



Regular Session

RS

Milwaukie City Council



MINUTES
MILWAUKIE CITY COUNCIL
 www.milwaukieoregon.gov

REGULAR SESSION
 JULY 1, 2014
 City Hall Council Chambers

Mayor Ferguson called the 2,177th meeting of the Milwaukie City Council to order at 7:09 p.m.

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

Staff Present: City Manager Bill Monahan, City Attorney Tim Ramis, City Recorder Pat DuVal, and Public Works Director Gary Parkin

CALL TO ORDER

Pledge of Allegiance

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

None

CONSENT AGENDA

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

A. City Council Meeting Minutes:

1. **May 22, 2014, Study Session;**
2. **June 3, 2014, Work Session; and**
3. **June 3, 2014, Regular Session**

B. OLCC Application

1. **Foxy's #1 – 11094 SE Main Street – Change of Ownership**

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

AUDIENCE PARTICIPATION

James Fossen spoke on behalf of the Milwaukie Rotary to encourage the City's continued involvement.

Mr. Monahan responded that Mayor Ferguson had a personal membership and that he hoped to fill the corporate membership vacancies with Councilor Gamba, the new Assistant to the City Manager, and a member of the City's economic development team.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. Fleet Services Intergovernmental Agreement (IGA) with the City of Portland – Resolution

Mr. Parkin requested that the City Council approve the IGA with the City of Portland Fleet Services to perform motorcycle maintenance for the City of Milwaukie. The City of Portland has provided maintenance and repair of the City's four motorcycles in the past without a formal agreement.

It was moved by Councilor Gamba and seconded by Council President Hedges to initiate an Intergovernmental Agreement for motorcycle maintenance and repair with the City of Portland Fleet Services. Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting "aye." [5:0]

Resolution No. 64-2014:

A Resolution of the City Council of the City of Milwaukie, Oregon, to initiate an Intergovernmental Agreement for motorcycle maintenance and repair with the City of Portland Fleet Services.

B. League of Oregon Cities (LOC) Legislative Priorities Request

Mr. Monahan said the LOC identified a list of 22 legislative objectives and is asking each member city to review them and recommend four priorities for the Legislature's consideration in 2015. He noted the LOC has made a long term commitment to two critical issues facing cities: revenue and land use reform. Directors were asked to review and comment on those issues relevant to their departments to help guide the City Council in developing its priority list for the City of Milwaukie.

Councilor Gamba commented on issue F, eliminating the sunset on the Low Carbon Fuel Standards, which although it seemed like a worthy priority addressed only a specific fuel rather than carbon reduction in general. He noted the Information Systems Technology Directors comments related to the prohibition of a city's authority to levy franchise fees on other local government entities which might prevent unanticipated costs to the City.

It was moved by Mayor Ferguson and seconded by Councilor Gamba to recommend that the top four legislative priorities be C – prioritize grants providing assistance for natural disaster planning and updating comprehensive plans to address likely natural disasters in a community, and increase the grant funds available to cities through the DLCDC's general grant funds to \$2 million; M – enhance mental health services; S – pass a comprehensive funding and policy package; and U – support efforts and program funding to address Oregon's long term water supply needs including recapitalization of the Water Conservation, Reuse and Storage Grant Program and implementation of a place-based pilot program for local water resource planning. Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting "aye." [5:0]

C. Council Reports

Councilor Churchill had been following construction of Riverfront Park, and it seemed to be going well. He commented on feedback he heard at the Sunday Farmers' Market regarding the Monroe Street projects. He thought it might be worth considering closing Main Street on Market days to ensure pedestrian safety. There was a lot of concern in the neighborhoods with speeding and with traffic control in downtown residential zones and particularly around schools. He hoped the Walk Safety Milwaukie Program could be revived.

Councilor Miller reported the Lake Road Neighborhood District Association (NDA) was taking a summer break from its meetings. The North Clackamas Parks and Recreation District (NCPRD) continued to work toward a structural change to give it a greater influence on projects. The City and American Legion Post 180 were close to signing the contract for the Vietnam Moving Wall for viewing in July 2015.

Councilor Gamba announced an upcoming Safe Routes to School meeting and noted that the Linwood Neighborhood would be well into its planning phase. He discussed the City's participation in the Healthy Eating Active Living (HEAL) Cities Campaign and grants that might possibly fund the planning of the Kellogg Lake Bike Pedestrian Bridge as well as help in its construction.

Council President Hedges attended several NDA meetings and encouraged people to attend the Scott Park noon concerts. He announced the 9K for K9 Walk on July 19 to raise money for the City's K9 program/.

Mayor Ferguson announced the Scott Park noon concerts, the Kellogg Good Neighbor Committee (KGNC) open house to gather public comments on the proposed landscaping, and the Sunday Rollin' on the River bike ride. He thanked Dion Shepard and Karin Power for their leadership on the KGNC.

ADJOURNMENT

It was moved by Mayor Ferguson and seconded by Councilor Gamba to adjourn the regular session at 7:55 p.m. Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting "aye." [5:0]

Respectfully submitted,



Pat DuVal, Recorder



MILWAUKIE CITY COUNCIL

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

Speaker Registration

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

Name: JAMES FOSSEN,

Address: [REDACTED]

Organization: Milwaukie Rotary

Phone: [REDACTED]

Email: [REDACTED]

Meeting Date:

Topic to Discuss:

Agenda Item You Wish to Speak to:

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

You are Speaking...

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

Comments:





**MILWAUKIE CITY COUNCIL
REGULAR SESSION**

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

**AGENDA
JULY 1, 2014**

2,177th Meeting

- | | Page # |
|--|---------------|
| 1. CALL TO ORDER
Pledge of Allegiance | |
| 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS
None | |
| 3. CONSENT AGENDA
These items are considered routine, and therefore, will not be allotted discussion time on the agenda; these items may be passed by the Council in one blanket motion; any Councilor may remove an item from the "Consent" agenda for discussion by requesting such action prior to consideration of that part of the agenda. | |
| A. City Council Meeting Minutes | 2 |
| 1. May 22, 2014, Study Session; | |
| 2. June 3, 2014, Work Session; and | |
| 3. June 3, 2014, Regular Session | |
| B. OLCC Application | 16 |
| 1. Foxy's #1 – 11094 SE Main Street – Change of Owners | |
| 4. AUDIENCE PARTICIPATION
The presiding officer will call for citizen statements regarding City business. Pursuant to Milwaukie Municipal Code (MMC) Section 2.04.140, only issues that are "not on the agenda" may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and submit it to the City Recorder. Pursuant to MMC Section 2.04.360, "all remarks shall be directed to the whole Council, and the presiding officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous." The presiding officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak. | |
| 5. PUBLIC HEARING
Public Comment will be allowed on items under this part of the agenda following a brief staff report presenting the item and action requested. The presiding officer may limit testimony.
None | |
| 6. OTHER BUSINESS
These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item. | |
| A. Fleet Services Intergovernmental Agreement with the City of Portland | 18 |
| Staff: Gary Parkin, Public Works Director | |
| B. Council Reports | |
| 7. INFORMATION | |
| 8. ADJOURNMENT | |

Public Notice

Executive Sessions: The Milwaukie City Council may meet in Executive Session immediately following adjournment pursuant to ORS 192.660(2). All Executive Session discussions are confidential and those present may disclose nothing; representatives of the news media may attend as provided by ORS 192.660(3) but must not disclose any information discussed. Executive Sessions may not be held for the purpose of taking final actions or making final decisions and they are closed to the public.

The Council requests that mobile devices be set on silent or turned off during the meeting.

The City of Milwaukie is committed to providing equal access to information and public meetings per the Americans with Disabilities Act. For special accommodations, please call 503-786-7502 or email ocr@milwaukieoregon.gov at least 48 hours prior to the meeting.



**Regular Session
Agenda Item No.**

3

Consent Agenda



MINUTES
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STUDY SESSION
MAY 22, 2014
City Hall Conference Room

Mayor Ferguson called the study session to order at 6:03 p.m.

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

Staff Present: City Manager Bill Monahan, City Recorder Pat DuVal, Community Development Director Steve Butler, Planning Director Denny Egner, Associate Planner Vera Kalias, Public Works Director Gary Parkin, and Water Quality Coordinator Don Simenson

Draft Findings for Denial of Northwest Housing Alternatives (NHA) Application

Mr. Ramis reviewed the draft findings, and **Mr. Egner** discussed the quarter mile radius matter. The City Council found that the applicant failed to sustain its burden of proof as to certain criteria, including Criterion 1 – the proposed amendment is compatible with the surrounding area and Criterion 3 that the availability is shown of suitable alternative areas with the same or similar zoning designations. The City Council approved the findings for Mayor Ferguson's signature sustaining AP-14-01 and reversing the contrary decision of the Planning Commission, and denied the application embodied in File No. ZA-13-02.

Parklet Proposal

Mr. Butler and **Ms. Kalias** discussed the parklet concept and showed a number of illustrative photos. Mr. Butler offered background of how the proposal was presented to City staff and how the street had been used for seating in the past on an informal basis for specific events such as First Friday. A number of businesses met to share ideas, and an open house was scheduled that involved the downtown business community. Staff suggested a two season pilot program with two options: special events only and semi-permanent, regular use. The program would be open to eating and drinking establishments with one parklet per block face in the downtown area. The two season pilot would be May – October 2014 and April – October 2015. Staff outlined the proposed application and review process.

Mayor Ferguson noted that during the City Council goal setting sessions members thought it was important to listen to suggestions from downtown business. He felt if this project were approved communication with the public would be important, and he urged more promotion of the public parking areas.

Ms. Kalias reported the total number of downtown parking spaces was 892 with roughly 400 of those public.

Council President Hedges was concerned about hearing the objections of those whose customers only wanted short term parking.

Neil Hankerson, Dark Horse Comics, liked the concept but did not have a good grasp on what could be done about parking. There were new tenants in the recently renovated Dark Horse Building at Main and Jefferson Streets, and he was concerned about parking needs for the 11,000 square feet of office space for lease in the Key Bank Building.

Carmen Mojica, Cha Cha Cha!, wanted to explore the proposal and get more information. She expressed concern about the size of the investment for a two year pilot program.

Council President Hedges suggested 15-minute spaces throughout the downtown.

Councilor Miller supported the idea for special events but was concerned about taking up parking spaces 7 days a week.

Jesse Canelos, Wine:30, thought the concept would grow organically. Everyone wanted a vibrant downtown that both attracted and kept people in the downtown area. He noted there were many empty parking spaces downtown, so there were still a lot of parking options.

Councilor Gamba observed that in most vibrant pedestrian areas there is less parking immediately available and businesses drew in more customers.

Mr. Canelos said if the pilot program was approved, then he planned to invest in a deck system with railings and planters.

Council President Hedges saw no problem with businesses using 12 spaces to accommodate the parklets, but he was concerned about events such as the Scott Park noon concerts.

Mr. Canelos talked about Kelly Keehner's concerns including the potential for additional parking enforcement hours.

Mayor Ferguson suggested way-finding signage directing people to the free municipal parking lots and suggested businesses might help pay for it.

Councilor Churchill thought the City could find some money to pay for sandwich boards.

The group discussed options including artistic signage and lighted signs directing people to free parking.

Councilor Gamba agreed with Council President Hedges that 12 spots should not be an issue for the pilot program.

Mr. Hankerson said although he supported the parklet program, there was still a lingering problem with permit parking needs.

The group discussed the future of the TriMet park and ride at Southgate.

Councilor Churchill was willing to go for 9 spaces on Main Street for the pilot program.

Mr. Canelos asked how far was too far to walk to a restaurant or coffee shop. **Ray Peck**, Windhorse Coffee, responded that Starbuck's did a study and found that people were willing to walk 2 blocks.

Councilor Miller added that the elderly may not be able to walk 3 or 4 blocks.

The group discussed the congestion area in the Wind Horse block.

There was consensus among Council members to allow one parklet per block on Main Street and see what the feedback was. The pilot program would start with the 3 businesses represented at this meeting. The City would determine if businesses were interested in helping fund signage.

North Clackamas Parks and Recreation District (NCPRD) Board Direction

Jeroene Kok and **Chris Storey**, Clackamas County, provided information on the proposed formation of an independent Parks and Recreation District under ORS 266 with a new permanent rate not to exceed \$0.99/\$1,000 assessed value. The goal is to have the measure before the voters on the November 2014 ballot.

Council President Hedges agreed with the Parks District proposal but had some expectations about Milwaukie representation on the Board.

Mr. Storey explained ORS 266 had specific requirements for the Board composition. It would be based on populations of the zones, and the members would be elected. He discussed the use of system development charges (SDC) within jurisdictional boundaries.

Mr. Kok discussed methodology and funding a slate of capital projects.

Council President Hedges did not want to see a Board that a city controlled because it produced the most SDCs which meant that most of the money would be spent in Happy Valley.

Mr. Kok said it was a valid concern and that the topic had come up several months ago. It was the hope that people would run for elected office that had a broad based interest in parks and recreation.

It was the consensus of the Council members to put a Resolution in support of the independent District on the June 3, 2014, consent agenda.

The group discussed Milwaukie Riverfront Park funding and the feasibility of using Kellogg Good Neighbor funds and the County's forgiving of the cost of the easement.

Reliable Credit Parking Lost Proposal

Mr. Peck was a tenant of the property in question. He said the property owner, Lee Holzman, had been great, and he was sure things would work out.

Mr. Butler discussed the need for more Reliable Credit employee parking and what might be motivating Mr. Holzman's action at this time to preserve certain rights. The engineer working for the business submitted for a pre-application conference. Reliable Credit stood to gain 10 to 12 spaces.

Councilor Churchill questioned the benefit of the project given demolition and paving costs.

Councilor Miller thought staff might look at the conditions of approval when Reliable Credit went before the Planning Commission.

Mr. Butler would monitor the process and continue to negotiate.

Water System Cross Connection Program

Mr. Parkin and **Mr. Simenson** provided a PowerPoint presentation informing the City Council of the importance and requirements of a cross connection program and seeking direction on updating the current code language. The purpose of the program was to produce and maintain safe drinking water. Mr. Simenson showed slides and provided a narrative of a number of case histories. Public education was an important element of the Cross Connection Program that included letters to property owners. Mr. Simenson anticipated having a proposed Ordinance before the City Council for adoption in about a month.

Council President Hedges adjourned the Study Session at 9:03 p.m. as Mayor Ferguson had excused himself from the meeting at 8:40 p.m.

Respectfully submitted,

Pat DuVal, Recorder



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WORK SESSION
JUNE 3, 2014
City Hall Conference Room

Mayor Ferguson called the Work Session to order at 5:32 p.m.

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

Staff Present: City Manager Bill Monahan, Administrative Specialist Scott Stauffer, Engineering Director Jason Rice, Human Resources Director Gary Robello, Program Coordinator Beth Ragel, and Planning Director Denny Egner

City Manager's Report

Mr. Monahan noted the addition of an abatement protest to the Regular Session agenda and reported that there was no follow-up from the 5/20/14 audience participation. He previewed the public hearing on the art mural program scheduled for the Regular Session and announced that Ms. Ragel will be going to work for another agency. He noted a Neighborhood District Association (NDA) land use training on 6/19/14 at City Hall, the same night as a scheduled Council Study Session which presently had no agenda; he suggested Council may wish to attend the land use training and cancel the Study Session. Mr. Monahan led a discussion about naming a new City representative to attend Rotary meetings and Councilor Gamba volunteered. He reviewed recent Vietnam War 50th Commemoration activity, noting the participation of Councilor Miller and Mr. Stauffer; he discussed the plan to bring a replica of the Vietnam Memorial Wall to Milwaukie in July 2015 amid Festival Daze and Riverfront Park activities.

The group discussed the funding needs for the parade and related activities and Mr. Monahan reported that those costs would be developed and submitted with the supplemental budget next year; he noted the possibility of some sort of commemorative tribute plaque or planting.

Councilor Miller said the wall will sit on the south end of the Milwaukie High School athletic field, he urged Council support of the program, and thanked Mr. Stauffer for his work.

Mayor Ferguson expressed support for the project and noted that 2015 would be extra special as it would be the return of Festival Daze; he reported signing a letter to Governor Kitzhaber requesting the presence of the National Guard at the Vietnam and Festival Daze events.

Councilor Churchill expressed support for the project and asked about estimated event costs.

Mr. Monahan discussed the various possible costs and estimated that Celebrate Milwaukie, Inc. (CMI) paid about \$2,800 for all festival activities last time it was held.

Councilor Miller noted the importance of finishing Riverfront Park and light rail construction.

Mr. Monahan discussed the potential for higher event costs in 2015, and reported the City will look for assistance from other agencies and from the public. He estimated total costs to the City would run between \$10,000 and \$20,000.

Mayor Ferguson said he will seek county assistance for the event funding.

Community Development Update

Mr. Rice provided an update on the Riverfront Park project, noting the good pre-construction meeting; he said the groundbreaking ceremony would be kid friendly; and he discussed approaching the Kellogg Good Neighbor Committee (KGNC) regarding additional funding.

Councilor Gamba reported possible County Commission support for a full or partial refund of the City's Riverfront Park easement payments.

Mr. Rice reported that the Monroe Street waterline project is scheduled to start in the coming weeks and that Council should see a contract for the Monroe Street paving project in July.

Council President Hedges asked if the boat ramp was closed and **Mr. Rice** replied that it was but the closure has not been enforced. **Mayor Ferguson** reported seeing the Oregon State Police launch a boat at the ramp on 6/2/14.

Mr. Egner provided a report on recent Planning Commission activities including the approval of improvements at Wichita Park, a tour of Oregon City and Lake Oswego, an upcoming hearing on the proposed Moda Health parking expansion, and the upcoming review of the draft Moving Forward Milwaukie (MFM) implementation plan. He also reported attending the joint meeting of the Metro Policy Advisory Committee (MPAC) and Joint Policy Advisory Committee on Transportation (JPACT) who are working on a regional planning scenario focusing on operational enhancements to be completed by September for adoption by end of the year.

Councilor Gamba expressed his support of the operational enhancements identified by MPAC/JPACT and the progressive and inexpensive use of technology to reduce congestion.

Mr. Egner reported that the Monroe Street Greenway project Intergovernmental Agreement (IGA) with the Oregon Department of Transportation (ODOT) will be before Council on 6/17/14. He noted that several businesses have expressed interest in the downtown parklet program.

Mr. Rice reported that the Adams Street Connector project is currently waiting for Metro to find additional funding for redesign costs; he noted that TriMet is involved and that Metro staff is concerned about tying into future development. He noted differences in City and Metro design concepts, and commented on the possibility of no immediate development.

Park and Recreation Board (PARB) Annual Report

Bob Cooper, PARB Chair, reviewed the PARB work plan which includes: the continued development of master and capital improvement plans in coordination with the North Clackamas Parks and Recreation District (NCPRD); looking into the acquisition and development of parks, gardens, and open space; ensuring that NCPRD park rules align with the Milwaukie Municipal Code (MMC); monitoring the administration of IGAs with NCPRD; attending NDA meetings; providing input regarding maintenance and design of parks; providing support for park grants; and monitoring other projects like Kellogg for Coho and the Tree City USA project.

Councilor Gamba discussed the Tree City USA project and finding locations that could host big native trees; he asked the PARB to think about that process and report to Council.

Lisa Gunion-Rinker, PARB Vice Chair, said locating native trees in new parks was a good idea.

Lynn Sharp, PARB member, noted that the Intertwine Alliance is working on a region wide oak mapping project, and suggested there was a way to use that project in Milwaukie.

Councilor Gamaba commented on the heritage trees that were identified around the city and noted that the NDA leadership may take the lead on such a project.

Ms. Gunion-Rinker discussed a mapping project that considered canopy and density.

Councilor Miller complimented the PARB for their work and dedication.

Mayor Ferguson asked how Council can support the PARB and **Mr. Cooper** replied that they receive good City support, noting that Mr. Butler has done a good job replacing JoAnn Herrigel.

Mr. Monahan discussed the NCPRD's proposal to be an independent district and **Mr. Cooper** expressed the PARB's support of an independent NCPRD and concern about the number of current County Commissioners who do not live within the NCPRD.

The group discussed Milwaukie representation on the proposed independent NCPRD board.

Mayor Ferguson thanked the PARB members for the work plan and report.

Ms. Sharp commented that she would like to hear about new park opportunities.

Mr. Cooper thanked Councilor Miller for the perspective he brings to the PARB.

Proposed TriMet Bus Route Changes

Jennifer Koozer, Community Affairs Representative for TriMet, explained that TriMet is sharing the proposed route changes with jurisdictions this summer and hopes to finalize the changes by the end of the year. She reviewed their assumptions and the community feedback received.

Kerry Ayres-Palanuk explained that the proposed route changes seek to respond to concerns about transferring to the Portland-Milwaukie Light Rail (PMLR) line. She discussed plans to include a one-seat bus ride into downtown Portland with opportunities to transfer to the PMLR line. She noted that bus route 99 may run with limited stops to downtown Portland and that the proposed bus route 28 service time will double with more neighborhood service.

Ms. Koozer noted that Johnson Creek Boulevard and Linwood Avenue were identified in the City's Transportation System Plan (TSP) as streets needing transit improvements.

Mayor Ferguson asked when the route changes would take effect and how they would be impacted by the Sellwood Bridge closure. **Ms. Ayers-Palanuk** replied that the changes would take effect in 2015 or 2016 and noted that the bridge closure will be accommodated but in the long-term TriMet plans to serve downtown Portland via the Sellwood Bridge.

Council President Hedges expressed concern that neighborhoods are not served by the proposed routes and **Ms. Ayers-Palanuk** replied that TriMet is trying to get neighborhood service to a light rail station, and noted the proposed routes serve the Tacoma Park and Ride.

The group discussed alternate routes for bus route 28 including running along 42nd Avenue, King Road, and Johnson Creek Boulevard; it was noted that Linwood Avenue had been identified by the TSP for transit improvements, that parts of Johnson Creek Boulevard are outside city limits and not pedestrian friendly, and that the area between Railroad Avenue and Monroe Street is under served by mass transit.

Ms. Koozer explained that the proposed service plan is designed for when the PMLR line opens and added that TriMet is working on district wide service updates focusing on buses, a process just starting but will focus on areas of growth like Milwaukie.

Councilor Miller commented on the bus routes he had observed in Honolulu, HI, and expressed concern about senior citizens being left out of route planning. **Ms. Ayers-Palanuk** explained that TriMet is trying to listen and are working on connecting rail stations to the neighborhoods.

Council President Hedges said the connection to light rail was partially why he moved to the City and commented that the smaller park and ride lots will require more neighborhood service.

Ms. Ayers-Palanuk said they are trying to connect Southgate and the Milwaukie Park and Ride.

Councilor Gamba asked about bus service on greenways and **Ms. Koozer** replied that she wasn't sure of the numbers but confirmed that buses do run on greenways.

Ms. Ayers-Palanuk reviewed the proposed route changes outside of Milwaukie and noted that fewer lines will be running over the new Tillikum Crossing Bridge than they had presumed.

Mayor Ferguson inquired about increasing the frequency of bus route 31 and **Ms. Ayers-Palanuk** replied that no frequency increase on bus route 31 was proposed and added that they had not heard that more service on King Road was needed.

Councilor Churchill wondered if people hadn't thought about PMLR being at the end of the new bus routes and **Ms. Koozer** commented that the next effort would focus on access to PMLR.

Ms. Koozer reported there are no plans to change bus route 152, noting it is sparsely used. She said they hope to take the plan to the public to get more comments.

Councilor Miller inquired about how many more buses would be running in downtown Milwaukie under the proposed changes and **Ms. Ayers-Palanuk** replied that they will be working with City staff on bus service changes in downtown Milwaukie, adding that only bus routes 28 and 34 will be changing and that they are still considering where bus route 99 goes.

The group discussed downtown Milwaukie congestion concerns and seasonal pedestrian flows.

Ms. Koozer stated they will work with City staff as the proposal is shared with the public; she noted that the changes are preliminary and dependent on strong financials going forward.

Mayor Ferguson had three notes to be taken to the appropriate TriMet staff: first, that the landscaping at the Milwaukie Park and Ride is covering signage; second, that the Main Street reroute during Sunday Farmers Markets hasn't taken affect; and third, that City concerns about transfer and safety issues on the Transit Mall have been ignored since April 2013.

Mr. Monahan added that periodic emails between the City and TriMet are ignored and promises made yield no action; he reported sometimes daily complaints about pedestrians j-walking and noted that the City is prepared to send the police but would prefer not to.

Mayor Ferguson encouraged TriMet to work on the number of cross-street transfers and **Ms. Ayers-Palanuk** suggested that transfers be a topic considered with PMLR patterns too.

Mayor Ferguson adjourned the work session at 7:02 p.m.

Respectfully submitted,

Scott S. Stauffer, Administrative Specialist II



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MILWAUKIE CITY COUNCIL
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REGULAR SESSION
JUNE 3rd, 2014
City Hall Council Chambers

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

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

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

Media Present: None

CALL TO ORDER

Pledge of Allegiance

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

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

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

Council President Hedges expressed his support for the CCC bond.

CONSENT AGENDA

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

A. City Council Meeting Minutes:

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

B. Board, Commission, and Committee Appointments:

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

C. OLCC Applications for:

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

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

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

AUDIENCE PARTICIPATION

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

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

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

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

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

PUBLIC HEARING

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

Opening:

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

Purpose and Procedures:

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

Conflicts of Interest:

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

Initial Staff:

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

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

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

Correspondence:

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

Conduct of the Hearing:

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

Testimony in Support:

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

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

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

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

Mr. Zumwalt expressed his support for the mural program.

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

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

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

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

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

Neutral Testimony:

None.

Testimony in Opposition of the Proposal:

None.

Staff Response:

None required.

Questions from Council to Staff:

None.

Closure of Public Hearing:

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

Council Discussion:

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

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

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

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

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

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

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

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

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

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

Council Decision:

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

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

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

Ordinance No. 2078:

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

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

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

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

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

Ordinance No. 2079:

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

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

LUBA Appeal Information:

Mayor Ferguson read the Land Use Board of Appeal statement.

OTHER BUSINESS

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

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

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

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

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

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

Ordinance No. 2080:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. Council Reports

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

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

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

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

ADJOURNMENT

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


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

Respectfully submitted,

Scott S. Stauffer, Administrative Specialist II

7/1/14



To: Mayor Ferguson and Milwaukee City Council
Through: Bill Monahan, City Manager
From: Steve Bartol, Chief of Police 
Date: June 13, 2014
Subject: O.L.C.C. Application – Foxy's #1 – 11094 SE Main St.

Action Requested:

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from Foxy's #1 – 11094 SE Main St. The application includes a change in ownership.

Background:

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



**Regular Session
Agenda Item No.**

6

Other Business

7/1/14



MILWAUKIE CITY COUNCIL
STAFF REPORT

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **City of Portland IGA for Motorcycle Fleet Repair**

From: Gary Parkin, PW Director & Steve Bartol, Chief of Police

Date: July 1, 2014

ACTION REQUESTED

To authorize the City of Portland Fleet Services to perform motorcycle maintenance and repair activities for the City of Milwaukie per an Intergovernmental Agreement (IGA).

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

None. City of Portland Fleet Services has provided motorcycle maintenance and repair services for the City of Milwaukie in the past without a formal agreement.

BACKGROUND

The Milwaukie Fleet staff recently met with the City of Portland Fleet Services staff to discuss service and billing issues. Milwaukie found the Portland Fleet shop to be well outfitted and performing high quality motorcycle maintenance and repair for the large Portland Police fleet as well as other agencies. The work is completed within adequate time frames at a rate that is comparable to outside vendors and repair shops.

The Milwaukie Police Department is pleased with the service and repair quality provided. They are able to store backup motorcycles at the Portland shop making it convenient to drop off a motorcycle for repairs and ride back to Milwaukie on a backup motorcycle that can be used while the first motorcycle is being repaired.

The Milwaukie Police Department owns four motorcycles for police patrol and has been using the City of Portland Fleet Services for all motorcycle servicing since at least 2006. The Fleet Division spends about \$15,000 per year to maintain all four motorcycles.

The Milwaukie Fleet Division does not employ a dedicated motorcycle mechanic. Training a mechanic for these motorcycles is not efficient as there are few motorcycles and each is fairly unique. It would be a significant time commitment that takes one of the three mechanics out of service.

The Fleet Division is working with the Police Department to expand their role in the motorcycle maintenance and reduce the expense of using the City of Portland Fleet Services. There are simple activities such as changing oil and replacing batteries that can be done by the Milwaukie Fleet shop. Also, with better alignment with City of Portland Fleet Services, sharing motorcycle mileage and maintenance records, Milwaukie's Fleet division will be able to participate in improving efficiency and costs.

CONCURRENCE

The Fleet Division met with the Police Department and reached agreement on the need for the IGA and working collaboratively. The attorney's office reviewed the IGA and found it acceptable for the City of Milwaukie's interests and as to form.

FISCAL IMPACTS

No increased or decreased financial impacts are anticipated, a small decrease in fiscal impacts is expected as some minor maintenance work is transferred from the City of Portland Fleet Services to Milwaukie.

WORK LOAD IMPACTS

Approval of the IGA does not impact work load for the City. As Police and Fleet staff transfers some maintenance work from City of Portland Fleet Services to the City, there could be some impact. The transfer of work would be done as the City desires and should be done only as work load allows.

ALTERNATIVES

Without approval of the IGA, the City would need to develop a different maintenance relationship with a private shop.

ATTACHMENTS

1. Intergovernmental Agreement
2. Resolution

**INTERGOVERNMENTAL AGREEMENT
FOR FLEET SERVICES**

BETWEEN

CITY OF PORTLAND AND CITY OF MILWAUKIE

Pursuant to ORS Chapter 190 as to cooperation between municipalities, the **City of Portland** ("City") by and through its CityFleet Division of the Office of Management and Finance ("CityFleet"), and **City of Milwaukie** ("Milwaukie") by and through its Department of Public Works enter into this Intergovernmental Agreement (hereinafter "Agreement"). The City and Milwaukie may individually be referenced as the "Party" or collectively as the "Parties".

RECITALS

- A. Milwaukie desires to obtain on-call as-needed professional and technical services for its vehicles and equipment. Requested services may include, but are not limited to, vehicle maintenance and repair, parts procurement, automotive body repair, welding, machining, metal fabrication, specification engineering, custom outfitting, fleet analysis, and fueling.
- B. Public works vehicles have specific performance requirements which require specialized service and maintenance work. It is difficult for public entities to locate local service facilities that are able to perform those specialized services properly and timely.
- C. The City's CityFleet has the facility, tools, and equipment as well as employees with the qualifications, experience, and abilities to provide specialized fleet services in connection with the business of maintaining and repairing government vehicles and equipment such as those owned by Milwaukie and other public agencies. CityFleet is willing and able to perform fleet services for Milwaukie on as-needed and as-requested basis.
- D. Providing services to Milwaukie pursuant to this Agreement is in the City's interest and promotes amicable relationships with other governmental entities. This Agreement will not impact CityFleet's ability to effectively and efficiently support the vehicle administrative needs of its internal bureaus and divisions.
- E. Milwaukie has expressly assured the City that no Milwaukie employees will lose their jobs with Milwaukie in relation to the City performing work under this Agreement. In reliance, the City agrees to perform fleet services under this Agreement on the condition that such performance does not deprive Milwaukie employees of their employment with Milwaukie, or otherwise trigger obligations under ORS 236.605 to 236.640 (the "Transfer Statute").

NOW THEREFORE, in consideration of the mutual promises, conditions and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby incorporate the above Recitals and agree as follows:

I. Services and Responsibilities.

A. CityFleet will provide the following fleet services for Milwaukie-owned vehicles and equipment on an as-needed as-requested basis:

1. Maintenance and Repair Services such as preventive maintenance (PM's) that would be required to be performed at regular intervals in accordance with vehicle manufacturer's guidelines for the class of vehicles and associated equipment, including mandated safety and emissions checks.
2. Parts Procurement including identifying parts and associated materials necessary to outfit, and/or service Milwaukie's vehicles.
3. Automotive Work including automotive body repair, welding, machining, metal fabrication, specification engineering and custom outfitting.
4. Fleet Analysis wherein the City provides its expertise to assist Milwaukie in analyzing and identifying vehicle class economic life cycle and specifications for acquisition of new Milwaukie vehicles and vehicle/equipment outfitting.
5. Fueling Services wherein the City's in-house fueling services would be made available to Milwaukie at City fueling ("in-house") stations and facilitating fueling at commercial off-site fueling to which the City may have fuel services arrangements.
6. Manufacturer's warranty or recall work may be performed if it is cost effective, as mutually determined by the Parties. If the City undertakes any manufacturer's warranty or recall work, the City will charge for labor and materials in accordance with this Agreement.
7. Other Fleet Services such as vehicle or equipment rental.

B. The City will:

1. Provide service on an "as scheduled" and a "first come, first served" basis. However, in the event of emergencies, CityFleet will make reasonable effort to prioritize the service work necessary to accommodate the circumstances for Milwaukie under the terms and conditions of this Agreement. The City will provide current normal hours of operations and locations to Milwaukie and notify Milwaukie in advance of any changes to said hours of operation or locations.
2. Carry out repairs and maintenance in accordance with manufacturer's technical specifications, mandatory specifications or industry standards, while having regard to the age and condition of the vehicle and equipment.
3. Carry out warranty or recall work as mutually agreed, and provide Milwaukie mutually agreed upon notification of the performance of said warranty or recall work.
4. Take reasonable care to ensure its workmanship meets industry standards.

5. Reserve sole discretion to decline to repair and/or maintain any vehicle or equipment. CityFleet will provide explanation as to the reasons for not accepting the vehicle or equipment for service. If the City does not accept the vehicle or equipment for service, Milwaukie is free to undertake the work itself or to contract with others to perform the work.
6. In an emergency, such as inclement weather, make the services outlined in I.A. above available to Milwaukie outside of normal working hours (specified in I.B.1 above) as required for Milwaukie to maintain its necessary operations.

C. Milwaukie will:

1. Deliver the vehicles and equipment that it requests for services to identified City service locations at scheduled times in order for services to be performed.
2. Provide necessary and requested information on ownership, service and usage data so that the City may provide recommendations for vehicle services or Fleet Analysis.
3. Timely (as specified in III.B.) pay costs of services, parts, supplies and other items provided by the City under this Agreement.
4. Process recall or warranty claims for Milwaukie to submit for reimbursement of charges incurred by City and invoiced to Milwaukie.
5. Use due care to maintain its vehicles and equipment before and after CityFleet's services.
6. Have current insurance, registration and licensing on all vehicle or equipment brought to the City for service.

D. Service Requests, Estimates and Authorizations.

1. Milwaukie will identify an authorized representative (Fleet Coordinator) who will serve as Milwaukie's day-to-day primary contact for coordinating services under this Agreement, including approval of all services performed and billings. The City will identify an authorized representative of CityFleet who will be the primary liaison regarding scheduling and coordinating performance.
2. The CityFleet representative and Milwaukie Fleet Coordinator will be responsible to establish and maintain written, agreed-upon administrative procedures to process Milwaukie's requests for services under this Agreement (Work Requests), CityFleet's schedule for performance and estimated cost for requested work to be performed to specifications (Work Proposals) and Milwaukie's authorization for CityFleet to perform work (Work Authorizations).
3. Milwaukie will not request, and the City will have no obligation to provide, non-emergency services on any observed federal, state or City holidays or weekends, when CityFleet personnel are not otherwise on duty.
4. The City will have no obligation to service non-Milwaukie vehicles or equipment even if Milwaukie may have fleet service responsibilities for the vehicles or equipment. Notwithstanding any third party authorization, the City reserves its discretion to perform work in accordance with I.B.5.

II. Term.

This Agreement is effective **July 1, 2014**. Either Party may terminate this Agreement upon thirty (30) days written notice. Any termination will not prejudice any rights or obligations accrued to the Parties prior to termination.

III. Payment and Billing.

A. Services will be provided to Milwaukie on a cost-reimbursement basis, inclusive of direct and indirect costs in furnishing personnel, materials and use of equipment to provide services under this Agreement. All rates and direct charges for services rendered are calculated and subject to change on a fiscal year basis. At least 30 days prior to the end of the fiscal year, the City will provide notice of proposed new rates applicable to the next fiscal year. Examples of direct charges would be for vehicle maintenance and repair, parts procurement, automotive body repair, welding, machining, metal fabrication, specification engineering, custom outfitting, and fueling. Applicable overtime pay, emergency callout pay or other compensation that the City is obligated to pay pursuant to collective bargaining agreements are in addition to the hourly labor rate. Overtime will be charged at a multiplier of 1.20 (of the Labor Hourly Rate from the table below). The City general fund overhead (GFOH) rates are used. The following tables outline CityFleet's FY14-15 rates and how they are calculated:

FY14-15 BILLING RATES (CHANGES COMMUNICATED EACH YEAR BY JULY 1ST):

	FY14-15		FY14-15
Labor Hourly	\$ 98.45	Motor Pool Hourly	\$ 6.65
Parts Markup	20.7%	Motor Pool Daily Max	\$ 32.00
Fuel Markup	\$ 0.12	Motor Pool Weekly	\$ 150.00
Vended	5.9%	Motor Pool Monthly	\$ 560.00
Shop Consumables	1.5%	Motor Pool Bikes Hourly	\$ 0
Rentals/Leases	8.41%	Motor Pool Electric Bikes Hourly	\$ 0
GFOH	4.5%	Motor Pool No Show Flat Rate	\$ 10.00

(Labor rate is the same for welding and fabrication, road-calls, auto body work, and specifications)

CALCULATING BURDENED RATES

		FY14-15
Labor:	Hourly Rate x Shop Consumables x GFOH	\$ 104.42
Parts:	Unit Price x Parts Markup x GFOH	\$ 12.61
Vended Parts & Labor:	Unit Price x Vended Markup x GFOH	\$ 11.07
Fuel:	(Unit Price + \$Fuel Markup) x Qty x GFOH	\$ 53.50
Motor Pool:	Rate x Usage Time x GFOH	\$ 13.59
Rentals/Leases:	Rental/Lease Total Invoice x Rental/Lease Rate x GFOH	\$ 113.29

(Examples based upon: \$10/unit part, \$5/gal fuel, 10 gal, 2 hr motor pool rental, \$100 lease invoice)

- B. Monthly billing reports will be sent to Milwaukie's Fleet Coordinator or designee by the 10th of the month. Milwaukie will pay all invoices within 30 days after the invoice date. Any amount remaining unpaid when due will be assessed interest at a rate of 1% per month computed 30 days from the invoice date and compounded monthly.
- C. The City may include additional charges for rebilling on a delinquent account pursuant to Portland City Code 5.48.040 and other reasonable collection costs.

IV. Insurance; Indemnification.

- A. The Parties acknowledge that they are self-insured entities for liability and property damage, and are responsible for providing workers compensation insurance to their own employees as required by law. Each Party's self insurance shall be maintained at levels to exceed the Oregon Tort Claims Act liability limits applicable to the Party and in sums that would be commercially reasonable to protect the Parties' potential liabilities and interests under this Agreement. Each Party must immediately notify the other, not more than thirty (30) days after, if either Party's self-insurance lapses or in any way becomes ineffective. Any claims for injury or damage to person or property arising out of or alleged to arise out of work performed under this Agreement shall be subject to the limitations of the Oregon Constitution and the Oregon Tort Claims Act. Both Parties are responsible, regardless of the location of an accident, direction and control at the time of an accident, or where work is being performed, for any injury to their subject workers. Neither Party is required to provide or show proof of any other insurance coverage.
- B. Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution, Milwaukie agrees to fully indemnify, hold harmless and defend the City and its directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses and all expenses and costs incidental to the investigation and defense thereof including reasonable attorneys fees, resulting from or arising out of activities of Milwaukie, its officers, employees or agents under this Agreement. Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution, the City agrees to fully indemnify, hold harmless and defend Milwaukie and its directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses and all expenses and costs incidental to the investigation and defense thereof including reasonable attorneys fees, resulting from or arising out of activities of the City, its officers, employees or agents under this Agreement.
- C. The City has entered into this Agreement in reliance on Milwaukie's express representations that no Milwaukie employees will lose their jobs with Milwaukie as a result of the City performing work under this Agreement as contemplated under the Transfer Statute. Accordingly, Milwaukie shall bear the sole responsibility for any civil, contractual or administrative claims or employee compensation arising from or related to the Transfer Statute in connection with the City's performance of work under this Agreement.

- D. The City is not responsible for any liability and property damage arising out of any vehicle subject to this contract as a result of Milwaukie's operation, repair, service or storage of the vehicle.
- E. The City is responsible for liability and property damage caused by, or destruction to Milwaukie vehicles and equipment:
1. In the care, custody and control of the City. However, Milwaukie is responsible for inventorying, removing and safekeeping all personal property (such as papers, personal telecommunication devices, briefcases, bags, etc.) before vehicles are brought in for service. The City may but is not obligated to inventory, care, safekeeping or protect any personal property left within Milwaukie vehicles against damage or loss.
 2. Stored or undergoing repairs on City premises. However, the City shall not be liable for damage or loss caused by criminal actions of third parties (such as theft or vandalism.)
 3. Due to negligent transportation, service and repair performed by the City, subject to other limitations of liability in this Agreement.
 4. City shall notify Milwaukie of any loss or damage to Milwaukie vehicles while in the custody and control of City, regardless of the cause of such loss or damage, within 10 days of the City's knowledge of the occurrence.
- F. The City is not responsible for vehicle or equipment failures or defects due to normal wear or abuse, or due to Milwaukie's failure to maintain or repair vehicles or parts as needed for prudent property ownership or as recommended by CityFleet. The City is not liable for any defects in vehicles, parts or materials either original to the vehicle or as a result of non-City work on the vehicle. In the event of workmanship not completed to industry standard, CityFleet will redo the work at no additional cost.

V. Notice.

Any notice or communication under this Agreement will be in writing and effective: (a) upon delivery, if delivered personally to the identified Agreement representative below; (b) upon delivery to the manager or person in charge of the offices of the identified representatives during regular business hours; (c) two days after mailing, if deposited in the United States mail, postage prepaid; or (d) one day after deposit, if tendered to an overnight or commercial courier (such as Federal Express), and addressed to the person and address below, or to another designee or address as either party may specify in writing from time to time. Notice sent by facsimile transmission or electronic mail (email) is deemed sufficient when received during regular business hours, except for notice related to default or termination.

City of Milwaukie
Attn: Gary Parkin, Public Works Director
6101 SE Johnson Creek Blvd
Milwaukie, Oregon 97206-0641
Telephone: 503-786-7614
Facsimile: 503-786-7676
Email: parking@milwaukieoregon.gov

City of Portland
Attn: John Hunt, CFPF, Fleet Manager
OMF/Bureau of Internal Business Services,
CityFleet Division
2835 N Kerby Avenue
Portland, Oregon 97227-1610
Telephone: 503-823-2277
Facsimile: 503-823-4374
email: john.hunt@portlandoregon.gov

The Parties may change the identified Agreement representative or contact information by giving written notice of the changes as provided in this Section.

VI. Dispute Resolution.

If a dispute arises regarding this Agreement, the Parties agree to exercise good faith in expeditiously resolving any conflict. All conflicts should first be discussed and resolved if at all possible by the persons identified in the Notice section. Any conflicts not resolved by the contact person shall be elevated to the designee of the governing board of the Parties, specifically the Mayor for the City and the Chairperson for Milwaukie, for discussion and resolution. The Parties may submit a dispute to mediated negotiation prior to any party commencing litigation, and will participate in good faith in a non-binding mediation process with the mediator selected by mutual agreement of the Parties and all mediator expenses shared equally. If the Parties are unable to mutually agree to a mediator, each Party will select a temporary mediator and those mediators shall jointly select the permanent mediator. In the event of dispute, each Party shall bear its own costs and attorney fees.

VII. General Provisions.

- A. Independent Contractor. In connection with this Agreement, each Party is an independent contractor and will have no authority to bind or commit the other. Nothing herein will be deemed or construed to create a joint venture, joint employment, partnership or agency relationship between the Parties for any purpose.
- B. Nonexclusive Agreement. This Agreement is nonexclusive. Milwaukie is not City's only client and City will continue to provide services to other clients. City is not Milwaukie's only provider for the services contracted herein and Milwaukie may use other providers for the same or similar services.
- C. Protection of and Access to Data. City will use due care to store, secure and backup data created by City through the delivery of the services contemplated herein (hereinafter "Milwaukie Data"). City will provide Milwaukie reasonable access to Milwaukie Data reports upon request by Milwaukie.
- D. Compliance with Laws. The Parties will comply with all applicable federal, state and local laws, rules and regulations applicable to the work as set forth in this Agreement.

- E. Entire Agreement. This Agreement and its exhibits are the entire agreement between the Parties with regard to the disposition and development of the Property. There is no other oral or written agreement between the Parties with regard to this subject matter. There are no oral or written representations or warranties made by either Party, implied or express, other than those contained in this Agreement.
- F. Amendments and Modifications. Any modifications to this Agreement must be made in writing and executed by all Parties. Notwithstanding this general requirement, the Parties may approve modifications to the scope of services to this Agreement without City Council or Board of Commissioners approval so long as the Transfer Statute is not implicated. The City's Chief Administrative Officer ("CAO") may approve and execute amendments and modifications to this Agreement as may be necessary upon City Attorney approval to form. The CAO may delegate some or all responsibilities for this Agreement to the Director of Bureau of Internal Business Services. Milwaukie's Director or designee may approve and execute amendments and modifications to this Agreement as may be necessary upon Milwaukie Attorney approval to form.
- G. No Assignment. Neither Party shall subcontract or assign any part of this Agreement without the written consent of the other Party.
- H. Counterparts & Electronic Transaction. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument. The Parties agree that they may conduct this transaction, including any amendments or extension, by electronic means including the use of electronic signatures and facsimiles.
- I. Severability. If any clause, sentence or any other portion of the terms and conditions of this Agreement becomes illegal, null or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law.
- J. No Third-Party Beneficiary Rights. No person not a party to this Agreement is an intended beneficiary of this Agreement, and no person not a party to this Agreement shall have any right to enforce any term of this Agreement.

This Intergovernmental Agreement is effective upon full execution by the Parties as shown below.

CITY OF PORTLAND

CITY OF MILWAUKIE

By: _____
Fred Miller, Chief Administrative Officer
Office of Management & Finance

By: _____
Bill Monahan, City Manager

Date: _____

Date: _____

Approved as to Form **AS TO FORM**

Approved as to Form:



Tracy Reed, **CITY ATTORNEY**

City of Milwaukie Attorney



CITY OF MILWAUKIE

"Dogwood City of the West"

Resolution No.

A resolution of the City Council of the City of Milwaukie, Oregon, to initiate an Intergovernmental Agreement for motorcycle maintenance and repair with the City of Portland Fleet Services.

WHEREAS, the City of Milwaukie owns and operates a small fleet of motorcycles for Police Department use; and

WHEREAS, the City of Milwaukie is unable to provide complete servicing of the motorcycle fleet; and

WHEREAS, the City of Portland Fleet Services provides motorcycle maintenance and repair at a high level and has the capacity to serve the City of Milwaukie;

Now, Therefore, be it Resolved that the City Manager is hereby authorized to enter into an Intergovernmental Agreement for motorcycle maintenance and repair with the City of Portland Fleet Services.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Jeremy Ferguson, Mayor

APPROVED AS TO FORM:
Jordan Ramis PC

ATTEST:

Pat DuVal, City Recorder

City Attorney