association were to promote this, it was important that they have the support of the city.

There was discussion on new businesses in town, types of businesses that would be desirable, and the importance of getting land owners involved. There was discussion on the difference between a corporation and a commission and types of loans.

There was further discussion on the riverfront development and the attitude of the property owners. It was suggested that a meeting be set up with the property owners.

Faulkner spoke of the Portland Development Commission which was appointed by the city and given the power to deal with problems, thus taking the pressure off the City Commission. She said this organization had been extremely successful.

There was further discussion on the development of a corporation or a commission. Faulkner said a corporation would be better because of the type of financial leverage available. A corporation could sell stock and get a better interest rate through the state.

There was further discussion on setting up a meeting with the property owners, downtown business association and the City Council. The City Manager said he thought the business association should initiate this type of meeting.

Faulkner said she would develop, for the information of the business association, a step by step process in setting up a corporation.

The meeting was adjourned at 7:05 p.m.

Joy Burgess, Mayor

Laurie Perkin, Secretary

MILWAUKIE
CITY COUNCIL MEETING
February 9, 1983
7:15 p.m.

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THE MILWAUKIE CENTER

SPECIAL MEETING

A special meeting of the Milwaukie City Council was held on February 9, 1983 to discuss the possibility of hiring outside assistance for labor negotiations and to interview labor relations consultants. The following council members were present:

Mayor Joy Burgess	Don Graf
Ron Kinsella	Roger Hall
Mike Richmond	

Also present:

Hugh Brown, City Manager
Greg Eades, City Attorney
Jo Durand, Administrative Assistant
Laurie Perkin, Secretary

There was general discussion on the advantages, disadvantages, and cost of hiring an outside negotiator. The following persons were interviewed:

Kathy A. Peck and Don Schaefer, Cascade Employers Assoc. Inc.
Kevin Lindgren, Local Government Personnel Institute
H. Kenneth Zenger, Huffman and Zenger, P.C.

There was extended discussion on whether or not to hire an outside negotiator for fire negotiations. The City Manager said he felt strongly that he should not be involved in negotiations because of the time involved and because of possible employer-employee conflicts. It was suggested that the firefighters might not hire an outside negotiator if the city did not. There was discussion on whether or not City Attorney would be considered to be a professional negotiator, who would be involved in in-house negotiations, the cost of in-house negotiators as compared to an outside negotiator, and the services offered by LGPI and Cascade Employers Association. It was suggested that staff begin the negotiation process and call in someone from outside if it appeared to be necessary.

The meeting adjourned at 10:30 p.m.

Joy Burgess, Mayor

Laurie Perkin, Secretary

M E M O R A N D U M

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TO: Hugh Brown, City Manager
FROM: Ron Schanaker, Police Chief
DATE: February 11, 1983
SUBJECT: APPLICATION FOR LIQUOR LICENSE RENEWAL

State and local law enforcement records fail to reflect any negative information on the below-listed applicant. I therefore find no reason to deny issuance of the requested license renewal.

APPLICANT: Joe's Warehouse Inc DBA
JOE'S WAREHOUSE RESTAURANT
12300 SE Mallard
Milwaukie, Oregon 97222

RCS:jh

M E M O R A N D U M

TO: Hugh Brown, City Manager
FROM: ~~R~~ Ron Schanaker, Police Chief
DATE: February 25, 1983
SUBJECT: APPLICATION FOR LIQUOR LICENSE

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State and local law enforcement records fail to reflect any negative information on the below-listed applicants. I therefore find no reason to deny issuance of the requested license renewal.

APPLICANT: Jafar T. Tavassali and
Mohammad Ghaznini Hashemi
DBA THE ONION RING RESTAURANT (EAST)
8899 SE McLoughlin Blvd
Milwaukie, Oregon 97222

RCS:jh

APPLICATION GENERAL INFORMATION

No 4879

The filing of this application does not commit the Commission to the granting of the license that you are applying for nor does it permit you to operate the business named below. If a license is granted by the Commission, you will receive a LICENSE CERTIFICATE. No fee is collected by OLCC until a LICENSE CERTIFICATE is to be issued.

(THIS SPACE IS FOR OLCC OFFICE USE)

(THIS SPACE IS FOR CITY OR COUNTY USE)

50 Proximity fee fee of \$125

Application is being made for: BOTTLER Greater Privilege BREWERY Lesser Privilege DISPENSER CLASS APPLICATION RE-LICENSED New Licensee DISPENSER OREGON LIQUOR CONTROL COMMISSION New Location DISTILLERY New Outlet DRUGGIST New Partner FARMER'S WINERY FEB 18 1983 INDUSTRIAL ALCOHOL RAILROAD, PUBLIC PASSENGER, CARRIER OR BOAT LICENSE DIVISION RESTAURANT RETAIL MALT BEVERAGE SEASONAL DISPENSER SPECIAL EVENTS DISPENSER WHOLESALE MALT BEVERAGE AND WINE WINERY

NOTICE TO CITIES AND COUNTIES: Do not consider this application unless it has been stamped and signed at the left by an OLCC representative. THE CITY COUNCIL, COUNTY COMMISSION, OR COUNTY COURT OF (Name of City or County) RECOMMENDS THAT THIS LICENSE BE: GRANTED DENIED DATE BY (Signature) TITLE

V B 3

CAUTION: If your operation of this business depends on your receiving a liquor license, OLCC cautions you not to purchase, remodel, or start construction until your license is granted.

- 1. Name(s) of individual applicant(s), partnership, or corporation: 3-22-49 1) JAFAR-T-TAVASSALI 3411 S.E. 25th AVE PORTLAND ORE 97202 (Name) (Address) (City) (State) (Zip) 2) Mohammad Ghazwan Hashemi 10210 S.E. Mt. Scott Blvd. Portland, Oregon, 97216 3) 4) (EACH PERSON LISTED ABOVE MUST FILE AN INDIVIDUAL HISTORY AND A FINANCIAL STATEMENT) 2. Trade name of premises The Onion Ring Restaurant (East) When filed: 1981 (Year Name Filed with Corporation Commission) 3. Former trade name The Onion Ring 4. Premises address 3399 S.E. McLoughlin Blvd. Milwaukie Clackamas Oregon 97122 (Number, Street, Rural Route) (City) (County) (State) (Zip) 5. Business mailing address Same as above (P.O. Box, Number, Street, Rural Route) (City) (State) (Zip) 6. Was premises previously licensed by OLCC? Yes No [checked] Year 7. If yes, to whom: Type of license: 8. Will you have a manager: Yes No [checked] Name (Manager must fill out Individual History, blue page 2) 9. Will anyone else not signing this application share in the ownership or receive a percentage of profits or bonus from this business? Yes No [checked] 10. What is the local governing body where your premises is located? Milwaukie (Name of City or County) 11. OLCC representative making investigation may contact: Mohammad G. Hashemi (Name) 10210 S.E. Mt. Scott Blvd. Portland, OR 97216 (503) 771-1736 or (503) 654-0787 (Address) (Tel No - home, business, message)

CAUTION: The Administrator of the Oregon Liquor Control Commission must be notified if you are contacted by anybody offering to influence the Commission on your behalf.

Applicant(s) Signature (1) (In case of corporation, duly authorized officer thereof) Jafar Tavassali Hashemi (2) M.G. Hashemi (3) (4)

DATE 2/15/83

MEMORANDUM

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February 22, 1983

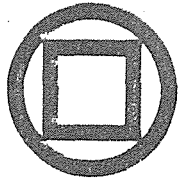
TO: CITY COUNCIL

FROM: GREG EADES, CITY ATTORNEY

SUBJECT: ANTITRUST EXPOSURE

The attached report provides a good summary of the evolving issue of antitrust liability of local governments, so I thought you might like a copy. An antitrust "audit" should be conducted, and I intend to do it as time allows. There are also several firms that would provide us with this service, for a fee.

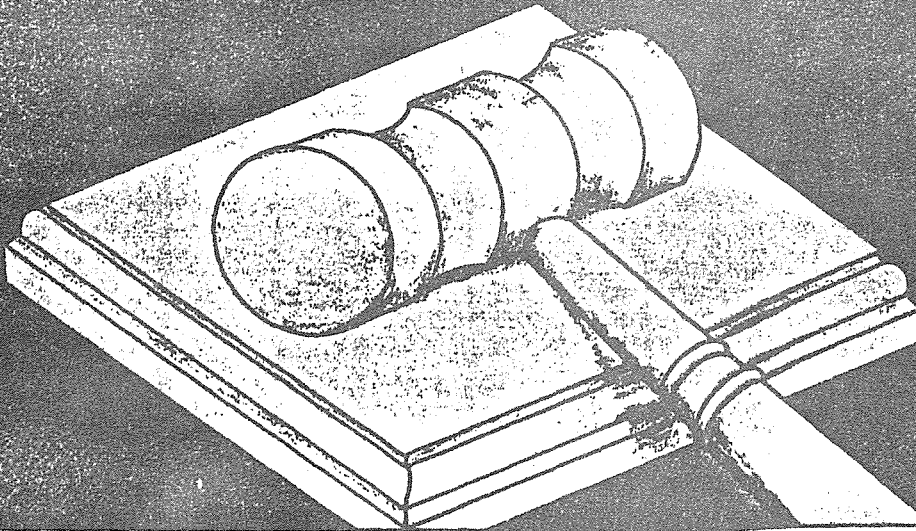
If you have any questions about this, please let me know.



Management Information VI Service a (2) REPORT

VOLUME 14
NUMBER 12
DECEMBER 1982

Antitrust exposure of local governments— a guide for the chief executive



REPORT AT A GLANCE

This month's report examines the application of the federal antitrust laws to local governments and their officials. Included are a description of those laws, an explanation of recent Supreme Court decisions involving state and local governments, examples of the types of local government activities that are likely to prompt antitrust concerns, and recommended practices that will help diminish antitrust exposure.

On January 13, 1982, the United States Supreme Court ruled in *Community Communications Co., Inc. v. City of Boulder* that a city can be sued for violations of the federal antitrust statutes. Although concerns had been mounting earlier because of other

judicial rulings, the *City of Boulder* case and the wave of antitrust claims against local governments which it has spawned have made it imperative for every local government to become more fully aware of the existence of these laws, to examine its practices for potential antitrust problems, and to take steps to deal with those problems.

The federal antitrust statutes, and particularly the Sherman Act, generally prohibit actions that stifle competition. Certain practices are considered to be unreasonably anticompetitive as a matter of law. In many cases, however, a court will weigh pro-competitive benefits of the practice against the restraints that it imposes on the free market.

The antitrust laws do not ordinarily apply to the activities of state govern-

ments. Local governments, however, are subject to these statutes unless the state has clearly and knowingly authorized the local government to behave in a manner that substitutes anti-competitive conduct for free competition.

Municipalities are most likely to encounter antitrust problems in three areas: procurement activities, provision of goods and services, and regulation of private economic activity. This report gives examples of typical local government functions in each of these areas that have actually generated lawsuits, and for each of them provides guidelines and recommendations that should decrease the likelihood of a successful antitrust challenge.

ANTITRUST EXPOSURE OF LOCAL GOVERNMENTS— A GUIDE FOR THE CHIEF EXECUTIVE

This report focuses on a recent and ominous legal development—the exposure of local governments to lawsuits alleging violations of the federal antitrust laws. Although this topic has many technical aspects of interest mainly to antitrust lawyers, these aspects are not addressed here. This report is not intended to provide a comprehensive explanation of the many detailed facets of antitrust law. However, it is important for managers and chief executives to have a general understanding of the scope of the antitrust laws in order to appreciate the significance of antitrust to the operations of local governments. Therefore, this report is addressed to the non-lawyer. Readers are advised to consult counsel with respect to particular claims or specific antitrust guidance.

THE ANTITRUST LAWS

Sherman Act

The principal federal antitrust statute is the Sherman Act of 1890. Section 1 of the Sherman Act prohibits concerted actions that unreasonably restrain trade. Certain restraints of trade, such as price fixing, group boycotts, tying arrangements, and division of territories among competitors, are presumed to be unreasonable and are therefore held illegal *per se*. In other words, courts will not entertain arguments about the alleged economic benefits of these activities as defenses to antitrust suits. Other activities claimed to be in unreason-

This report was prepared by Martin Michaelson and George Mernick, antitrust attorneys with the Washington, D.C. law firm of Hogan & Hartson. Mr. Michaelson also spoke on the subject of local government antitrust liability at ICMA's 1982 Annual Conference in Louisville, Kentucky, and has served on panels addressing this topic at recent seminars sponsored by ICMA in Washington, D.C. and Chicago.

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able restraint of trade are judged under the "rule of reason," which requires the courts to determine whether the activity, in light of its context, purpose, history, and effect, hinders or enhances competition. Thus, a key issue in many antitrust cases is whether the conduct alleged in the complaint will be judged under the "*per se*" test or the "rule of reason" test.

Section 2 of the Sherman Act prohibits monopolization and attempts and conspiracies to monopolize.

Text of the Sherman Act

Section 1: Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal . . . Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding one million dollars if a corporation, or, if any other person, one hundred thousand dollars, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.

Section 2: Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding one million dollars if a corporation, or, if any other person, one hundred thousand dollars, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.

In addition to the time and financial burdens on defendants regardless of the outcome of antitrust litigation, violations of the Sherman Act can result in severe civil penalties, including:

- Injunctions
- Payment of *three times* the damages actually proved by the plaintiff
- Payment of the plaintiff's attorney fees
- Payment of the cost of the lawsuit.

Violation of the Sherman Act in some circumstances can also be a felony punishable by up to three years in prison and a fine of up to \$1 million.

Clayton Act

Congress enacted the Clayton Act in 1914. That statute prohibits (but does not criminalize), among other things:

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- Price discrimination (sales of a product at different prices to similarly situated buyers)
- “Tying” arrangements (in order to get product A, the buyer must also purchase product B)
- Exclusive dealing contracts that substantially foreclose competition (arrangements where the buyer agrees to stop dealing with the seller’s competitors).

Robinson-Patman Act

Enacted in 1936, this statute revised the price discrimination provisions of the Clayton Act. In addition to prohibiting price discrimination between similarly situated customers, it also prohibits kickbacks disguised as unearned commissions and certain other discriminatory conduct.

PROVING A CASE

A plaintiff who brings an action alleging violations of the federal antitrust laws must, of course, convince the finder of fact (a judge or jury) that the defendant or defendants engaged in the anticompetitive conduct alleged in the complaint. There are, however, a number of less obvious hurdles that a plaintiff must clear to prevail in the lawsuit. Some involve affirmative showings that the plaintiff must make when presenting the case. Others relate to defenses the plaintiff must overcome.

First, the plaintiff has to prove that the conduct in question affects interstate commerce. Some activities concerning local government defendants, such as trash removal operations that never approach state borders, may not satisfy this test (although the law is unsettled), while others, such as operating an airport, clearly will. In addition, even if there is no demonstrated effect on interstate commerce, a plaintiff may have recourse to a state antitrust statute that may prohibit the same conduct as federal law, but that will require no connection with interstate commerce.

The plaintiff must also show that he or she has been “injured in fact” in order to have “standing” to sue. In other words, you cannot bring a lawsuit complaining of someone else’s alleged injury.

The plaintiff must also demonstrate a “causal connection” between the alleged injury and the conduct that is claimed as an antitrust violation. If the plaintiff’s injury would have occurred even without that conduct, the necessary causation element is absent.

If the plaintiff is alleging a violation of Section 1 of the Sherman Act, he or she must prove that the action was “concerted”—that is, the product of an agreement (whether express or implied)—and that two or more conspirators were involved. Section 2 claims for unlawful monopolization or attempts to monopolize, on the other hand, need not allege concerted action.

In a case employing the “rule of reason” test, the plaintiff must be prepared to rebut the defendant’s contention that the conduct in question enhanced rather than hindered competition. In addition, a private party defendant may be expected to assert that its conduct was nothing more than a legitimate effort to influence government policy and therefore immune from antitrust challenge. This defense is known to lawyers as the “*Noerr-Pennington*” defense, after the two Supreme Court decisions that established it.

Finally, the antitrust plaintiff who sues a local government entity likely will encounter the “state action exemption” defense, in which the defendant local government asserts that a state regulation, statute, or constitutional provision immunizes the local government’s activities. If this exemption is applicable, the plaintiff’s lawsuit may be dismissed even though the plaintiff has fully satisfied all of the other elements of the case.

IMPACT OF ANTITRUST LAWSUITS ON LOCAL GOVERNMENTS

In assessing the impact on local governments of the recent *City of Boulder* case and other antitrust decisions, it is important to keep in mind that bringing an antitrust lawsuit and winning an antitrust lawsuit are two different things. The former can be accomplished through little more effort than finding a lawyer and paying a filing fee. Winning the lawsuit, on the other hand, frequently requires years of effort and many thousands or hundreds of thousands of dollars in legal fees and other expenses. More importantly, it also requires the ability to convince a judge or jury that the defendants’ actions violate the antitrust statutes and are not protected by any of a variety of defenses, of which the state action exemption, discussed later in this report, is but one.

In virtually any lawsuit filed in federal court, the quickest and least expensive means by which a defendant achieves victory is the successful filing of a “motion to dismiss” or “motion for summary judgment.” By filing a motion to dismiss, a defendant is telling the court, in essence, “Even if every accusation the plaintiff makes against me is true, I am still entitled to win the case as a matter of law.” By filing a motion for summary judgment, the defendant is telling the court that there is no genuine issue of material fact in dispute. On either motion, if the defendant is right, no trial in the case is necessary because no factual disputes have to be resolved. Obviously, the time and expense associated with a successful dispositive motion to dismiss or for summary judgment are considerably less than that likely to be consumed by the complicated pre-trial discovery and the lengthy trial characteristic of antitrust cases.

The Supreme Court decisions construing the state action exemption, and particularly the *City of Boulder* decision, make it more difficult for local governments

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that are named as antitrust defendants to prevail at such an early stage of the litigation. Thus, the most immediate impact of these decisions may be that they will require many more local governments to defend the merits of their actions in long and costly trials and face the risk of unfavorable verdicts at the conclusion of those trials.

Financial Costs. The potential monetary exposure faced by local governments across the country from pending antitrust claims against them is staggering. In testimony before the Senate Judiciary Committee in June 1982 the National Institute of Municipal Law Officers (NIMLO)

The Supreme Court decisions construing the state action exemption . . . make it more difficult for local governments that are named as antitrust defendants to prevail at . . . an early stage of the litigation.

presented the results of a survey it had conducted among 300 of the approximately 39,000 local governments in the United States. NIMLO found that since 1978, 43 of those municipalities, or nearly 15 percent, had been sued for alleged antitrust violations. The total of the damage claims that had been specified in those 43 lawsuits was \$743 million dollars. However, even that figure is conservative, because dollar figures were identified in the damage claims in only 19 of those 43 cases; in each of the other cases the amount of alleged damages was unspecified in the complaint. Thus, a survey of fewer than one percent of the local governments in the country revealed that in a period of only four years, almost three-quarters of a billion dollars in specified claims and an unknown amount in unspecified claims had been filed.

Furthermore, in addition to seeking money damages, most antitrust suits request some sort of injunctive relief in which the defendant is ordered to modify its conduct. In most antitrust cases the injunctive relief sought would, if granted, be costly to the defendant. The figures compiled in the NIMLO survey did not include the costs of injunctive relief sought in any of these 43 cases.

Finally, the NIMLO survey provided an interesting illustration of the types of municipal activities that have generated these lawsuits. Of the 43 cases:

- 6 arose out of cable television regulation
- 9 arose out of land use and zoning decisions
- 2 concerned waste collection and disposal
- 4 concerned hospital and ambulance services
- 4 pertained to water and sewage systems
- 6 related to airport services and concessions
- 4 involved utility services

- 3 involved automobile towing services
- 1 involved a mass transit authority
- 2 involved licenses and concessions at government-owned facilities
- 1 concerned the leasing of public lands
- 1 involved the award of a contract to provide security services at a public park.

WHY DO FEDERAL ANTITRUST LAWS APPLY TO LOCAL GOVERNMENTS?

The concept of local government antitrust liability is a product of judicial evolution. The antitrust laws do not explicitly address state or local governing bodies. From 1890, when the first federal antitrust statute was enacted, until 1943, antitrust suits against states were dismissed. The purpose of the federal antitrust laws, as then understood, was to prevent anticompetitive conduct by and among private parties. It generally was assumed that states, state subdivisions, and government officials were not subject to those laws. This reflected the belief that our system of government rests on the dual sovereignty of federal and state governments, and that it was not the purpose of the federal antitrust laws to regulate the states.

In 1943, however, a raisin producer in California sued the state of California and its Director of Agriculture for alleged Sherman Act violations. In that case, *Parker v. Brown*, 317 U.S. 341 (1943), the state official was charged by state law with implementing an agricultural marketing program that restricted competition among California raisin producers. To promote an orderly market, the Director could order producers to hold raisins off the market. The Supreme Court concluded that neither California nor the official could be sued under federal antitrust laws for taking action pursuant to a state law regulating economic activity. *Parker v. Brown* was the genesis of the "state action" exemption or immunity. That decision indicated that state agencies and officials acting under a state law were not subject to the federal antitrust laws.

For the next 32 years the state action exemption was applied broadly. In the interim, however, the number, complexity, and pervasiveness of state and municipal activities increased. States and municipalities performed a variety of functions and provided a myriad of services, often in competition with private enterprises. These ranged from zoning to public transportation, from waste disposal to procurement. Beginning in 1975, a series of Supreme Court decisions, approximately one per year, narrowed the scope of the state action exemption first announced in 1943 in *Parker v. Brown*.

The first of these cases to test the state action exemption was *Goldfarb v. Virginia State Bar*, 421 U.S. 733, (1975). There, a local bar association published a minimum lawyers' fee schedule in which the Virginia

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State Bar, a state agency, acquiesced. Mr. Goldfarb, a consumer of legal services who could not obtain a title search for real estate for less than the minimum fee, sued under the Sherman Act. Although the Virginia Supreme Court was the state body ultimately responsible for regulation of attorneys in Virginia, Virginia neither authorized nor enforced the bar association's fee schedule through the Virginia court. The United States Supreme Court found that the action of the local bar association and the State Bar was neither compelled nor supervised by the state. The Virginia State Bar was therefore held not exempt from the antitrust laws.

Two years after *Goldfarb*, however, the Supreme Court found that the Arizona State Bar was exempt from an antitrust challenge by an attorney to the state's ban on attorney advertising, in *Bates v. Arizona State Bar*, 433 U.S. 340 (1977). The Arizona Supreme Court, charged with the regulation of the state's lawyers, enforced the advertising ban through the State Bar Association. The U.S. Supreme Court decided that the state action exemption covered the Bar's conduct in this instance. The Court reasoned that because the state clearly expressed the policy to ban the advertising, and the state actively supervised the ban, there was state action and hence antitrust immunity.

At about the same time, in *Cantor v. Detroit Edison Co.*, 428 U.S. 579 (1976), the Supreme Court decided that mere state regulation of a private utility did not clothe the utility with the state's antitrust immunity. In *Cantor*, the Court held that an electric utility that had allegedly created a monopoly in lightbulbs by dispensing them without separate charge to its customers was subject to an antitrust suit brought by a retail seller of lightbulbs. The utility company, a private firm, argued that the state had approved its lightbulb program when the state utility commission permitted enactment of the utility tariff and thus the utility's conduct was state action. This argument did not convince the Supreme Court. The Court held that mere state regulation of private anticompetitive conduct—particularly where the regulation consisted of mere passive acquiescence in a tariff prepared by a private firm—does not shield this conduct from an antitrust challenge.

It was not until 1978 that the Supreme Court first examined the *Parker* exemption in relation to local governments; and it did so in the context of the foregoing decisions that limited significantly the state action exemption. In 1978, the Court, split 5 to 4, found that a local government can be sued for antitrust violations in *City of Lafayette v. Louisiana Power & Light Co.*, 435 U.S. 389. Lafayette, Louisiana, which operated a utility company in competition with private utility companies, would provide municipal services such as water and sewer service only to customers of the city-owned utility. The private utilities claimed this was an illegal arrangement tying other necessary services to utility service.

The city argued that as a subdivision of the state it shared the state's antitrust immunity, under the doctrine of *Parker v. Brown*.

The Supreme Court disagreed. In order for a city to claim the state immunity it must act for the state directly or act pursuant to a "clearly articulated" and "affirmatively expressed" state policy. Although not agreeing among themselves on the rationale for their decision, the five justices in the majority found that Lafayette's anticompetitive operation of a utility did not meet this test. The Court did not require, however, that the city's conduct be *compelled* by the state. In addition, the Court in *City of Lafayette* did not establish that all types of municipal action can be challenged. Indeed, the Justice who cast the "swing" vote stated that a local government engaged in activity that is primarily proprietary or commercial, rather than governmental, should be treated just as any other business enterprise under the antitrust laws. The other four justices in the majority felt that all municipal functions not directed by the state should be subject to antitrust challenges. Regardless of the nature of the activity, these four justices stated, the state must be involved in the anticompetitive municipal activity in order for the state action immunity to attach.

Two years after its decision in *City of Lafayette*, the Supreme Court added a third element to the *Parker v. Brown* state action exemption in the case of *California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc.*, 445 U.S. 97 (1980). A California statute regulating wine prices required wine producers and wholesalers to submit and maintain a price schedule. The producers themselves could, in effect, set wine prices by submitting such prices to the appropriate state agency for approval. The Supreme Court did not apply the state action immunity to the state agency even though the state's policy to maintain wine prices was clear and affirmatively expressed in the statute. The Court said the necessary third element for antitrust immunity for a state agency is "active supervision" of the agency's conduct by the state.

The most recent and most far-reaching of the Supreme Court decisions is *Community Communications Co. v. City of Boulder*, 102 S. Ct. 835 (Jan. 13, 1982). Boulder, Colorado operates under a "home rule" grant of authority from the state of Colorado pursuant to the state constitution. City officials announced a three-month moratorium on the expansion of cable television service within the city limits to study the impact of, and to plan for, competitive cable television service. The existing cable television franchisee sued, claiming violation of the Sherman Act. The Supreme Court, citing the decision in *City of Lafayette*, held that Boulder's conduct was subject to antitrust challenge even though the city operated under a clear delegation of state power.

First, the Court in the *Boulder* case found that despite its "home rule" power the city was not itself a sovereign entity entitled to antitrust immunity. Then the Court

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concluded that the state, by the grant of "home rule" authority, was essentially neutral with respect to the city's conduct and that this neutrality was not sufficient to raise the state action immunity. The Court said the state must have at least "contemplated" the specific action that the municipality intended to take. Further, the Court found that the nature of the municipality's challenged conduct, whether governmental or proprietary, does not affect antitrust immunity, contrary to what the Court had suggested in *Lafayette* just four years earlier. The question of how much, if any, state supervision of municipal activities was required to immunize those activities from antitrust attack was left unanswered.

The current legal test for local government antitrust immunity is whether action by the government or its officials is conducted pursuant to a clearly articulated and affirmatively expressed state policy to substitute anti-competitive conduct for free competition.

Another recent Supreme Court decision, although not arising under antitrust laws, may play an important role in establishing the boundaries of municipal antitrust liability. In *National League of Cities v. Usery*, 426 U.S. 833 (1976), the Court held that considerations of federalism bar Congress from applying the minimum wage provisions of the Fair Labor Standards Act to state and municipal employees engaged in "integral operations in areas of traditional government functions" such as fire prevention, police protection, sanitation, public health, and parks and recreation. Because Congressional authority to regulate economic behavior through the antitrust statutes derives from the same clause of the United States Constitution as does Congress's authority to set minimum wages and hours—the "commerce clause"—many of the principles enunciated in *Usery* would seem analogous to regulation of integral government functions through the antitrust laws. The Court may shed more light on this issue in 1983, when it decides *Jefferson County Pharmaceutical Association, Inc. v. Abbott Laboratories*. It is a case involving the application of the price discrimination prohibitions of the Robinson-Patman Act to governmental purchases for hospitals and other traditional government purposes.

LAW STILL UNSETTLED

Today there are more puzzling questions about local government antitrust liability than there are clear answers. With each recent decision the Supreme Court

has narrowed the state action immunity in its application to local governments. It is fair to say that there is no clear standard for municipal antitrust immunity. What is clear is that there is no automatic antitrust immunity for a local government due to its status as a state governmental unit.

The current legal test for local government antitrust immunity is whether action by the government or its officials is conducted pursuant to a clearly articulated and affirmatively expressed state policy to substitute anti-competitive conduct for free competition. This test appears to apply to traditionally governmental as well as to proprietary functions, and to government officials in the course of their work as well as to government entities.

The application of the Supreme Court's antitrust immunity test to local governments generates novel questions. For example, must local governments and their officers be actively supervised by the state in their functions, and if so, by whom? Must local government action be specifically compelled by the state? How explicit must the expression of state policy be?

Among other as-yet unresolved questions are these:

- 1) Should courts apply the same standards in judging alleged anticompetitive conduct of cities as in judging private actions?
- 2) Assuming that there is municipal antitrust liability, what are the appropriate remedies?

WHICH LOCAL GOVERNMENT ACTIVITIES ARE LIKELY TO SPARK ANTITRUST LITIGATION?

While the number of local government activities that might prompt an antitrust suit—though not necessarily a successful one—is potentially limitless, there are three major municipal activities which provide the most likely subjects of antitrust challenge. These are:

- 1) The procurement of goods and services by the local government
- 2) The provision of goods and services by the local government
- 3) The local government's regulation of private economic activity.

Identified below are some of the typical situations and potential problems arising in each of these three areas.

Procurement

Every local government buys something. Some major purchases, such as new fire equipment, may occur rarely, while others, such as office supplies, may be made on a monthly or even weekly basis. They share one common

trait, however. Procurement activities typically involve choices among competitors, some of which lose out. To these unsuccessful prospective vendors, the threat of a federal antitrust suit can be a very attractive lever, either to redress the wrong they perceive done to them or, perhaps even more likely, to attempt to influence purchasing decisions.

Such a challenge might allege that the local officials responsible for the procurement decision disregarded applicable policy and made an unlawful decision at the

Who can sue?

Examples:

- Utility companies
- Occupational license holders and applicants
- Hospitals
- Applicants for hospital staff privileges
- Cable television companies
- Real estate developers
- Transit companies
- Taxi companies
- Ambulance companies
- Towing services
- Trash disposal services
- Construction companies
- Car rental companies
- Outdoor advertising companies
- Vendors
- Concessionaires
- Parking lot operators.

Who can be sued?

Examples:

- Cities
- Townships
- Counties
- Local boards and agencies
- Quasi-governmental entities
- Municipally-owned corporations
- Municipal officials
- Compacts of two or more local governments or agencies.

expense of the plaintiff. Alternatively, the losing vendor might allege that the unfairness is built into the system, and that regardless of the good intentions of the responsible officials, the local government's procurement policies unlawfully stifle competition. The latter charge could be expected in the following situations, among others:

- VI
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- Where vendor preference laws allocate fixed percentages to certain types of vendors
 - Where procurement specifications favor or exclude particular vendors
 - Where procurement policy favors certain types of firms, for example, local or past vendors
 - Where a government official showed favoritism to the successful vendor.

Certain practices that might be associated with these situations could prove especially troublesome. For example, where it is alleged that the procurement specifications treat certain vendors unfairly, a plaintiff's case is aided substantially if the municipality relied on private parties—particularly private parties associated with the successful bidder—to develop those standards or specifications.

Similarly, it won't help the defense if an antitrust plaintiff is able to show that officials consistently have favored particular vendors without any clear, objective justification for those preferences. In one case, for example, a port authority required its employees to wear a particular brand of uniform. Employees received rebates only for uniforms purchased at a designated store. The court held that the port authority's policy had not been mandated by the state legislature, and that without a showing by the port authority of objective justification for the arrangement, the authority would be liable for antitrust violations to an unsuccessful seller of uniforms.

Reducing Procurement Antitrust Risks. Common sense action by local government officials when formulating procurement policies and making procurement decisions can reduce antitrust risks. The following actions, while not guaranteed to prevent antitrust challenges from disappointed vendors, will make the task of defending against those challenges considerably easier:

- Base procurement decisions on objective criteria that can be justified on a technical basis
- Publicize the availability of procurement policies and criteria before the bidding process starts
- Where appropriate, provide open hearings for major procurement decisions
- Carefully observe fair procedures when making procurement decisions
- Avoid relying on interested private parties to develop standards, set prices, or establish procurement policy.

Provisions of Goods or Services

Just as every local government buys something, every one also "sells" something, usually services. While the "price" for many of these goods or services—for example, police and fire protection—may be included in the

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taxes paid by residents of the community, there are numerous instances in which citizens pay a specific fee for a specific benefit.

The sale of goods or services by local governments is ordinarily accomplished in one of three ways. First, the municipality can operate as a monopoly, directly providing goods or services to the community without competition. Second, it can operate in competition with private providers of the same or similar goods or services. Third, the municipality can contract with private entities to provide goods or services on its behalf. Often, the services that are likely to prompt an antitrust challenge are not those that are thought of as necessarily "governmental." Rather, they are services that are typically, or which may sometimes be, provided by private firms.

Local Government "Monopolies". It is not uncommon for a government to own and operate one or more "businesses" that are the exclusive providers of certain goods or services in the community. Typical examples are government-owned electrical, gas, or water companies; bus and transit companies; sanitation services; and municipal airports.

The mere existence of a local government-owned "monopoly" does not, in itself, violate the antitrust laws. Strictly speaking, the antitrust laws do not prohibit monopolies; they prohibit monopolizing acts and attempts and conspiracies to monopolize. Further, the monopoly may be the product of a state policy to displace competition in the particular area. If that is the case, the state action exemption may apply, immunizing the local government from antitrust challenge. The best evidence to demonstrate such a state policy, of course, is an explicit statement of competition-displacing intent by the state legislature when it authorized the creation of the monopoly, or in subsequent legislative actions pertaining to that monopoly. Even in the absence of such an explicit statement, however, federal courts have shown a willingness to infer such an intent from certain circumstantial evidence. For example, a court may be willing to infer that a state that authorized a local government to operate an essential facility in a market that will support only one such facility (such as an airport for commercial aircraft in a sparsely populated area) intended to grant a monopoly.

Even if the local government is entitled to the state action exemption, it may find itself liable for practices that extend or exploit its lawful monopoly to other practices or other geographic locations. For example, if a state has authorized a city to operate the only electric company within the city's boundaries, the city may be immune from an antitrust attack that is based solely on that monopoly status. But that immunity probably will afford no protection if the city attempts to extend its monopoly to the suburbs, or if it requires its customers

to purchase other goods and services from it as a condition of obtaining electrical services.

A local government that owns and operates a monopoly should assure itself, first, that the state authorized the creation of the monopoly, and second, that the current activities of the monopoly are within the scope of the original grant of authority. If either of these criteria cannot be satisfied, the government should consider seeking a broader or more explicit grant of state authority or, at a minimum, should recognize that its monopolistic behavior stands on the same antitrust footing as that of private parties.

Local Government Competitors. As noted above, municipalities often provide goods or services in competition with private firms. Typical examples are hospitals, convention halls, arenas, parking lots, and recreational facilities. Activities such as these are unlikely to be shielded by the state action doctrine. It probably would

A local government that owns and operates a monopoly should assure itself, first, that the state authorized the creation of the monopoly, and second, that the current activities of the monopoly are within the scope of the original grant of authority.

be difficult or impossible to establish the existence of a state policy to displace competition in the provision of medical services, for example, merely because a city owns and operates one of the five or six hospitals within its boundaries. In these circumstances, municipal officials should assume that no antitrust immunity exists, and that the activities of the publicly-owned facility will be judged by the same antitrust standards as those applicable to private facilities.

Contracting Out. Finally, local governments frequently contract with private entities to provide services to the community. Typical examples are:

- Provision of ambulance and mortuary services
- Operation of concessions at public facilities such as airports, convention halls, and recreational areas
- Provision of transportation services, including bus service, towing of disabled vehicles, and operation of parking lots
- Trash collection
- Road repair.

The antitrust concerns that local governments face when they "contract out" to provide such services are a com-

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SOURCES OF ANTITRUST LITIGATION: THE EXAMPLE OF CABLE TELEVISION

The Supreme Court's most recent decision in the area of local government antitrust liability, and the one most responsible for the intensified concern with this issue, is its January 13, 1982 ruling in *Community Communications Co., Inc. v. City of Boulder*. That case concerned a city's regulation of cable television. Since cable television has reached or soon will reach virtually every community in America, the *Boulder* case provides a useful example of how a single area of concern to a local government can represent a minefield of potential antitrust problems waiting to explode.

Listed below are 10 separate aspects of local government involvement with cable television, each accompanied by one or more examples of activities that might prompt litigation directed against the municipality or its officials. While each of these examples is not necessarily the basis for a successful claim, and some involve questions under other laws, each provides a plausible basis for an antitrust lawsuit.

1. Consortium of Municipalities.

Example: Several communities band together to select a single cable television operator, rather than allowing prospective operators to bid separately for each community.

2. Establishment of Selection Criteria.

Example: Community officials hire a consultant to draft specifications. These allegedly favor selection of the company owned in part by a former business associate of the consultant.

Example: The city council makes majority ownership by a local resident a prerequisite, knowing that there is only one local resident with the necessary experience in the business.

3. Drawing of Boundaries.

Example: A city council decision to subdivide the city and take bids for each subdivision separately disfavors a prospective bidder interested in bidding only for the entire city. (That bidder allegedly is the only one that did not make campaign contributions to the city council members standing for re-election).

Example: Mayor insists that the cable franchise boundaries for urban subdivision be drawn so as to provide an advantage to a prospective bidder that operates a cable system bordering that subdivision. (Mayor's brother-in-law allegedly is a business partner of that cable system's principal investor.)

4. Market Division Agreements.

Example: The city council and its consultant endorse a private agreement between some of the prospective

bidders whereby each bidder agrees not to bid against the other for subdivision franchises.

5. Joint Venture Agreements.

Example: City manager convinces leading candidate for franchise that it must form joint venture with third-rate local firm if it wants to be awarded a franchise.

6. Exclusivity.

Example: Although the local government's ordinance and agreement do not grant exclusivity, officials refuse to entertain requests for franchising of additional competitors.

7. Termination of Existing Franchisee.

Examples: City commences revocation proceeding against present franchisee (or declines to negotiate a renewal) after prospective new franchisee instigates citizens to complain about quality and price of existing franchisee's service.

8. Municipal Ownership.

Example: Local government exercises provision in franchise agreement entitling it to take over the franchisee's plant at the end of the franchise term for less than market value.

Example: City that has never had the service before decides to provide it through a municipally-owned corporation rather than entertain bids from private firms. Decision to do so allegedly was instigated by persons who hope to operate the system for the city.

9. Regulation.

Example: Local government regulates the rates charged for a cable television company's services even though competing broadcasters, movie theaters, and satellite-fed master antenna systems are not rate-regulated.

Example: Local government compels cable television company to reserve certain percentage of channels for access by others.

Example: Officials allegedly conspire with local newspaper to require cable company to carry that newspaper's television test service rather than another company's service.

10. Choice of Franchisee.

Example: City council member allegedly is bribed to award franchise to particular bidder.

Example: Campaign contributions allegedly affect city council franchise award.

Example: Award to bidder in which county political party chairperson has an ownership interest allegedly results from agreement to support several council members' bids for re-election.

Example: Owner of sole local newspaper allegedly conspired with successful franchise bidder, in which newspaper owner has ownership interest, to propagandize against proposals of other cable companies.

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bination of those raised in connection with procurement practices and those raised when the government operates its own dominant business.

Just as a private vendor is attempting to sell its goods or services to the community in the procurement process (to the exclusion of its competitors), a contractor is a private vendor attempting to sell its goods or services, without competition from other vendors, to the public on behalf of the local government. Also, like the municipally-owned monopoly, the awarding of an exclusive contract by a local government to a private entity prevents other private competitors from entering that market. Thus, the antitrust pitfalls associated with both practices are present when a local government grants exclusive service contracts.

Like the procurement policies for selecting vendors, the procedures and standards used in selecting service providers should be reasonable and justifiable on the merits. Objective selection criteria should be developed by independent consultants or representatives of the local government rather than interested private parties. Selection procedures should provide due process, including prior publication of the criteria, an opportunity to be heard, and where appropriate, a right of appeal. In addition, the selection process should avoid closed meetings or other conduct that could give the appearance that the local government is undertaking concerted action with private parties to exclude their competitors. *Even the most innocent meeting behind closed doors is likely to arouse suspicions on the part of unsuccessful bidders.* Moreover, should that unsuccessful bidder decide to bring an antitrust lawsuit, the discussion in and documents from such a closed meeting may have to be revealed during pre-trial discovery.

Similarly, the risks attached to monopolization are high whether the local government operates the monopoly itself or awards a private enterprise the right to do so on its behalf. The courts still will look for an expression of state policy in favor of displacing competition in the area. Thus, the local government that grants a monopoly, like the government that operates one, should assure itself that the monopoly is authorized and that the contract it awards is within the scope of that authority, or it should seek appropriate legislative changes at the state level.

Regulation of Private Economic Activity

Local governments are often involved in the regulation of private economic activity. While this regulatory activity is designed to improve health, safety, or other aspects of the public welfare, regulation may have anticompetitive effects and thus be subject to antitrust attack.

For example, zoning regulations typically prohibit the sale of particular items or restrict certain types of commercial operations in designated areas. Occupational licensing and regulation prevents individuals or firms

from entering or remaining in a given industry or profession (usually for good reason). Rate regulation by its very nature fixes prices. Certain other types of regulation, such as with cable television (the subject of the *City of Boulder* decision), impose detailed requirements on how a given business will operate, including not only the prices it will charge, but also the particular services it will provide. The local government may even be a "profit participant" with the business it regulates.

Whether the state action exemption will insulate local government regulatory activity from antitrust challenge will vary depending on the particular state legislation and the regulations at issue. It seems unlikely that traditional local regulatory activities, such as zoning and regulation of building permits, will be struck down in the absence of anticompetitive intent, but each situation will have to be analyzed on its own facts.

If the challenged regulation is shown to be necessary to a state legislative scheme, particularly one that necessarily displaces competition, it probably will be immune from an antitrust attack. However, if the state policy from which the regulation has grown is merely permissive, and different local governments within the state have widely varying regulatory plans governing the same activity, the regulations are less likely to be regarded as compelled by state law and therefore the exemption is less likely to apply.

Where regulations are adopted in areas that traditionally have been subject to local control, such as zoning, successful antitrust challenges are most likely where the local government or its officials have conspired with a private party to use the regulations to restrict competition. In one case, for example, the plaintiff alleged that a town, six of its alderpersons, and three private corporations had conspired to use zoning to exclude the plaintiff from the retail liquor market. If the plaintiff's allegations were true, the Court held, the town and its officials would not be shielded from antitrust liability by the state action exemption.

Do's and Don'ts Regarding Regulation. Because the nature and scope of local regulation of business vary so widely, as do the benefits the regulation is designed to achieve, it is feasible here only to prescribe general guidelines to limit antitrust risk in this area. In enacting regulations that restrain competition, local officials should strive for rules which are:

- 1) Reasonable
- 2) As non-exclusionary as practicable
- 3) Based on objective criteria
- 4) Adopted and enforced with procedural fairness.

During the course of the regulatory process, attempt to establish that there is substantial need for any proposed anticompetitive regulation, and that the regulation gen-

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Management Information Service
December 1982, Vol. 14 No. 12
Antitrust Exposure of Local Governments

government-in-the-sunshine laws and other local considerations about which counsel will be able to advise.

Antitrust audit and compliance programs can have significant benefits, including:

- 1) Alerting officials to trouble spots
- 2) Teaching public employees about the application of laws with which they are likely to be unfamiliar
- 3) Creating sensitivity among employees about which situations require antitrust counsel's attention
- 4) Keeping officials abreast of factual, judicial, and legislative developments
- 5) Identifying areas in which the local government itself might be harmed by the anticompetitive activities of others.

uinely promotes the public welfare. Adopt regulations that use the least restrictive means to accomplish their purposes.

When considering changes in existing regulations or adopting new regulations, provide public hearings in which all interests can be heard. Absent compelling public policy to the contrary, avoid regulations that restrict or impede private parties from competing with one of the local government's own commercial enterprises. Avoid delegating responsibility to affected parties for developing regulatory, licensing, or certification requirements. Avoid private meetings or other conduct that gives the appearance that regulatory actions are the result of arrangements with private entities to restrict competition. Finally, if doubt exists whether a particular local regulatory program has been authorized expressly by the state, consider seeking such express authorization.

Antitrust litigation, like other costly and debilitating wars, frequently can be avoided by the skillful use of diplomacy, the avoidance of unnecessary belligerent acts, and the adversary's awareness that a well-planned defense apparatus is in place.

SOME FINAL GUIDANCE

How to avoid antitrust claims, and how to respond effectively to such claims when they are initially asserted—in negotiations, for example—present a major challenge to local government officials.

The facts of each situation must be analyzed in light of the unfolding and unsettled law in the area of local government antitrust liability. Conscientious application of the principles identified in this report will go a long way toward reducing antitrust risks. However, no general treatment such as this can substitute for access to counsel. City managers and other responsible officials should, if possible, designate a staff attorney or other accessible attorney to become familiar with this area and to be available for periodic consultation. Officials, particularly those with functions in the areas of procurement, provision of municipal services, or regulatory activities, should have regular access to designated counsel, and counsel should have regular access to those officials.

Local governments may also wish to consider instituting antitrust audits and antitrust compliance programs. Many large corporations have employed these techniques successfully to limit antitrust exposure. The desirability and utility of antitrust and audit and compliance programs for local governments will vary, depending on such considerations as the effect of applicable

Antitrust Compliance—An Ongoing Process

Many large corporations, to reduce antitrust exposure, have ongoing antitrust compliance programs. Typically, these programs have several components, including an antitrust audit, promulgation of a written statement of corporate policy on antitrust, educational events, and regular opportunities for consultation with antitrust counsel.

The antitrust audit may consist of questionnaires circulated to responsible officials, with a view to identifying areas of antitrust risk. Usually, circulation of the questionnaire is preceded and followed by consultation with counsel. Written statements of policy are aimed at informing officials and employees of risk areas, and underscore the importance that the employer attaches to antitrust compliance. A number of entertaining and instructional films are available aimed at antitrust issues in the business context. Other educational programs have been used as well. Consultation with counsel may take the form of individual or group meetings.

Antitrust counsel will be in a position to supply examples of effective compliance programs.

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February 18, 1983

Joy Burgess, Mayor
Milwaukie City Hall
10722 S.E. Main
Milwaukie, OR 97222

Dear Mayor Burgess:

On February 1, 1983, our home was broken into and a number of items were stolen. The items stolen were very important to me for a number of personal reasons. In the last two years we have been the subjects of several thefts, once previously at our home and two different automobiles have been broken into.

This is the first theft however where, with the quick and efficient and cooperative action of our cities working together, the items (most of them) and the suspects were located.

Our family is very grateful to your detective Bob McCrum, and Lake Oswego Detective Dave Grady for their fast action and their experience which led them to the suspects. To be quite honest, I could not believe I would ever see the "goods" returned, and most troubling to us all was not knowing who had violated our privacy and whether or not they, the thieves would return.

My sincere thanks to your excellent police department and Detective Bob McCrum in particular. Even my insurance agent recognized that Lake Oswego and Milwaukie quite often solve break-ins, and this helps when it comes to paying insurance premiums.

Its been a long while since we chatted over lunch. Perhaps now that I too am involved in city government, we will see more of one another. I do hope all is going well for you.

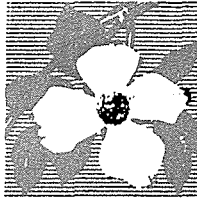
Sincerely,



Alice Schlenker
Councilor
City of Lake Oswego

cc: Chief of Police Ron Schanaker
Chief of Police Tom Webster
Mayor Herald C. Campbell

CITY OF MILWAUKIE



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OFFICE OF THE CITY MANAGER
in the City Hall • phone 659-5171

February 22, 1983

Councilor Alice Schlenker
City of Lake Oswego
348 N State
Lake Oswego, OR 97034

Dear Ms. Schlenker:

Thank you for your letter of February 18 and your kind words of appreciation for the excellent work done by our Detective, Bob McCrum, in helping you to retrieve some of your burglarized goods. It is always a pleasure to receive a letter commending members of our city staff. I know I express the thoughts of our Milwaukie City Council in thanking you for taking the time to write this letter.

Please feel confident that your letter will be forwarded to members of the Council and I am confident that our two cities will continue to work closely together in improving our cooperative actions relative to police work.

I am pleased that you are now a member of the Lake Oswego City Council and please feel free to call me at any time if I can be of assistance to you.

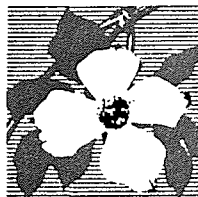
Sincerely,

A handwritten signature in cursive script that reads "Joy Burgess".

Joy Burgess
Mayor

kmc

CITY OF MILWAUKIE



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CITY COUNCIL
in the City Hall • phone 659-5171

February 25, 1983

Frank Horton, U.S. Representative
2229 Rayburn House Office Building
Washington D.C. 20515

Dear Representative Horton:

The City of Milwaukie extends our appreciation and support to you and the members of the Government Operations Committee for your work to extend general revenue sharing. The program is easily one of the most efficient and productive federal urban aid programs. By its proven merit, the program deserves to be extended, and even expanded. Milwaukie receives \$324,000 annually which is used to support vital services plus aid in the replacement of aging vehicles and equipment. City revenues are hard-pressed to meet the service needs of the citizens. General revenue sharing provides a double benefit of providing the critical difference in funding while also alleviating the need to consider increasing the already heavy property tax burden.

Sincerely,

Joy Burgess
Mayor

cc: Milwaukie City Council
Representative Ron Wyden
Representative Denny Smith
Representative Jim Weaver
Representative Les AuCoin
Representative Bob Smith

JB/lp

SOLID WASTE TASK FORCE

PROGRESS REPORT

March, 1983

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The Solid Waste Task Force has had four meetings since it was convened. Our methodology has been to adopt the mission and goals established by the City Council and to assemble the best information available to answer questions related to goal achievement. The Task Force has relied primarily on research and experience developed in other areas. There is no desire to reinvent the wheel. Recycling has been the primary focus of the Task Force even though its charge could be interpreted as being broader. The Task Force envisions that its final products will include the following:

1. A Recycling Plan
2. Specifications for an R.F.P
3. Recommendations for ongoing regulation and support of both the basic collection system and the recycling program.

Summary:

This issue is complex and requires very fair-minded treatment by all parties. The Task Force has been successful to this point in encouraging open and constructive discussion. We are hopeful that our final report can be completed and to the Council by May 1st.

Submitted by

Ron Kinsella, Chairman

(For the Task Force)

11233 S.E. 27th

Milwaukee, Wis. 53222

February 15, 1983

Dear Randy and Fellow Committeemen;

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This letter is to serve as notice of my resignation from P.A.R.C.

Due to an increase of a work load at our Apartment Complex, of which I am manager, I don't feel I can volunteer enough time to perform the duties that are expected of me. Also, I don't feel it is fair to my fellow committeemen.

I have given this decision much thought and I feel I am doing the right thing.

It has been a pleasure to meet and work with all of you and I appreciate the experience on the P.A.R.C.

Sincerely,

Loretta (Laurie) Chan

MILWAUKIE PARKS AND RECREATION COMMISSION

MINUTES

JANUARY 24, 1983

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MEMBERS PRESENT

Larry Mura, Chairman
Loretta Chase
Estle Harlan
Walt Haynes
David Larson
Betty Stephens

STAFF PRESENT

Randy Westrick

AUDIENCE PRESENT

Don Paul,
Representative for
European Health Spa

Steve Lebwohl of
Wildwood Playgrounds

The meeting of the Parks and Recreation Commission was called to order by Chairman Larry Mura at 7:40 PM in the Council Chambers of City Hall. All members of the Parks and Recreation Commission were present. A new PARC commission member, Walt Haynes was introduced to the commission, staff and audience present. The minutes of the October 25, 1982 meeting were reviewed and a motion to approve was made by Wayne Logemann and seconded by David Larson. The motion carried unanimously. David Larson stated that he wanted to make an addition to the agenda under Other Business, concerning PARC priorities.

AUDIENCE PARTICIPATION

Don Paul a representative of European Health Spa and Steve Lebwohl of Wildwood Playgrounds made a presentation of a proposed project of an exercise course for the handicapped at North Clackamas Park. This course would utilize special equipment designed for both the handicapped and normal athlete. There had been consultation with a physiologist as to the capabilities of the handicapped. The course would contain 22 exercise stations and would be paved for the wheelchair athlete. The city would donate the land. The European Health Spa and friends would donate supplies and labor.

The European Health Spa and friends would sponsor two road runs, a 10K run and a "fun run" to pay for expenses. Don Paul said that he could get help from the Roadrunners Association to get an estimated 650 runners for the runs.

Steve Lebwohl of Wildwood Playgrounds stated that the outdoor course would feature things you do indoors at a health club. Each station would use a different part of the body according to the handicapped person's uses. Steve presented, as an example, his firm's "Apple Course" which has signs with instructions as to use of the exercise stations. The playground company would utilize galvanized hardware and weather treated lumber. The company is ready to put the designs together.

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A question about maintenance was raised by David Larson. Steve responded that the structures should be checked every 2 weeks at first and then on a regular basis once a month. The checks would be for looseness or to see if anything was worn. David Larson also had a question about vandalism to the structures in unsupervised parks. Steve said that there was very little damage to their structures. Randy stated that because Tom was out at the Park the problem was minimized. Estle Harlan asked if the exercise course would be hazardous if the seatbelts were not there. Steve said he did not think it would be hazardous. The structure was very low to the ground. The benches would be 14" off the ground. The course was obviously not for all ages.

Don Paul said that the European Health Spa's own construction company and it's suppliers would be called on to provide the asphalt. The structures would be nonadjustable because the more adjustable structures are, the more problems they have. The cost to the city would be the ongoing maintenance and donation of the land by the city. It would be a no-cost item to the community. They asked for community involvement and estimated the course cost at approximately \$12,000.

Don Paul gave an outline of what he would like to do for the road runs. He said he would like to bring in celebrities, use computers for the checkpoints during the race and he would like to make it a big event.

There was discussion on application to foundations for funds and grants for the project. David Larson made a motion for commission approval of the concept of a handicapped exercise course to be developed further by Randy Westrick and representatives from European Health Spa. It was seconded by Estle Harlan and approved unanimously by the commission. Added thought was given that bicycles should be banned from the course. The commission thanked Don Paul and Steve Lebwohl for their presentation.

NEW BUSINESS

- A. Water Tower Project-Randy gave a report on the Water Tower Park Playground Project, to be designed by Ray Bartel. The concrete slab in the park could be utilized and the accident hazard would be minimized. The slab would have a lattice work ladder around to climb to the top. The project would be done in phases according to funding. A cushioning surface would be put under the firepole. The project would be built in the spring.

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It is funded from a HUD Community Development Block Grant and a matching grant from the Land and Water Conservation Fund. The county has to put the project to bid. There is considerable red tape for federal monies. The chairman asked for any questions on the new project. There were none.

- B. Budget for Fiscal Year 1983-84: Randy discussed the Parks and Recreation Department's budget for the 1983-84 fiscal year. The Budget was developed from a "Hold the line." standpoint. Line item #63 included anticipated revenue of \$25,000 from a Marine Board Grant. This money was to be used for restrooms and improvements to the Jefferson street boatramp. Chairman Larry Mura suggested a courtesy dock and restrooms be a priority. Randy stated that the grounds needed to be graded, landscaped and striped but it has been too damp lately.

Items discussed in the 1983-84 budget were;

- 1) Improvements for Stanley Park. Labor was to be provided by the Water Department.
- 2) Replacement of picnic tables and trashcans. There is a need to replace 10% of these items annually. Thought was given to steel legged tables as they are more durable. Betty Stephens suggested using the Skill Center or the Oregon State Penitentiary to produce them.
- 3) Trash cans to be kept clean, new equipment trailer and new mower deck with a larger swath (25% more).
- 4) Personal Services had not been calculated as yet.

Estle Harlan asked if the supplemental request was included in the total budget. Randy stated that it was not.

Betty Stephens expressed concern over the tree spraying program and asked how it was coming. She stated that the rhododendrons needed to be sprayed for aphids. Randy stated that General Tree Service could provide the service for very little. Betty said that the tree fertilizing by the present method does not sink in but rather it rolls off the topsoil. She also suggested

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wire structures to keep ducks off some areas.

Wayne Logemann asked whose responsibility it was for parking in the parks. Randy said that it was his responsibility. He said that Public Works does a day of patching every 2 or 3 months. Betty Stephens asked if there was anything in the budget for ground maintenance this year. Randy said there was none.

Estle Harlan suggested that the handicapped course proposal for North Clackamas Park get into both newspapers as soon as possible.

OLD BUSINESS

There was a consensus that there wasn't any old business except the Gazebo at the park. Randy stated that the materials were to be donated. It was to be an Eagle Scout project and should be completed by this summer.

OTHER BUSINESS

A. PARC PRIORITIES: David Larson said that in conjunction with Wayne Logemann, they had come up with a need to define PARC's priorities. He raised the questions, "Where are we as a commission going? What are our goals or priorities and other questions." The subject of visibility in the community and whether the Milwaukie public had a good or negative view of the parks. He raised seven areas where specific commissions could be developed and interest generated.

- 1) Community Relations
- 2) Park Foundation and Development
- 3) North Clackamas Park
- 4) Neighborhood Parks
- 5) Downtown, Waterfront Development and Kellogg Lake
- 6) Adult Activities
- 7) Youth Activities

Estle Harlan asked who else was to be on these committees? It was mentioned that some of these committees were already in existence. David Larson elaborated on the duties of the committees.

- 1) To solicit monies from both public and private foundations for grants.

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- 2) To have an on going relationship with sports groups.
- 3) Provide public information and relations with school districts and interrelate with other programs.
- 4) Relations between commission and needs of North Clackamas Park.

The Commission needs to create citizen involvement so that they feel they have ownership and would not want programs to to end. There was a discussion on subcommittees with the chairman of PARC a member of each one. Estle Harlan said it would give much needed visibility to the Parks and Recreation Commission. It was agreed that a concrete proposal should be worked on for the next meeting. It was decided that the work session would be held February 14, 1983 at 7:30 PM at the Milwaukie Senior Center to decide on PARC priorities.

B. New commission member Walt Haynes indicated his interest in waterfront development for Milwaukie. He stated that he would like to see a development similar to the Willamette Sailing Club, to include day storage and a sailing program for young people. There could be challenge races between Willamette Sailing Club and Milwaukie including a regatta. There also could be a marina for recreational boaters. He suggested State Marine Board grants could be used for items such as boat floats.

Randy said that there would be a tour of the parks for new commission members. There was a discussion on public visibility and that a new "green" brochure on the area parks was needed for newcomers.

ADJOURNMENT

It was concluded that there was no other business. Betty Stephens moved to adjourn and Loretta Chase seconded the motion and the meeting adjourned at 9:48 PM.

Jeanne Riecke, Recording Secretary

Larry Mura, Chairman

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PLANNING COMMISSION MINUTES

REGULAR MEETING

JANUARY 25, 1983

MEMBERS PRESENT:

DON TROTTER
BETTY ROHOLT
JOHN LITTLEHALES
AL LIANE
BOB BROWN
REBECCA SWEETLAND
GEORGE CATHEY

STAFF PRESENT:

TOPAZ FAULKNER, PLANNING DIRECTOR
JON STEIN, ASSOCIATE PLANNER
CAROL LEE, SECRETARY
LORI MASTERONTONIO-MEUSER, CONSULTANT

Mr. Trotter called the meeting to order at 6:30 p.m., explaining the procedures for public hearings and that the public hearing for the proposed amendment regarding Mobile Homes and Mobile Home Subdivisions would begin at 7:00 p.m. Mr. Trotter mentioned the meeting was being held at the Milwaukie High School Auditorium because Staff had expected quite a number of people in the audience. Staff mentioned there had been notification of the public hearing for the Mobile Home Amendment in the Oregonian and New Review as well as mailings to mobile home dealers and concerned citizens.

Jon mentioned Exhaust Specialties had requested an interpretation from the Commission regarding a Conditional Use Extension at 10799 S.E. McLoughlin Blvd. for a Jar Tran truck rental use. Mr. Trotter said he was concerned about the traffic flow on McLoughlin, and compliance with parking requirements for the rental vehicles and persons patronizing the business. It was the consensus of the Commission that the request should come before the Planning Commission for review as a Conditional Use Request.

Mr. Jack Allan, Exhaust Specialties asked the Commission why they felt the parking was not adequate. Mr. Trotter answered Mr. Allan, explaining that the Commission had not had the opportunity to study the proposal and would not be able to consider the request until the appropriate information had been submitted to the Planning Staff.

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- 3.1 WILSON HOMES C-83-1; VR-83-1; M-83-1
Location: Northwest corner of Freeman Rd. and Chelsea St.
Request to partition parcel into two lots; place single-family attached dwellings on both lots; allow one lot to be 42' wide and have a lot frontage of 25' rather than the 35' minimum; allow the other lot to be 48' wide and have a lot frontage of 38' rather than 60'.

Jon presented the Staff Report explaining that the request is similar to the one presented November 23, and December 4, 1982. The request complies with the City Attorney's interpretation of the Subdivision Ordinance. The applicant is now creating two lots with a Minor Land Partition splitting the center lot into two buildable lots for single-family attached structures. The building plan was the same as reviewed and approved at the previous meeting.

APPLICANT'S RESPONSE:

SPEAKING: DAVID PATTEN, 41022 Fairoakes Ln. Milwaukie,
Representing Wilson Homes

Mr. Patten said the applicant had no questions and accepts the Staff Report.

Mr. Cathey asked Mr. Patten who the property owners of Lots #1 & #4. Mr. Patten said Lots #1 & #4 are owned by Wilson Homes.

Mr. Trotter asked if there was anyone in the audience who wished to testify in favor or opposition to the request, or if there was anyone present who had any questions. There was no response, and the representative had no further remarks.

Mr. Cathey mentioned that he did not agree with Staff's recommendation because the request still does not comply with ORS 92, as stated four lots are being formed under one ownership.

Jon said according to the City attorney's interpretation of the Subdivision Ordinance, the request does satisfy the intent and requirements regarding division of parcels into four or more lots. The applicant was granted a lot line adjustment by Staff in calendar year 1982, and the center parcel will be divided into Lots #2 & #3 within the calendar year 1983. The Ordinance allows partition of property once in a calendar year, regardless of ownership.

CITY OF MIWLAUKIE - PLANNING DEPARTMENT
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Mr. Trotter made a Motion to approve C-83-1; VR-83-1; M-83-1 deletion of Finding #1, and modification of Condition #3. Mr. Littlehales Seconded the Motion, the Motion Carried 5 - 2, Mr. Cathey and Ms. Sweetland voting in opposition.

FINDINGS: C-83-1; VR-83-1; M-83-1

1. The Minor Land Partition provides adequate protection for the property owner.
2. The units will be ranch style and have cedar siding on the front, grooved T-111 siding on the sides and rear, pitched composition roof and the exterior painted autumn brown.
3. Proposed houses on Lots #1 & #4, proposed landscaping, will partially obscure and buffer the units from adjacent single-family residences to the east and south.
4. The closest existing single-family residence is more than 70' south and east.
5. Each unit will be 1,041 sq.ft., have three bedrooms, kitchen, dining room, living room, patio and double-car garage.
6. The structures will be similar in size, height, and style to other ranch style houses in the vicinity, except that they will share a common wall.
7. The proposal is supported by the following elements of the Comprehensive Plan:

OBJECTIVE #2 - Residential Land Use: Density,
Policy 2.b. and 2.c, Page 28.

OBJECTIVE #4 - Neighborhood Conservation, Policy 5, Page 31.

OBJECTIVE #5 - Housing Choice, Policy 1, Page 32.

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FINDINGS: CONTINUED C-83-1; VR-83-1; M-83-1

8. The property will be landscaped with a variety of trees, grass and shrubs. The landscape plan indicates Rhododendrum, Asaleas, Viburumdavial, Red Maple, Evergreens, Mugo Pine Tam Juniper and grass ground cover.
9. A turnaround designed to City standards will be provided. Emergency vehicle access will be adequate. The Public Works and Fire Departments support the proposal.
10. The proposal complies with Section 6.02.13 of the Zoning Ordinance. There are no similar type structures within 200'. The units will be more than 70' from the closest existing detached dwelling. The project will not cause traffic to move through adjoining residential areas.
11. The lot location, configuration, and size and proximity to single-family residences to the east and south and the street intersection are unique factors.
12. The size, shape and lot location create the need for the variances. The variances are the minimum necessary that create lots over 7,000 sq.ft. in area and provide adequate space for housing units without the need for further variances.
13. Eliminating one of the lots would eliminate the variance. However, each lot would be considerably larger than the minimum 10,000 sq.ft. and the adjacent platted lots which are between 7,000 and 8,000 sq.ft. in area. The lot sizes of Lots #2 & #3 are similar in area to lots in the adjacent subdivision.
14. There are no feasible alternative that would significantly reduce the variance.
15. The City would benefit from additional housing.
16. The oversized rear yards, which are primary home recreation areas, will be created.
17. No adverse testimony at the public hearing, the variance request criteria was discussed at previous hearings.

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CONDITIONS: C-83-1; VR-83-1; M-83-1

1. Drainage street improvements, sidewalks and utilities and procedures for fire protection to be approved by Public Works and Fire Departments.
2. Provide evergreen hedge or site-obscuring fence along north, south, and west, property lines along Parcels #2 & #3 location and type of barrier to be approved by Staff.
3. City Attorney evaluate the concerns of Mr. Cathey regarding Subdivision vs. Minor Land Partition, to insure request complies with Oregon Revised Statutes.

3.2 VETERANS OF FOREIGN WARS C-82-22 (CONTINUED)
LOCATION: 2105 S.E. Adams St., Milwaukie
Request to use 2,122 sq.ft. vacant office building as
VFW Fraternal Hall and drinking establishment.

Jon presented Staff Report. The VFW had submitted a parking contract from Bernard's Garage for perpetual use of seven parking spaces.

APPLICANT'S RESPONSE:

SPEAKING: NANCY WELLMAN, MEL LARSEN REALTY
19492 S.E. 42nd Avenue, Milwaukie
Representing Veterans of Foreign Wars

Ms. Wellman said the applicant agrees with Staff Recommendation and Conditions listed in the Staff Report.

Mr. Trotter asked Ms. Wellman how soon the building next to the site would be torn down. Ms. Wellman said it would be about two years before they plan to do anything.

Mr. Liane made a Motion to approve C-82-22, with Finding #10 to read: No adverse testimony received; and Conditions as listed in Staff Report, and deletion of second sentence in Finding #4. Mr. Trotter made a Motion to amend the Main Motion to modify Condition #4 and #5, and adding #8. to read: If building permit is applied for to remodel garage into useable space, not useable for parking, the parking plan must be evaluated to ensure that parking is available before issuing a building permit. Mr. Liane Seconded the Motion, the Motion carried unanimously.

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FINDINGS: C-82-22

1. The applicant has provided a Site Plan showing one-way vehicular circulation from east to west. Access from the east side and shared ingress and egress from the janitorial supply service entrance on the west is adequate.
2. Bernard's Garage has 7 surplus off-street parking spaces available in the evenings and on Sundays; has allowed the VFW perpetual use of 7 spaces. The spaces will be available from 7:00 p.m. on weekdays, and from 6:00 p.m. on Saturdays and all day on Sundays, when the garage is closed. An agreement will be provided.
3. The use will be open in the evenings and on weekends and primarily serve VFW members from the Milwaukie area.
4. The use requires 12 off-street parking spaces and five are provided. Neighboring uses operate in the daytime thereby creating a surplus of off-street spaces.
5. There will be very little noise generated by the various activities.
6. A sign will be provided with minimal disturbance on adjacent uses.
7. Pedestrian access is available by sidewalk on the north side of Adams Street from 21st Avenue to the parking lot.
8. Habitual outdoor assembly and unruly behaviour will not be allowed at the site.
9. Access to the site is adequate.

CONDITIONS: C-82-22

1. Sign details to be approved by Staff.
2. Provide landscape tubs on Adams Street to be approved by Staff.
3. Provide parking agreement from Bernard's Garage guaranteeing 7 off-street parking spaces in perpetuity to be available when the garage is closed.
4. Indicate how potential problems such as outdoor assembly and unruly behavior will be handled for approval by Staff.
5. Provide assurances that noise will not be generated beyond property boundaries and details on building sound proofing for approval by Staff.

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CONDITIONS: C-82-22

6. Application shall be reviewed by Planning Commission within six months after use opens, if there are any complaints.
7. All utilities, parking, drainage and procedures for fire protection to be approved by Public Works and Fire Departments.
8. If building permit is applied for to remodel garage into useable space, not useable for parking, the parking plan must be evaluated to ensure that parking is available before issuing a building permit.

3.3 MANUFACTURED HOUSING/MOBILE HOMES
MANUFACTURED HOUSING SUBDIVISION

GUEST SPEAKERS:

SPEAKING: MARY HOLLY, SENIOR HOUSING PLANNER, STATE HOUSING DIVISION
DEPARTMENT OF COMMERCE, SALEM, OREGON

Ms. Holly commented briefly both on affordable housing and current housing demands. Manufactured Housing and Modular Housing having been increasing in demand of affordable housing in Oregon the last decade. It has also become the most acceptable housing type in most Oregon communities. The Oregon Legislature has recognized that manufactured homes are affordable housing and should be made available to all communities in Oregon. The State Housing Division has completed an analysis of housing affordability of metropolitan areas last year. Their findings were that only 11½% of the families in the Portland Metropolitan area could afford new site-built homes. The average cost of that home would be \$75,500., including the lot. The average sales price of a new manufactured home is approximately \$27,000., not including the lot. Between 1970 and 1980 the increase in demand for manufactured homes was shared by increase of building permits for single-family homes at 48.9%, multiple family housing at 30.8%, and manufactured homes 20.3%. This demonstrates the growing acceptability for manufactured housing in Oregon. Structurally manufactured homes are built to strict Federal Standards of the HUD Code, just as a site-built home. In the City of Salem, double-wide, pitched roof, manufactured homes are permitted as Outright Uses, in the R-S Zone. Recently, Oregon law specifically identifies manufactured housing as a needed housing type, and must be available for all communities in Oregon. Ms. Holly presented photographs of manufactured homes, a comparison chart showing the manufactured housing code with the Uniform Building Code prepared by the Building Codes Commission, Department of Commerce of Oregon.

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GUEST SPEAKERS:

SPEAKING: MARY HOLLY (Continued)

She also presented the Commission with a copy of the Housing Affordability Analysis, and a 1979 - 1980 comparisons chart showing the impact of high interest rate and dramatic increase of housing costs.

SPEAKING: MR. DON MINER, Executive Director, Manufactured Housing Association, 1880 Lancaster Dr. NE, Suite 118, Salem, Ore 97303

Mr. Miner stated that the definition for manufactured home is simply a single-family home built to code in a factory. When the Federal Uniform Building Code and HUD Code are compared you find they are basically identical. The HUD Code is a standard performance code determining the strength of the walls and the impact of the load. The Uniform Building Code is a specification code, telling how-to-do-it. The HUD Code has been designed for industrialized production, and the Uniform Building Code designed for small scale production of one-at-a-time. In 1982 a study showed that 34% of all single-family attached dwellings constructed in Oregon were manufactured homes. This significant number of new manufactured homes in Oregon shows a definite trend toward manufactured housing. It indicates that by the end of the 1980's 24% of single-family homes will be manufactured homes. The cost are lower, yet the workmanship and quality of the home is equal to a site-built home. The average unit cost of homes built in Clackamas County this last year was \$81,750.; in Portland the average unit cost was \$63,000. The President has appointed a Commission to study housing in the United States, that Commission recommends that Cities and Counties treat manufactured housing without discrimination. The Oregon Legislature considered Senate Bill 249, allowing a manufactured homes to be placed on any single-family lot. Milwaukie presently has an ordinance that allows, with Conditions, manufactured housing on single-family lots and the ordinance being reviewed will replace the existing Ordinance. Milwaukie has many vacant serviced lots that have no dwelling on them, yet the property owners are still paying taxes on these lots. The Commission may want to consider that there are few places within the City that are of more than three acres, that are serviced with sewer and water; that will warrant a Manufactured Home Subdivision. The standards and provisions for these subdivisions should be carefully considered.

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GUEST SPEAKERS:

SPEAKING: LORI MASTERONTONIO-MEUSER, CONSULTANT FOR PLANNING DEPT.

Lori mentioned the basic change to the ordinance is the definition.

Manufactured homes will be required to meet the HUD Code; be placed on a permanent foundation; meet the Subdivision and Zoning Ordinance; have an exterior similar to homes in the area; have a pitched roof; have one paved parking area; and any addition or extension must be compatible with the existing structure. The section regarding Manufactured Housing Subdivision requires the applicant to submit a plot plan, subject to density requirements; provide paved access drives; provide a patio or deck and unit pad for each unit; provide one parking space for each dwelling; maintain any storage units separate from the dwelling; provide landscape and maintenance program; any additions or expansions must comply with standards of new construction; complete compliance with requirements prior to occupancy; and provide a six-foot site-obscuring fence along the periphery of the subdivision. Other regulations stated in the draft ordinance require each unit to have at least 2,000 sq.ft. within the subdivision, and the minimum area of a subdivision be at least three acres.

Topaz stated that siting of manufactured homes on individual lots and within subdivision will continue to be reviewed through the Conditional Use process. Manufactured homes sited on individual lots will be allowed, as per draft ordinance, in all Zones R-10 through ROC, and manufactured home subdivisions will be allowed in both R-10 and R-7 Zones.

SPEAKING: CHUCK FIELDS, OLDS MOBILE HOME INC., Woodburn, Ore.

Mr. Fields suggested that the wording of Section 842.01.B be changed to read: Placement of the mobile home upon a foundation similar in appearance to foundations in the surrounding areas meeting the requirements of State Statutes. Mr. Fields said that the mobile home is built with 2 x 6's, and comes with steel I-Beams that must be supported with piers, the home cannot be placed just on the perimeter foundation. He presented photographs of homes with foundations similar to conventional homes, with attached garage, 1,344. sq.ft. living space, selling for \$32,000. plus the cost of the lot. He mentioned many of these homes are selling through trades of conventional homes. He invited the Commission to visit the manufactured home factory in Woodburn. Some of the new construction styles of manufactured homes will include angled garages, "T-Shaped Homes" with attached garages, and triple-wide homes. These homes meet the buildings requirements with fire-proof walls

CITY OF MILWAUKIE - PLANNING DEPARTMENT
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GUEST SPEAKERS:

SPEAKING: REVENEND JIM THOMPSON, CHRISTIAN ALLIANCE CHURCH, Milwaukie
11900 S.E. Stanley Ave., Milwaukie

Mr. Thompson briefly mentioned his experience of placing a manufactured home on a lot behind the church through the Conditional Use process. He has had many compliments of the home and the landscaping plan.

SPEAKING: PHIL COSTANZO, COST MOBILE HOMES
10990 S.E. 82nd, Portland

Mr. Costanzo stated that even though there are many people unemployed sales of mobile homes have increased. The maximum that can be financed for a new home is 27% of the total income. In order to afford a conventional home a family must have a total income of approximately \$3,500. to \$4,000. per month. Most of the new home buyers are young people whose family have larger lots where another dwelling could be placed behind the existing home.

PLANNING COMMISSION DELIBERATION:

There was discussion regarding minimum width regulation of manufactured homes on single-family lots and manufactured home subdivisions. By consensus the Commission modified the proposed definitions:

152.00 MANUFACTURED HOUSING:

A dwelling manufactured in a factory and transported to a site. Construction of the dwelling is in accordance with the National Manufactured Housing Construction and Safety Standards for 1974 (42 USC Sections 540 et. seq.). The dwelling is at least twenty-four feet (24') in width, has living space, has sleeping, plumbing, and cooking facilities; is designed for permanent residential occupancy.

153.00 MANUFACTURED HOUSING SUBDIVISION:

A parcel of land intended for and designed principally to accommodate manufactured housing for single-family residential use. The parcel shall meet all requirements of the Milwaukie Subdivision Ordinance.

The Commission requested that a definition for Modular Housing be submitted for discussion.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - JANUARY 25, 1983

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SPEAKING: CHUCK FIELDS, OLDS MOBILE HOME INC., Woodburn, Ore.

Mr. Fields said in 1982 the Federal Government ruled to no longer use the term "mobile home", all new written data will use the term "manufactured housing".

The Commission agreed that all reference to mobile homes should be change to read: manufactured housing.

The Commission requested that Staff reword Section 842.01.B to provide reference to continuous pier foundation or pitted installation with a crawl space, in compliance with building codes.

The Commission agreed that Section 842.01.E shall read:
A paved parking area shall be provided for each dwelling, for two vehicles one of which must be covered.

The Commission requested Staff to research the appropriate wording for Manufactured Housing Subdivision, and cross reference Sections in the Zoning Ordinance. This section should reflect the same requirements and unique conditions as a regular subdivision.

Mr. Cathey suggested that the Commission consider an amendment to the Subdivision Ordinance relating to survey monumenting.

Mr. Trotter presented information on Metro's Light-Rail Study being conducted for consideration of future light-rail routes within the Portland Metropolitan area.

The Commission by consensus agreed to continue the public hearing regarding the draft ordinance for manufactured housing and manufactured housing subdivision until February 22, 1983, location to be announced.

The meeting adjourned at 10:30 p.m.

MILWAUKIE
CIVIL SERVICE COMMISSION
February 8, 1983

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THE MILWAUKIE CENTER

7 p.m.

A meeting of the Milwaukie Civil Service Commission was held on February 8, 1983 with the following members present:

Charles Sirianni
Clair Kuppenbender
Gary Salyers

Absent:

Gordon Morterud
Don Gardner

Also present:

Jo Durand, Chief Examiner
Laurie Perkin, Secretary

Sirianni suggested delaying the selection of a chairman until the next meeting so that all members could be present. It was MOVED by Kuppenbender, SECONDED by Sirianni, that the minutes of December 14, 1982 be approved. MOTION CARRIED unanimously.

Appointments:

Doug Kingsborough, Cashier (temp.) 1/3/83
Shelly Smith, CETA, Receptionist, 12/27/82
Kim Chamberlain, Volunteer, Clerical Aide, 11/4/82
Zeletta Hargrave, Clerk(CETA), Library, 1/3/83
Jerry Thelander, Planning Intern, Community Services, 1/26/83

Durand explained the need for a temporary cashier in the Finance Department because of short term projects such as budget preparation and license processing. The position has been budgeted for three months. She said there will soon be a request for a leave of absence in this department as well as a retirement. There is a possibility, she said, that some positions in the Finance Department will be reorganized due to implementation of the computer system.

Termination:

Durand pointed out an error on the agenda page of February 8. Reed Ritchey, Planning Intern, should have been listed as being terminated 12/3/83.

Leaves of absence:

Darrel Bettelyoun, Parking/Animal Control Officer, 12/27/82. through 1/3/83.

There are no exams in progress, no eligible lists established and no eligible lists exhausted.

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There were questions regarding budget cuts. Durand said that information on revenues is not good and that there may be difficult labor negotiations. She will keep the commission informed regarding both matters.

Durand said she expected a great number of applications for upcoming examination for the position of Utility Worker I. However, methods available to reduce the numbers prior to testing would not conform to the Civil Service Rules.

It was decided to postpone the election of chairperson until the next meeting. Sirianni suggested having refreshments at the next meeting and inviting Wanda Rulifson who resigned from the commission in December. Durand said she would see that this was done.

There was discussion on the date and location of meetings. The second Tuesday of the month is inconvenient for several of the members. Sirianni suggested waiting until the next meeting to decide on a regular meeting night. It was agreed by those present that the Center was a convenient meeting place. The next meeting will be held as usual on the second Tuesday in March.

WORK SESSION REGARDING CIVIL SERVICE RULES:

During the work session regarding Civil Service Rules, members of the commission pointed out a number of problems, possibly requiring amendments to the rules. Rule VI, Section 1. Certification and Appointment. Sirianni pointed out that the term "qualified eligibles" was not defined in the rules prior to this section on requirements for filling vacant positions. Durand suggested that Rule VII having to do with establishment of registers be placed before Rule VI which would more logically explain how qualified eligibles are certified for appointment.

Under Section B, third sentence, the words "in addition" were determined to be redundant. It was suggested that they be deleted. It was also decided that the wording of the last sentence in Section B should be changed to conform to Rule X.

Under Section C, Order in Which Certification Will be Issued, there was some confusion as to the meaning and it was decided to reword this section.

Durand said she would prepare a draft of the changes when the Commission had completed the review and then

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schedule a public hearing to adopt the amendments. Sirianni suggested a special work session be set up to complete the review process. Durand suggested special sessions might be more necessary when the commission was revising drafts of the proposed amendments to increase continuity.

The meeting was adjourned at 8 p.m.

Charles Sirianni, Chairman

Laurie Perkin, Secretary

TRAFFIC SAFETY COMMISSION
MINUTES DECEMBER 13, 1982

VI J ①

I CALL TO ORDER: The meeting was called to order by Chairman Bukovi at 7:30 p.m. in the City Council Chambers.

MEMBERS PRESENT: David Bukovi, Chairman Jim Stell
Warren Bottemiller Dick Samuels
Louis Bruneau Don Kopp

STAFF PRESENT: Paul Roeger, Office Engineer
Virginia Kopp, Secretary

II APPROVAL OF MINUTES: It was MOVED by Stell, SECONDED by Bruneau to approve the minutes of the Nov. 8 meeting with a correction in Item V, line 2, which should read Main St. instead of Harrison St. The minutes were approved by unanimous vote.

III AUDIENCE PARTICIPATION: NONE

IV OLD BUSINESS:

A. Project Status Report

1. Signalization-Harrison/34th - No response from the state yet regarding left turn arrow.
2. McLoughlin Blvd. - Same status.
3. Railroad Crossings - Same status.
4. Traffic Revisions - 3 parking spaces have been eliminated on the west side of Main St. in 10700 block due to state fire code.

B. Defensive Driving Report - Sec. Kopp reported that 16 persons passed the DDCourse and received National Traffic Safety Certificates. There were 22 persons registered and 6 did not attend the required 4 sessions for completion of the course, mostly due to colds and influenza. The course was well received and a number of people, including Center staff would like to have the course given at the Center again when space will be available. The main problem arising during the course was the late arrival of the instructor. The problem was discussed by the Commission and the secretary was instructed to write a letter thanking Mr. & Mrs. Gilbaugh for their presentation of the course; that the course was well received, however, if the course is included in the spring class term, the Commission would like an assurance that the class will begin on time.

C. The list of local State Representatives and State Senators was noted by the Commission and Bruneau asked that the names of the Chairman of the House Transportation Comm. be added to the list. The Chairman is James Cease, Vice-Chairman is Mary Alice Ford. Another member of the Committee that has been active in the areas of legislation regarding seat belts, child restraint seats, DUII, is Glen Whallon. Rod Monroe has been very active in the

TRAFFIC SAFETY COMM.

MINUTES - DEC. 13, 1983

Senate pursuing legislation regarding child restraint seats.

III J (2)

V NEW BUSINESS: Bruneau suggested that the Commission take a formal stand on use of seat belts, child restraint seats and driving under the influence of intoxicants and make a recommendation to the City Council that the Council and Commission write letters to the legislators expressing concern for passage of laws on these critical matters.

VI The film "Visual Detection" loaned by the Clackamas Co. Traffic Safety Comm. was viewed. It is the training film used by law enforcement agencies to instruct officers in night-time detection of drinking drivers. The concensus of the Commission was that the film was much better than the films previously viewed and would be effective when shown with a presentation of the REDDI/Alcohol program, and state REDDI number.


OTHER NEW BUSINESS: Chairman Bukovi spoke on the graduation party idea. All-night parties are sponsored by several groups and held in a controlled area on graduation night for high school seniors.

Bukovi asked for a report on the REDDI stickers. There has been interest in producing them but no one has made a firm offer to pay for the printing.

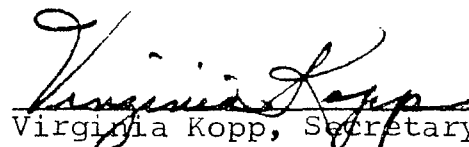
Roeger announced that a new student representative has been chosen and will attend the January meeting of the Commission.

Chairman Bukovi announced that he thought his term as Chairman was over with the December meeting. Jim Stell suggested that the Commission proceed with change over of the Chairmanship at the next meeting in January. The Commission concurred. Vice-Chairman Bruneau will assume the Chairmanship at the January meeting. Bukovi nominated Warren Bottemiller for the position of Vice-Chairman. Jim Stell moved that Bottemiller be elected to the position, MOTION was SECONDED by Louis Bruneau. Bottemiller was elected as new Vice-Chairman by a vote of 5 - 1 (Bottemiller voting Nay).

VII The meeting was adjourned at 8:45 p.m.



David Bukovi, Chairman



Virginia Kopp, Secretary

VI I (4)

and concerns to the Legislature was on a bill-by-bill basis. He said the Commission could take a general position on areas of concern but a specific position on each bill as the bill comes before the state bodies is the most effective method. He proposed to draft a recommendation on the next specific issue, present it to the Commission at the next meeting on February 14 and if approved by the Commission, have the recommendation given to the City Council, appear before the Council at the February 15 meeting to request their consideration of the recommendation.

Bottemiller said he would like to have the Commission packets early if possible. The secretary said she will try to get them out earlier and reported that she had talked to Morrie Wilson of the Portland Traffic Safety Comm. regarding the possibility of obtaining names of certified Defensive Driving Course instructors. Mr. Wilson told the secretary this would only be possible if all materials for the course were obtained from his office.

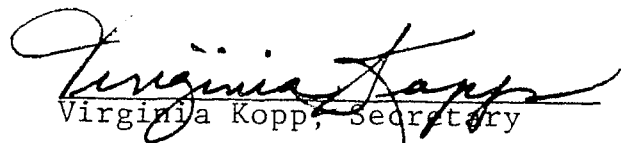
OTHER NEW BUSINESS: Bukovi mentioned that the Texaco "car wash" business (Wild Bill's) is again placing standing signs in the public right-of-way creating a vision hazard when leaving the car wash. Roeger said he could send them a formal letter warning of a citation or have the police issue a warning citation.

Roeger presented the city accident incident map. General discussion followed. The intersection of 37th and Monroe had 7 accidents during 1982. This was unusually high considering the traffic volume and visibility at the intersection. Roeger will investigate.

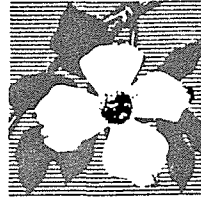
Graduation night parties for high school seniors was brought up and discussed. It was the opinion of Griffith that students that were going to drink and drive would not attend the parties and he said he did not think many would attend. Bukovi offered to contact the Elks Club and see if they would be interested in sponsoring a party for 1983 graduates. The consensus of the Commission was that even a small number of graduates attending a graduation night party would be worthwhile.

VIIADJOURNMENT: The meeting was adjourned at 8:50 p.m.


Louis Bruneau, Chairman


Virginia Kopp, Secretary

CITY OF MILWAUKIE



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TRAFFIC SAFETY COMMISSION

ANNUAL REPORT

1982

During 1982 the Traffic Safety Commisison took an increased interest in being a significant part of the Milwaukie community by looking at some goals and objectives for the future.

Newly appointed Commission members for 1982 included Warren Bottemiller in May, who filled a vacancy the Commission had for some time, and high school representative John Cory who replaced Don Fry in June. Don had been an excellent addition to the Commission and someone Milwaukie High School can be proud of for serving the city. John, however, was only able to serve a few months when a new job forced him to resign. A new representative, Eric Griffith, has been appointed by the high school and will begin serving in January.

In the spring of 1982 a joint press release of the City Council and the Traffic Safety Commission went out to local newspapers urging support of Ballot Measure #4, the gas tax increase, which unfortunately didn't pass.

Also in the spring, the State Highway Department complied with a Commission recommendation to install a "Reduce Speed Ahead" sign between the 45 MPH sign and the 30 MPH sign on McLoughlin Blvd. north bound between River Road and Washington Street.

At the May meeting Patsy Faulkner, the Clackamas County Traffic Safety Director, presented information on the County Traffic Safety Commission and its programs. The REDDI/Alcohol film and program presented at Rex Putman High School was presented by Patsy. The Commission suggested the school district representative, James Stell, recommend this film be shown at all district high schools. The Commission also volunteered to extend the programs of the Clackamas County Traffic Safety Commission.

A couple of the Traffic Safety Commission members attended a meeting with Fair Share and Public Works Dept. staff members Steve Hall, Director and Paul Roeger, Office Engineer on a number of concerns about traffic in the city. Three of the areas of concern were already being improved and the others were discussed and reviewed with no changes recommended.

VI
K (2)

In July the Commission sent a memo to City Council recommending to support inclusion of a Light Rail Transit System in the implementation of improvements to McLoughlin Blvd.

In September the Commission again emphasized their position to City Council on the change of the downtown traffic pattern by sending another memo recommending retention of the one-way grid system.

Also, in September, the Commission recommended approval of a request by Fire Chief Richard Bailey to install blue reflector markers to indicate fire hydrant locations. The markers were to be placed just off of centerline.

Commission members Louis Bruneau and Warren Bottemiller and staff representative Paul Roeger attended the annual Oregon State Traffic Safety Conference in Salem in September. Emphasis this year was on getting the drinking driver off the road, child restraint, and seat belt usage.

The Commission received a couple hundred of the REDDI (Report Every Drunk Driver Immediately) "hot line" stickers from the Oregon Traffic Safety Commission and State Farm Insurance and distributed them to city employees, family and friends and is checking into having more made up with a local sponsor's endorsement.

In November the Commission sponsored a Defensive Driving Course taught at The Milwaukie Center by Mr. and Mrs. Gilbaugh, certified instructors who volunteered their time. The only cost to students was for the materials. Sixteen out of twenty-two registrants attended all four sessions and passed, receiving National Traffic Safety Certificates. Participants were pleased with the course content and especially with the insurance rate reduction they received from their auto insurance company. The Commission is looking at sponsoring the class again in the spring of 1983.

One of the Commissions major goals for 1983 is to support traffic safety legislation that is brought before the State House and Senate by sending letters to local representatives and senators, both as a Commission and individually.

VI K (3)

The Commission has viewed several DWI films in order to educate themselves on the problems involved with drinking drivers. They plan on supporting any legislation that would help remove the drinking driver from the road.

Some traffic safety projects that were completed in the city during 1982 included the railroad crossing gates on Harrison Street and Monroe Street at the Tillamook Branch crossings, the signalization and realignment at Lake Road, Oatfield Road and 34th Avenue and the widening and chanalization of Harrison Street from 29th Avenue to 34th Avenue with a new signal at 32nd Avenue.

New officers for 1983 are Louis Bruneau, Chairman and Warren Bottemiller, Vice-Chairman.

Submitted by:



David Bukovi, Chairman

Date:

14 Feb 83

League of Oregon Cities

legislative bulletin

1201 Court Street NE, P.O. Box 928, Salem, Oregon 97308

Number 6
February 18, 1983

Local Gov Tax Coalition to present plan Feb 21

A property tax reform plan that would reduce property tax payments for homeowners by one-half and would provide an equivalent tax relief for renters will be presented Monday to the House Revenue Committee by League President Lou Hannum. President Hannum will appear along with the top officials of the Association of Oregon Counties, Confederation of Oregon School Administrators, and Oregon Community College Association, all members of the local government coalition which has been meeting for months on the plan.

The coalition plan asks the Oregon Legislature to refer to the voters this November amendments to the state's Constitution that would impose a sales tax not to exceed four percent. Collections from the sales tax would be earmarked for property tax relief and could not be touched by the legislature. The 50 percent minimum payment would be additionally guaranteed by lowering local tax levies if sales tax collections were not adequate to fund the state's share of the tax bill.

Using the existing mechanism for applying for tax relief, payments from the tax relief fund created by the plan would be made directly to the taxing districts and would result in a lower tax bill. Coalition members estimate the sales tax rate to be 2.6 percent initially.

Also contained within the local government plan is the repeal of the A and B Ballot system and the five percent statewide assessment limitation on property. The Homeowner and Renter Relief Program now provided by the state would remain.

As an additional control to hold down local government spending, the plan would limit elections for more taxes to not more than twice a year. In even-numbered years local government would have to seek voter approval of a new tax base if they needed to raise taxes. In the plan, all taxing districts in the state would receive new tax bases equal to their highest operating tax levy in the past three years.

Food, prescription drugs, home heating oil, natural gas and utility services would not be taxed by the sales tax. Most business and farm purchases would also be exempt. According to coalition members, it was intentional to exclude businesses and farms from paying the tax because they received no direct benefit.

In response to criticism that a sales tax is unfair to low income persons, the local government plan also provides a sales tax refund based upon income. Qualifying low income persons would receive an additional payment in their Homeowner and Renter Relief check as a rebate for sales tax paid.

Following are the general goals used by staff and the coalition in developing this proposal:

- A. Avoid another property tax-limitation-initiative. The California property tax limitation measure has been on the ballot in Oregon three times now. Its near success last year was the result of many things having nothing to do with the fairness or effectiveness of the property tax system. As much as anything, the state budget crisis and the failure of the legislature to adequately fund the income tax-funded property tax relief program adopted in 1979 and approved overwhelmingly by voters in 1980 was a major factor in the frustration leading to the near passage of Ballot Measure #3. Therefore, the top priority for the coalition was to develop a proposal which would provide permanent, predictable property tax relief, respond to the concerns expressed by many supporters of Ballot Measure #3, and avoid passage of that type of measure.

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- B. Refinance rather than just limit. The League's convention resolution stated that property tax relief should be provided by refinancing local government rather than just restricting access to the property tax. This is based in part on the belief that local voters are generally pleased with local government services but are primarily concerned about the over-reliance on the property tax for funding those services.
- C. Limit relief to homeowners and renters. The coalition chose to limit relief to homeowners and renters on the belief that that was the area of greatest need. While relief can obviously be expanded beyond this group, the cost increases substantially, and the need for such relief is far from clear. However, certain elements of the plan are designed to meet legitimate concerns that the business community had expressed about the legislature's 1979 property tax relief program and to minimize any shift involved in financing the relief program.
- D. Provide reasonable restraints on levy growth. The League's Resolutions Committee was adamant that in refinancing local government, there should be no great windfalls and that the benefits of refinancing should appear directly in the form of property tax relief. The proposal would substantially limit local levy elections and place greater reliance on property tax bases.
- E. Make property tax relief certain. One of the major problems with the state's "30%" property tax relief program was that, with state budget shortfalls, the legislature had to seriously underfund the program. The resulting lack of confidence by voters in the legislature on this issue is understandable. One important selling point of any new plan is that it absolutely must deliver what it promises and not be subject to legislative or executive manipulation in the future. This is done by a combination of placing some elements of the plan in the constitution and restricting local levy growth to the availability of property tax relief funds.
- F. Use existing mechanisms whenever possible. The coalition attempted to use the existing procedures of property taxation and property tax relief whenever possible, rather than creating new systems. Also, the coalition tried to develop a plan that was relatively simple and straightforward.
- G. Remove objectionable elements of the 1979 property tax relief program. Since this plan would terminate the "30%" property tax relief plan adopted by the legislature in 1979, those portions dealing with the A-B ballots, split assessment rolls and others would be repealed.

State fuel tax increase proposed for economic development

Any increase in gasoline tax revenues should remain dedicated to highway maintenance and not be diverted to a fund for economic development. That was the point of city testimony Thursday before the Joint Trade and Economic Development Committee in response to proposed HB 2039.

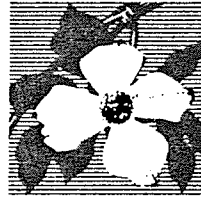
HB 2039 would increase the statutory motor vehicle fuel tax from 8 cents to 9 cents with a proportional increase in the weight-mile tax. The revenues from the increase would be administered through a Transportation Fund for economic development. The Bill's supporters cited the need for such a development fund to attract new industry which would not otherwise be available.

The League also supports the development of alternative financing for needed infrastructure and has made growth finance one of its highest legislative priorities. However, the best solution is not through taking the money from state-shared funds like the gas tax, which is unable to keep up with even routine maintenance costs. Gas tax receipts for cities are anticipated to be reduced approximately 17% for FY 83-84 from the current fiscal year. Therefore, the League maintains that if a 1 cent gas tax for economic development is passed, it would diminish the State's options for levying a further minimal gas tax for highway maintenance this year.

Also discussed at the hearing was the idea of using the proposed development funds for ready, available projects in a limited number of locations. This would result in an inequitable situation where some programs would be funded at the expense of all motor vehicle fuel tax payers throughout the state.

Instead, the League will support the 2-cent gas tax bill introduced by the House Transportation Committee, for needed road maintenance funds. To address the financing of growth-related costs, the League is pursuing other methods of addressing local capitalization problems, such as the state lottery (HJR 4) and the Public Works Fund (HB 2342) proposed by the interim Task Force on Managing & Financing Growth.

CITY OF MILWAUKIE



OFFICE OF THE CITY MANAGER
in the City Hall • phone 659-5171

February 26, 1983

Mr. Gerard K. Drummond
President, Tri-Met Board of Directors
4012 SE 17th Ave.
Portland, OR 97202

Dear Mr. Drummond:

On behalf of the Milwaukie City Council, I wish to extend our strong support for a more bold and imaginative search by Tri-Met for transit revenues as advocated editorially in "Tri-Met: Less for More" in the Oregonian on February 17. (see attached). We firmly believe the potential benefit of light-rail development in our metropolitan area justifies regional, state, and federal funding rather than reliance on the questionable results of fare increases. Tri-Met, as the lead agency representing the region's transit needs, must vigorously pursue financial assistance from the state legislature and Congress. This initiative is critical to the successful development of a regional transportation system in the near future.

The City of Milwaukie has begun significant planning for our future and major components are the transit improvements along McLoughlin Boulevard and within the city. Renewed economic activity is evident in Milwaukie and throughout the area served by the McLoughlin Corridor; however, we also need the extra boost that would be provided by the transit station and light rail development. We appreciate the fact that our neighboring jurisdictions (City of Portland, Multnomah and Clackamas Counties) plus Tri-Met, Metro, and ODOT are earnestly seeking together the most cost-effective way to apply the remaining Mt. Hood transfer monies to both the short-term and long term alternatives for transit and highway improvements in the McLoughlin Corridor.

Mr. Gerard K. Drummond February 25, 1983
President, Tri-Met Board of Directors

page 2.

We assure you that as we prod you to be more venturesome and determined in your search for revenues, we also continue to support your transit planning for the region and stand ready to assist and cooperate.

Sincerely,

Joy Burgess
Mayor

cc: Milwaukie City Council
James Cowen, Tri-Met
Rick Gustafson, Metro
Mildred Schwab, City of Portland
Clackamas County Commissioners
Dennis Buchanan, Multnomah County
Bob Bothman, Ed Hardt, ODOT
Larry Hilderbrand, The Oregonian

lp

The Oregonian

THURSDAY, FEBRUARY 17, 1983

Tri-Met: Less for more?

Declining revenues properly concern Tri-Met managers and directors, but their plan of action — actually, of inaction — is 180 degrees wrong. It makes no sense for a public transit agency to plan cuts in service and increases in price, knowing that, in its business particularly, both lead to even less revenue and more cuts.

Tri-Met appears to have written off the 1983 Legislature as a source of revenue to help provide the transportation system needed to relieve air pollution and traffic congestion and serve economic development. That should not be so, for faint heart never has won fare aid.

A \$10 or \$15 increase in vehicle registration fees is being proposed to aid highway construction. Why shouldn't public transit share that resource? The more people ride buses, the less burden is placed on the roads system.

Washington County is a particularly big loser in Tri-Met's passive stance. It must have a balanced transportation system, including light rail, because of rail's enormous operating efficiencies compared to individual cars and buses. However, the county not only has no money for roads, but under Tri-Met's shy leadership, it also will have no money for transit.

Moreover, the transit retrenchment plan comes just as President Reagan has recognized the need to improve the service. The gasoline tax measure he signed last month includes money for

local transit districts. Tri-Met, however, has little hope of providing the 20 percent matching dollars required. Thus, while the agency wrings its hands over the recession, millions of dollars and hundreds of jobs will go elsewhere.

They will be joined by bus riders, too, if Tri-Met's board continues to talk about another fare boost — a nickel — in January 1984 and a 15-cent boost by June 1985. This, despite three fare hikes in the last 30 months and staff admission that the fare increases have hurt ridership.

The board justifies its budget plan as good business sense. But good business sense for a public service agency means demonstrated efficient, productive spending to provide needed service, not the service cuts and fare hike tack Tri-Met's directors are taking. Those are the same shoals private bus companies crashed on. The agency should seek an alternative to the poorly conceived payroll tax upon which mass transit now leans. It also should be asking for sufficient revenue to provide the transit service the metropolitan area must have.

If the Legislature won't respond as it should, a districtwide 1 or 2 percent gasoline or parking tax for transit should be considered. The urban-area benefits are clear, or should be made so by Tri-Met's board and staff. A recession is a challenge for improved public management, not an alibi for diminishing needed public service.



METROPOLITAN SERVICE DISTRICT
527 S.W. HALL ST., PORTLAND, OR. 97201. 503/221-1646

METRO

February 22, 1983

Rick Gustafson
EXECUTIVE OFFICER

Metro Council

Cindy Banzer
PRESIDING OFFICER
DISTRICT 9

Bob Oleson
DEPUTY PRESIDING
OFFICER
DISTRICT 1

Charlie Williamson
DISTRICT 2

Craig Berkman
DISTRICT 3

Corky Kirkpatrick
DISTRICT 4

Jack Deines
DISTRICT 5

Jane Rhodes
DISTRICT 6

Betty Schedeen
DISTRICT 7

Ernie Bonner
DISTRICT 8

Bruce Etlinger
DISTRICT 10

Marge Kafoury
DISTRICT 11

Mike Burton
DISTRICT 12

The Honorable Joy Burgess
Mayor of Milwaukie
10722 S.E. Main Street
Milwaukie, Oregon 97222

Dear Joy:

State Representative Tom Throop, Chairman of the House Revenue Committee, has graciously agreed to meet with metropolitan area officials to discuss the likely shape of this session's final revenue package. We will be meeting in the Metro Council Chamber at 527 S. W. Hall Street, Portland, at 7:30 p.m., Thursday, March 10.

Tom will be as specific as possible in his remarks so that we can all incorporate his insights into our budgetary processes. He is also interested in hearing your concerns about the Legislature's revenue and expenditure actions.

We hope that you will be able to take advantage of this aspect of Metro's local government service program. Feel free to bring interested councilors and key budgetary staff people.

Please R.S.V.P. to Phillip Fell at 221-1646 by Friday, March 4.

Cordially,

Cindy Banzer
Presiding Officer

Rick Gustafson
Executive Officer

CB/RG/srb
7795B/D4