



Work Session

WS

Milwaukie City Council



MINUTES
MILWAUKIE CITY COUNCIL
www.milwaukieoregon.gov

WORK SESSION
MARCH 15, 2016
City Hall Conference Room

Council President Lisa Batey called the Work Session to order at 4:17 p.m.

Council Present: Councilors Scott Churchill, Wilda Parks, and Karin Power

Excused: Mayor Mark Gamba

Staff Present: City Manager Bill Monahan, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, Planning Director Denny Egner, Associate Planner Vera Kolias, Community Development Director Alma Flores, Engineering Director Chuck Eaton, Public Works Director Gary Parkin, and Stormwater/Streets Supervisor Kenny Hill

Council President Batey noted the Work Session agenda items would be reordered.

Riverfront Park Bridge Update

Mr. Eaton reported on the status on the bridge replacement and noted that he would return to Council on May 3 for the design build contract award. There was only one bid on the temporary fix and it was \$339,000 over the engineer's estimate. This meant there was no short term solution to get the bridge open. The bridge would likely not be open by the start of fishing season. He noted that the award for the design build contract on May 3 would require an extension of the emergency declaration. Temporary park access would open in July 2016 while a permanent bridge was being built. The group discussed different approaches to the problems surrounding repair and access.

Revisions to Resolution Authorizing Purchase of TV Van

Mr. Hill and **Mr. Parkin** reported on the purchase of the TV van for the Stormwater Department and Resolution revisions. The changes included the cost and the process for the City Manager's signature. The group discussed the process of revising the resolution. **Mr. Hill** said this was a replacement of a 30-year old van, and it would improve productivity.

Land Bank Authority Presentation on Enabling Legislation

Ms. Flores introduced **David Rabinno** of Tonkon Torp LLP, and **Seth Otto** of Maul Foster Alongi. **Mr. Rabinno** discussed brownfields and environmental impacts. There are 74 known brownfield sites comprising 142.5 acres in the City of Milwaukie. He also discussed cleanup challenges and possibilities. He explained the abilities of a Land Bank Authority (LBA) to redevelop and restore brownfield properties. **Mr. Rabinno** described the powers and limitations of LBAs and how they interact with local and state governments.

Councilor Power asked about land ownership in relation to LBA. **Mr. Rabinno** believed LBAs had to take ownership of the property in order to initiate cleanup activities. **Mr. Otto** added that state and federal cleanup funding required money for cleanup to go to the property owner.

Mr. Rabinno noted LBAs were separate legal entities, and discussed liabilities as well as funding. He also noted no LBAs had been setup previously as the legislation was quite recent.

Council President Batey asked about obligations and the pace of operation if an LBA were created. **Mr. Rabinno** explained that the process was fairly open to the LBA.

Councilor Churchill asked about the required annual report to the Governor. **Mr. Rabinno** responded the statute required a report to the Governor, but it did not give the Governor recourse over telling the LBA what to do. It was a vehicle to give the public information about the LBA.

Councilor Churchill asked about the fee structure and the mechanism for a municipality like Milwaukie to set up an LBA. **Mr. Rabinno** noted he would be happy to further elaborate on the details.

Councilor Power was curious about the brownfields in Milwaukie, and if a good amount of the lands were in the North Industrial Area. **Ms. Flores** commented that the North Industrial Area did have a number of brownfields, and noted this LBA information was meant to serve as an informational session about another tool that could be used.

Ms. Flores clarified that, if interested, Council could adopt a resolution and did not need to establish a Land Bank Authority until the structure and other details were figured out.

Councilor Churchill wanted to see an analysis on a sample parcel that included the fees involved and other details of the potential scenario, such as a pro forma. **Councilor Power** wanted to see details on the 142.5 acres of brownfields in the City.

Short Term and Vacation Rentals

Mr. Egner noted a public hearing was scheduled before the City Council on April 19 to receive the recommendation from the Planning Commission on code changes related to short term and vacation rentals. He asked Council if there were other types of information staff should pull together prior to the hearing. He explained that on February 23, the Planning Commission voted unanimously (5-0) to recommend a set of code amendments for approval. Short term rentals, such as Airbnb, included both hosted and unhosted rentals, which were distinct from vacation rentals. During the Council goal setting process, there were complaints about enforcement, and Council had directed staff to move forward with a process to legitimize these. As a short term solution, staff allowed Airbnbs to continue to operate, but only rent once in every 30 days.

Mr. Egner brought attention to the table on page 3 of the report, which summarized the changes moving forward. The Planning Commission proposed allowing short term rentals as a home occupation in a dwelling unit, with two hosted guest parties. Unhosted rentals could only occur for 95 days of the year, with primary residents living there the other 270 days. He discussed vacation rentals and bed and breakfasts that would require a conditional use. The assumption was that a bed and breakfast was generally a hosted situation. There were no changes to how boarding houses were treated. As part of the process, **Mr. Egner** explained the desire to establish a lodging operator's license, similar to business registrations, to allow building and fire code inspections. He discussed a lodging tax that could be put in place. He noted that this was a land use ordinance that required a process, and a lodging tax could be a code amendment.

Mr. Egner pointed out that the table on page 4 addressed changes to zones. Short term rentals and vacation rentals were added to every zone where there was potential to have a residence. It was proposed that bed and breakfasts be added as a conditional use in low density zones and added as a permitted use in Mixed Use zones. It was also proposed to change bed and breakfasts from conditional use to permitted use in both limited commercial and general commercial zones. Hotels / motels had no changes proposed in the low and medium density zones, but a proposed removal from conditional use in high density residential zones, with a continuation to have it as a conditional use in the R-1-B zone. Hotels / motels would have no change in mixed use and commercial zones, except for making it a permitted use from a conditional use in the general commercial zone. He addressed the home occupation process to deal with

complaints. At the Planning Commission, the issue of parking came up, and Mr. Egner discussed the Commission's decision to not put in additional parking requirements. The Planning Commission decided that it would be appropriate to allow two rooms to be rented to different parties in hosted situations.

Council President Batey was interested in the tax and thought they should be taxed. She suggested a 1099 form to assess the tax. She thought maybe the tax should come together with the land use.

Councilor Parks suggested the County lodging tax. **Councilor Power** noted that the County did not regulate short term rentals.

Annual Renewal of Parklets

Mr. Egner discussed the parklet situation and handed out an email from Mayor Gamba.

Councilor Churchill understood a signature of approval was needed from the property owner of the business that has the parklet, but asked about an adjacent business that the parklet might be in front of, due to diagonal parking. **Mr. Egner** believed it only involved the business where the parking space came up to the curb.

Mr. Egner said the issue was the form, and Jesse Canelos had some concerns about getting the property owner's signature annually.

Councilor Power suggested an affidavit with the property owner's original signature that delegated authority to tenants until ownership changed, with revocable consent.

Councilor Parks said the goal was to encourage parklets, and **Council President Batey** agreed, noting for scrutiny the first time and then to make renewal simple.

Councilor Churchill did not want the property owner to be excluded from the process. He saw the benefits of requiring an annual signature.

Council President Batey, **Councilor Parks**, and **Councilor Power** were not in favor of an annual signature. **Councilor Parks** suggested having letters sent every year to ensure the property owner was in the loop.

Mr. Egner heard Council direction from the majority to move forward with that suggestion.

Council President Batey noted that the Milwaukie Museum Lease and the Farmers Market Event Permit and Traffic Control Plan would be discussed during the March 15, 2016, Regular Session.

Council President Batey adjourned the Work Session at 5:48 p.m.

Respectfully submitted,



Amy Aschenbrenner, Administrative Specialist II

This page intentionally left blank.



From: Gamba, Mark
Sent: Friday, March 11, 2016 4:34 PM
To: Egner, Dennis
Subject: RE: Parklet worksession question

Hi Denny,

Please take my comment to the council during this discussion.

First, I'd like to say that Mr. Canelos' issue with the annual signature is very understandable given the language. The second sentence : *I have been made aware of the Applicant's intent to install a parklet in the parking lane in front of the business listed on this application and have no objections.* That clearly assumes that there isn't currently a parklet, and would lead most people to think that this was a one time question. I'm not clear on why we would require the landowner to sign each and every year, that seems counter productive if our goal is to HAVE parklets. If the landowner decides for some reason that he or she no longer wants a parklet, one would assume they would ask their tenant to take it down and failing that, evict them. I would strongly suggest that the requirement to have the landowner sign the contract every year be removed from the contract. The goal is to encourage and nurture this program because of the benefits to the city as a whole, actions that run counter to that goal and serve no purpose beyond an overly broad CYA are to be avoided in my opinion.

Thank you,

Sincerely,
Mark Gamba
Mayor of Milwaukie
971-404-5274

Working to make Milwaukie the most Livable, Equitable and Sustainable city in the country.

All typos courtesy of Android Voice Typing

From: Egner, Dennis
Sent: Friday, March 11, 2016 4:04 PM
To: Batey, Lisa; Churchill, Scott; DuVal, Pat; Gamba, Mark; Monahan, Bill; Nieman, Mitchell; Parks, Wilda; Power, Karin
Cc: Flores, Alma; Kolias, Vera
Subject: Parklet worksession question

Hello Everyone -

We received an email from Jesse Canelos earlier in the week expressing his concern with the application form that we developed for reauthorizing parklets. Mr. Canelos has objected to the need to obtain the adjacent property owner's signature for a parklet renewal (see below). We are bringing this to your attention in the event Council members would like to discuss it during the work session on March 15.

Following the Council's recent discussion of the parklet program, staff prepared a new package of application materials for parklets including applications for renewals of existing parklets. The application form was modeled after one used by the City of Portland and it requires the signature of both the businesses owner and the property owner. The details of the application were considered to be an administrative function and were not part of the Council discussion of the parklet program. The form is actually a reaffirmation of property owner's support (see statement below from the form).

"I, the undersigned, do affirm that I am the owner or a duly authorized representative of the corporation owning the above referenced property. I have been made aware of the Applicant's intent to install a parklet in the parking lane in front of the business listed on this application and have no objections."

The full application packet can be reviewed at the web page for the program: <http://www.milwaukieoregon.gov/economicdevelopment/downtown-parklet-program> . If you prefer to only view the renewal form, it can be downloaded directly here: http://www.milwaukieoregon.gov/sites/default/files/fileattachments/2016_parklet_program_parklet_renewal_application.pdf

The key question for the Council follows:

Should an application for the renewal of a parklet require the building owner to sign the application form?

Please let the City Manager know if you would like to discuss this so that we can adjust the agenda. If not, staff will continue to require the owner signature on the form.

Thanks and have a good weekend.

Denny

Dennis Egnor, AICP
Planning Director
City of Milwaukie
6101 SE Johnson Creek Blvd | Milwaukie, OR 97206
T 503.786.7654 | F 503.774.8236
Community Development 503.786.7600

Join us on the [web](#), [facebook](#) and [twitter](#)!

From: Jesse Canelos [jccanelos@msn.com]
Sent: Tuesday, March 08, 2016 10:00 AM
To: Kolia, Vera
Cc: Flores, Alma; Monahan, Bill; Gamba, Mark
Subject: Parklet Application Package?

Vera:

I am very much against having the property owner have to sign/get permission, every year for renewal. That should be a one time initial application only (which he has approved). You may (and others) be well aware how difficult it can be for my building owner, Howard Dietrich, to respond. He is away for much of the year, and has taken months to respond to things in the past - he works on his own time. Therefore, I do not agree that should be a part of the criteria for renewal - I will submit application package without that. Although I will drop off that sheet for him to sign to make an attempt, but if he is at his home in Palm Springs, fishing in Alaska, back in Europe, or other places he spends time - I cannot be held to get him to sign, common sense should prevail here.

If the city would like to follow-up with building owners for renewal to sign - please do so, maybe you all have better access/response time to him than I do.

Thanks,
---Jesse



Memorandum

To: City Council
From: Alma Flores, Community Development Director
CC: Bill Monahan, City Manager
Date: March 10, 2016
Re: Community Development Department Projects - City Council Update for March 15, 2016, Work Session

Community Development/Economic Development

- Triangle Site RFQ for a Food Cart Pod
- City Block 14 and Cash Spot sites
- Urban Renewal Planning
- Economic Opportunities Analysis/Target Industry/ED Strategy
- Partnerships
- Grants
- Tools and Incentives/Business Workshops
- Parklets
- Wayfinding Systems Plan—Downtown

Engineering

- Riverfront Park (Bridge 22142)
- 17th Avenue Multi-Use Trail
- 17th Avenue Waterline (Phase 2)
- Meek Street Storm System Improvements
- ADA Ramp Improvements

Planning

- Annexations
- Visioning and Comprehensive Plan Update
- Land Use and Development Review
- Monroe Street Neighborhood Greenway
- 19th Avenue & Sparrow Street Greenway
- Regional Planning Meetings

Building

- No update

Community Development/Economic Development

Triangle Site RFQ for a Food Cart Pod

- A proposal has been selected and a food cart management contract has been sent to the selected team. After review by the team and the attorneys, the contract will come before the City Manager and City Council for approval.

City Block 14 and Cash Spot Site

- The City is conducting a few due diligence items before RFPs are issued. A natural resource assessment for the Cash Spot is occurring over the next month and the Community Development department has received a Brownfields Redevelopment Assessment grant under Business Oregon to fund Phase 1 and Phase 2 assessments of both sites. As for City Block 14, an updated Intergovernmental Agreement between the City and Metro is underway.

Urban Renewal Planning

- The next meeting of the Milwaukie Urban Renewal Advisory Group is scheduled for March 30 from 4:30 to 6:30 PM at the Public Safety Building. The Advisory Group will be discussing goals and projects.

Economic Opportunities Analysis/Target Industry/Economic Development Strategy

- The analysis work is underway with Johnson Economics. The first draft of task 1 has been received. A Technical Advisory Group (TAG) has been formed to help review the products of the plan. The TAG includes local, County, and regional economic development professionals. The first meeting of the TAG was held on

Tuesday, February 2nd. A subsequent meeting is tentatively being considered for late March. The final Economic Trends and Target Industry Analysis (Phase 1) is expected to be presented to council in May.

Grants

- The Community Development department received a Business Oregon grant from the Brownfields Redevelopment Assessment grant program to fund Phase 1 and Phase 2 assessments on the Cash Spot and City Block 14 (formerly known as the Texaco site/city owned site). The application requested \$30,000 per site.

Wayfinding Systems Plan—Downtown

- The Wayfinding Systems Plan RFP has closed and three proposals were received. Sea Reach of Sheridan, OR was selected and will be kicking off the project in March.

Engineering

Riverfront Park (Bridge 22142)

- Completed design of the temporary repairs and currently obtaining quotes. Construction anticipated to commence within two weeks.

17th Avenue Multi-Use Trail

- The project bids have been received and the apparent low bidder is under the engineers estimate. The contracts are currently being routed for signatures with notice to proceed anticipated late March.

17th Avenue Waterline (Phase 2)

- Waterline work is complete.

Planning

Visioning and Comprehensive Plan Update

- Visioning expert Steven Ames has submitted a set of recommendations based on discussion at the Council study session on February 18. Planning department staff will incorporate the recommendations into an RFP for consultant help to develop a community vision.
- Three proposals were received for consultant assistance for a Housing Needs Analysis. Staff expects to negotiate a contract with the selected team during the week of March 14.

Land Use and Development Review

- Planning Commission:
 - On March 22, the Commission will hold a public hearing on an application for a conditional use and community service use application to allow Northwest Housing Alternatives to redevelop their site on Willard St with a new office building, a shelter facility, and 24 apartments.
- Land Use Applications¹:
 - No applications requiring a public notice have been filed since the last update.

Regional Planning Meetings

- The next Metro Technical Advisory Committee is scheduled to meet on March 23.

Building

- No update.

¹ Only those land use applications requiring public notice are listed here.



MILWAUKIE CITY COUNCIL
WORK SESSION

AGENDA
MARCH 15, 2016

City Hall Conference Room
10722 SE Main Street
www.milwaukieoregon.gov

A light dinner will be served.

Page #

4:00 p.m. EXECUTIVE SESSION

The City Council will meet in Executive Session pursuant to Oregon Revised Statute (ORS) 192.660(2)(h) to consult with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

- | | | | |
|-----------|------------------|---|-----------|
| 1. | 4:30 p.m. | Land Bank Authority Presentation on Enabling Legislation | 1 |
| | | Staff: Alma Flores, Community Development Director | |
| 2. | 5:00 p.m. | Short Term and Vacation Rentals | 31 |
| | | Staff: Denny Egner, Planning Director | |
| 3. | 5:15 p.m. | Farmers' Market Event Permit and Traffic Control Plan | 37 |
| | | Staff: Mitch Nieman, Assistant to the City Manager | |
| 4. | 5:25 p.m. | Milwaukie Museum Lease | 51 |
| | | Staff: Mitch Nieman, Assistant to the City Manager | |
| 5. | 5:35 p.m. | Riverfront Park Bridge Update | |
| | | Staff: Chuck Eaton, Engineering Director | |
| 6. | 5:45 p.m. | Adjourn | |

Meeting Information

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



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **WS 1.**
Meeting Date: March 15, 2016

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Land Bank Authority Presentation on Enabling Legislation**

From: Alma Flores, Community Development Director

Date: March 15, 2016

ACTION REQUESTED

Listen and respond to a presentation from members of the Regional Brownfields Coalition that assisted in developing House Bill 2734—the Land Bank Authority Bill. The bill was passed by the State and has been in effect since January 2016. Council could at a subsequent regular session vote on the establishment of the first City of Milwaukie Land Bank Authority.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

There are no prior actions and discussions on this topic.

BACKGROUND

As defined in ORS 285A.185, a “brownfield” means real property where expansion or redevelopment is complicated by actual or perceived environmental contamination. Brownfields must be cleaned up before they can be reused for jobs, housing, and other community needs. House Bill 2734 A would authorize cities and counties to organize land banks which could take ownership of brownfields with immunity from legal liability for legacy contaminations. During the period of ownership, these land bank authorities would be offered tax abatements for brownfield cleanup and redevelopment. House Bill 2734 A also details the authority and duties of land bank authorities and composition of land bank authority boards (see attached HB 2734).

CONCURRENCE

Community Development and City Manager concur with this presentation

FISCAL IMPACTS

None at the time of the presentation.

WORK LOAD IMPACTS

None at this time.

ALTERNATIVES

Buy land without the Land Bank Authority

ATTACHMENTS

1. House Bill 2734 and Brownfields Coalition program sheet
2. PowerPoint Presentation—David Rabbino
3. Brownfields Fact Sheet

**Enrolled
House Bill 2734**

Sponsored by Representative READ, Senator HANSELL, Representative FREDERICK; Representative HUFFMAN, Senators MONNES ANDERSON, ROBLAN (Presession filed.)

CHAPTER

AN ACT

Relating to remediation of contaminated property; creating new provisions; and amending ORS 244.050, 465.255, 466.640 and 468B.310.

Be It Enacted by the People of the State of Oregon:

LAND BANK AUTHORITIES

SECTION 1. As used in sections 1 to 8 of this 2015 Act:

- (1) "Authority" means any public land bank authority created pursuant to sections 1 to 8 of this 2015 Act.
- (2) "Brownfield" has the meaning given that term in ORS 285A.185.
- (3) "Local government" means a local government as defined in ORS 174.116 or a inter-governmental entity created under an intergovernmental agreement between two units of local government under ORS 190.010.
- (4) "Remedial action," "remedial action costs" and "removal" have the meanings given those terms in ORS 465.200.

SECTION 2. (1) A local government may, upon its own motion, consider whether it is advisable to create an authority for the purpose of acquiring, rehabilitating, redeveloping, reutilizing or restoring brownfield properties that are located within the geographic boundaries over which the local government has jurisdiction.

(2) If the local government, after public hearing according to the local government's rules, determines that it is wise and desirable to create in an authority the powers and duties set forth in sections 1 to 8 of this 2015 Act, the local government shall by ordinance or resolution create such an authority. The ordinance or resolution shall set forth:

- (a) The name of the authority, which shall be "The Land Bank Authority of (local government), Oregon" or other similar distinctive name.**
- (b) The number of directors of the authority, which must be an odd number not less than five or more than 11.**
- (c) The names of the initial directors and their initial terms of service, which may not exceed four years.**
- (d) Other provisions that may be appropriate and not inconsistent with sections 1 to 8 of this 2015 Act or the laws of Oregon.**

(3) Upon the adoption of an ordinance or resolution under subsection (2) of this section, the authority shall be deemed established as a municipal corporation of the state and as a

body corporate and politic exercising public powers. Notwithstanding any law to the contrary, the authority shall exist as a legal entity separate from the local government that created the authority.

(4) An authority organized under this section shall have all the powers and duties contained in sections 1 to 8 of this 2015 Act.

SECTION 3. (1) An authority shall be managed and controlled by a board of directors. The initial board of directors shall be appointed by the local government that created the authority. Subsequent directors shall be appointed as provided in this section and the rules adopted by the authority.

(2) The regular term of a member of the board is four years. The board may establish special terms for positions that are shorter than four years for the purpose of staggering the terms of members of the board. Before the expiration of the term of a member, a successor shall be appointed whose term begins on January 1 of the year next following. A member is eligible for reappointment but may serve no more than a total of three terms, including terms shorter than four years. If there is a vacancy for any cause, a new member shall be appointed to complete the unexpired term, subject to the requirements of subsection (3) of this section.

(3) The board of directors must include:

(a) At least one director who is also a member of the governing body of the local government that created the authority;

(b) At least one director who represents the largest municipal corporation within the geographic jurisdiction of the local government that is not a school district;

(c) At least one director who represents the largest school district within the geographic jurisdiction of the local government; and

(d) Subject to the maximum number of directors allowed by the ordinance or resolution establishing the authority, one or more directors who are also members of civic organizations that serve the same geographic jurisdiction as the authority and that have a purpose or mission that aligns with that of the authority.

(4) The board shall hold an annual meeting. The board shall select from among themselves at the annual meeting a chairperson, vice chairperson, secretary, treasurer and other officers as the board determines.

(5) The board shall adopt and may amend rules for calling and conducting its meetings and carrying out its business and may adopt an official seal. All decisions of the board shall be by motion or resolution and shall be recorded in the board's minute book, which shall be a public record. A majority of the directors of the board constitutes a quorum for the transaction of business, and a majority is sufficient to pass a motion or resolution.

(6) The board may employ employees and agents as the board deems appropriate and provide for their compensation. The employees and agents of the authority are not employees or agents of the local government that created the authority.

(7) A director is not entitled to compensation for service on the board of an authority.

SECTION 4. (1) An authority shall have all powers necessary to accomplish the purposes of acquiring, rehabilitating, redeveloping, reutilizing or restoring brownfield properties, including without limitation the power to:

(a) Sue and be sued, plead and be impleaded in all actions, suits or proceedings brought by or against the authority.

(b) Acquire, hold, use, enjoy and convey, lease or otherwise dispose of any interest in:

(A) Brownfield properties within the authority's geographic jurisdiction;

(B) Properties undergoing removal or remedial action under the supervision or approval of the Department of Environmental Quality that are within the authority's geographic jurisdiction; and

(C) Personal property.

(c) Conduct removal or remedial action on real property in which the authority has a property interest under an agreement with the Department of Environmental Quality.

(d) Assist parties that are interested in acquiring a property interest in real property held by the authority with entering into an agreement with the Department of Environmental Quality under ORS 465.327.

(e) Enter into contracts with any person.

(f) Borrow moneys and issue notes and revenue bonds for the purpose of carrying out the authority's powers.

(g) Invest moneys into property, securities or other instruments.

(h) Obtain insurance.

(i) Solicit and accept grants, gifts or other assistance from a public or private source.

(j) Develop and prepare plans or reports to evaluate the authority and to guide future improvements to the processes and operations of the authority.

(k) Develop priorities for the use of property of the authority that may include, but are not limited to, public use, affordable housing, open space and commercial or industrial development.

(L) Adopt and amend ordinances and resolutions.

(2) An authority may establish an advisory committee to advise the board of directors of the authority on the interests of the community in the actions of the board and the authority. If a committee is established, a member of the committee shall serve as a liaison between the board of the authority and a community of interest affected by a decision or proposed decision of the board.

(3) An authority shall give public notice of a proposed disposition of any interest in real property held by the authority. The notice shall allow 30 days for the public to comment on the proposed disposition. The authority shall provide responses to comments prior to final disposition of the property interest.

(4) An authority shall annually prepare and submit a report to the Governor and, in the manner described in ORS 192.245, submit the report to the Legislative Assembly. The report must summarize the activity of the authority, including a list of real properties in which the authority has acquired or disposed of a property interest, the method of acquisition or disposition, the price paid or received for each property and additional information as requested by the Governor, the President of the Senate or the Speaker of the House of Representatives.

SECTION 5. (1) Except as provided in subsection (2) of this section, the debts, obligations and other liabilities of an authority are not a general or other obligation or liability of the local government that created the authority.

(2) A local government may incur debt, including the issuance of bonds under any bonding authority available to the local government, on behalf of an authority created by the local government and, by ordinance or resolution, deem a debt incurred under this subsection to be a general obligation of the local government and a charge upon its tax revenues.

SECTION 6. (1) Except as provided in subsection (2) of this section, an authority, all assets owned by the authority, the income from those assets, and all bonds issued by the authority, together with the coupons applicable to those bonds and the income from the bonds, shall be exempt from all taxation in the State of Oregon.

(2) The real and personal property owned by the authority and leased to a third party shall be subject to property taxation if the property would be subject to taxation if owned by the lessee.

SECTION 7. (1) An authority shall keep a record of the authority's remedial action costs.

(2) Notwithstanding any law to the contrary, an authority may, based on the record compiled by the authority under subsection (1) of this section, bring an action to recover from a person liable under ORS 465.255 or 465.260 the amount of the authority's remedial action costs.

(3) In an action brought by an authority to recover remedial action costs under ORS 465.255 (1) or damages under ORS 468B.310 (1), the court may allow the authority to recover costs, expert witness fees, reasonable attorney fees and prejudgment or preaward interest if the authority prevails in the action.

SECTION 8. (1) Dissolution of an authority may be initiated:

(a) By resolution of the board of directors of the authority, filed with the local government that created the authority, if the board determines that dissolution of the authority is in the best interest of the community served by the authority; or

(b) By resolution of the local government that created the authority:

(A) If, at the time of the annual meeting of the board, board members have not been appointed to fill vacancies on the board as required by section 3 of this 2015 Act; or

(B) If the local government determines that dissolution of the authority is in the best interest of residents within the jurisdiction of the local government.

(2) Within five days after a resolution of the board is filed or a resolution of the local government is adopted under this section, a copy shall be filed with the secretary of the authority, if any, or with any other officer of the authority who can with reasonable diligence be located.

(3) If there are no members of the board of directors of the authority, the local government shall act as or appoint a board of trustees to act on behalf of the authority to develop and implement a plan for dissolution.

(4) Within 60 days after initiation of the dissolution proceeding, a plan of dissolution shall be filed with the office of the clerk of the county in which the authority is located and shall be available for inspection by any interested person.

(5) Upon approval of dissolution by the governing body of the local government that created the authority, the authority shall be declared dissolved. If the local government has not appointed a board of trustees under subsection (3) of this section:

(a) The board of directors shall constitute a board of trustees that shall pay the debts or procure releases of the debts and dispose of the property of the authority; or

(b) The board of directors may designate the local government as the board of trustees for the purpose of winding up the affairs of the authority.

(6) After the affairs of the authority have been fully settled, all books and records of the authority shall be deposited by the board of trustees in the office of the county clerk of the county in which the authority is located. At the same time, the board of trustees shall execute under oath, and file with the local government that created the authority, a statement that the authority has been dissolved and its affairs liquidated. From the date of the statement, the corporate existence of the authority is terminated for all purposes.

SECTION 9. ORS 465.255 is amended to read:

465.255. (1) The following persons shall be strictly liable for those remedial action costs incurred by the state or any other person that are attributable to or associated with a facility and for damages for injury to or destruction of any natural resources caused by a release:

(a) Any owner or operator at or during the time of the acts or omissions that resulted in the release.

(b) Any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in the release, and who knew or reasonably should have known of the release when the person first became the owner or operator.

(c) Any owner or operator who obtained actual knowledge of the release at the facility during the time the person was the owner or operator of the facility and then subsequently transferred ownership or operation of the facility to another person without disclosing such knowledge.

(d) Any person who, by any acts or omissions, caused, contributed to or exacerbated the release, unless the acts or omissions were in material compliance with applicable laws, standards, regulations, licenses or permits.

(e) Any person who unlawfully hinders or delays entry to, investigation of or removal or remedial action at a facility.

(2) Except as provided in subsection (1)(c) to (e) of this section and subsection (4) of this section, the following persons shall not be liable for remedial action costs incurred by the state or any other person that are attributable to or associated with a facility, or for damages for injury to or destruction of any natural resources caused by a release:

(a) Any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in a release, and who did not know and reasonably should not have known of the release when the person first became the owner or operator.

(b) Any owner or operator if the release at the facility was caused solely by one or a combination of the following:

(A) An act of God. "Act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(B) An act of war.

(C) Acts or omissions of a third party, other than an employee or agent of the person asserting this defense, or other than a person whose acts or omissions occur in connection with a contractual relationship, existing directly or indirectly, with the person asserting this defense. As used in this subparagraph, "contractual relationship" includes but is not limited to land contracts, deeds or other instruments transferring title or possession.

(3) Except as provided in subsection (1)(c) to (e) of this section or subsection (4) of this section, the following persons shall not be liable for remedial action costs incurred by the state or any other person that are attributable to or associated with a facility, or for damages for injury to or destruction of any natural resources caused by a release:

(a) A unit of state or local government that acquired ownership or control of a facility in the following ways:

(A) Involuntarily by virtue of its function as sovereign, including but not limited to escheat, bankruptcy, tax delinquency or abandonment; or

(B) Through the exercise of eminent domain authority by purchase or condemnation.

(b) A person who acquired a facility by inheritance or bequest.

(c) Any fiduciary exempted from liability in accordance with rules adopted by the Environmental Quality Commission under ORS 465.440.

(d) An authority that becomes the owner or operator of the facility as authorized in section 4 of this 2015 Act.

(4) Notwithstanding the exclusions from liability provided for specified persons in subsections (2) and (3) of this section such persons shall be liable for remedial action costs incurred by the state or any other person that are attributable to or associated with a facility, and for damages for injury to or destruction of any natural resources caused by a release, to the extent that the person's acts or omissions contribute to such costs or damages, if the person:

(a) Obtained actual knowledge of the release and then failed to promptly notify the Department of Environmental Quality and exercise due care with respect to the hazardous substance concerned, taking into consideration the characteristics of the hazardous substance in light of all relevant facts and circumstances; or

(b) Failed to take reasonable precautions against the reasonably foreseeable acts or omissions of a third party and the reasonably foreseeable consequences of such acts or omissions.

(5)(a) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from any person who may be liable under this section, to any other person, the liability imposed under this section. Nothing in this section shall bar any agreement to insure, hold harmless or indemnify a party to such agreement for any liability under this section.

(b) A person who is liable under this section shall not be barred from seeking contribution from any other person for liability under ORS 465.200 to 465.545 and 465.900.

(c) Nothing in ORS 465.200 to 465.545 and 465.900 shall bar a cause of action that a person liable under this section or a guarantor has or would have by reason of subrogation or otherwise against any person.

(d) Nothing in this section shall restrict any right that the state or any person might have under federal statute, common law or other state statute to recover remedial action costs or to seek any other relief related to a release.

(6) To establish, for purposes of subsection (1)(b) of this section or subsection (2)(a) of this section, that the person did or did not have reason to know, the person must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability.

(7)(a) Except as provided in paragraph (b) of this subsection, no person shall be liable under ORS 465.200 to 465.545 and 465.900 for costs or damages as a result of actions taken or omitted in the course of rendering care, assistance or advice in accordance with rules adopted under ORS 465.400 or at the direction of the department or its authorized representative, with respect to an incident creating a danger to public health, safety, welfare or the environment as a result of any release of a hazardous substance. This paragraph shall not preclude liability for costs or damages as the result of negligence on the part of such person.

(b) No state or local government shall be liable under ORS 465.200 to 465.545 and 465.900 for costs or damages as a result of actions taken in response to an emergency created by the release of a hazardous substance generated by or from a facility owned by another person. This paragraph shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the state or local government. For the purpose of this paragraph, reckless, willful or wanton misconduct shall constitute gross negligence.

(c) This subsection shall not alter the liability of any person covered by subsection (1) of this section.

SECTION 10. ORS 466.640 is amended to read:

466.640. (1) Any person owning or having control over any oil or hazardous material spilled or released or threatening to spill or release shall be strictly liable without regard to fault for the spill or release or threatened spill or release. However, in any action to recover damages, the person shall be relieved from strict liability without regard to fault if the person can prove that the spill or release of oil or hazardous material was caused by:

(a) An act of war or sabotage or an act of God.

(b) Negligence on the part of the United States Government or the State of Oregon.

(c) An act or omission of a third party without regard to whether any such act or omission was or was not negligent.

(2) Notwithstanding the provisions of subsection (1) of this section:

(a) A person who has entered into, and is in compliance with, an administrative agreement under ORS 465.327 is not liable to the State of Oregon for any spill or release of oil or hazardous material at a facility that is subject to ORS 465.200 to 465.545 existing as of the date of the person's acquisition of ownership or operation of the facility, to the extent provided in ORS 465.327.

(b) A person who has entered into, and is in compliance with, a judicial consent judgment or an administrative consent order under ORS 465.327 is not liable to the State of Oregon or any person for any spill or release of oil or hazardous material at a facility that is subject to ORS 465.200 to 465.545 existing as of the date of the person's acquisition of ownership or operation of the facility, to the extent provided in ORS 465.327.

(c) An authority created under sections 1 to 8 of this 2015 Act is not liable to the State of Oregon or any person for any spill or release of oil or hazardous material at a facility that is subject to ORS 465.200 to 465.545 existing as of the date of the authority's acquisition of ownership or operation of the facility, to the extent provided in ORS 465.327 for a person that has entered into, and is in compliance with, an administrative agreement, judicial consent judgment or an administrative consent order.

SECTION 11. ORS 468B.310 is amended to read:

468B.310. (1) Any person owning oil or having control over oil which enters the waters of the state in violation of ORS 468B.305 shall be strictly liable, without regard to fault, for the damages to persons or property, public or private, caused by such entry. However, in any action to recover damages, the person shall be relieved from strict liability without regard to fault if the person can prove that the oil to which the damages relate, entered the waters of the state by causes set forth in ORS 468B.305 (2).

(2) Nothing in this section shall be construed as limiting the right of a person owning or having control of oil to maintain an action for the recovery of damages against another person for an act or omission of such other person resulting in the entry of oil into the waters of the state for which the person owning or having control of such oil is liable under subsection (1) of this section.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section:

(a) A person who has entered into, and is in compliance with, an administrative agreement under ORS 465.327 is not liable to the State of Oregon for any entry of oil into the waters of the state from a facility that is subject to ORS 465.200 to 465.545 and 468B.300 to 468B.500 that occurred before the date of the person's acquisition of ownership or operation of the facility, to the extent provided in ORS 465.327.

(b) A person who has entered into, and is in compliance with, a judicial consent judgment or an administrative consent order under ORS 465.327 is not liable to the State of Oregon or any person for any entry of oil into the waters of the state from a facility that is subject to ORS 465.200 to 465.545 and 468B.300 to 468B.500 that occurred before the date of the person's acquisition of ownership or operation of the facility, to the extent provided in ORS 465.327.

(c) An authority created under sections 1 to 8 of this 2015 Act is not liable to the State of Oregon or any person for any entry of oil into the waters of this state from a facility that is subject to ORS 465.200 to 465.545 and 468B.300 to 468B.500 that occurred before the date of the authority's acquisition of ownership or operation of the facility, to the extent provided in ORS 465.327 for a person that has entered into, and is in compliance with, an administrative agreement, judicial consent judgment or an administrative consent.

CONFORMING AMENDMENTS

SECTION 12. ORS 244.050 is amended to read:

244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon Government Ethics Commission a verified statement of economic interest as required under this chapter:

(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

(b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem judicial officer who does not otherwise serve as a judicial officer.

(c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

(d) The Deputy Attorney General.

(e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the Secretary of the Senate and the Chief Clerk of the House of Representatives.

(f) The Chancellor and Vice Chancellors of the Oregon University System and the president and vice presidents, or their administrative equivalents, in each public university listed in ORS 352.002.

(g) The following state officers:

(A) Adjutant General.

(B) Director of Agriculture.

(C) Manager of State Accident Insurance Fund Corporation.

(D) Water Resources Director.

(E) Director of Department of Environmental Quality.

(F) Director of Oregon Department of Administrative Services.

(G) State Fish and Wildlife Director.

- (H) State Forester.
- (I) State Geologist.
- (J) Director of Human Services.
- (K) Director of the Department of Consumer and Business Services.
- (L) Director of the Department of State Lands.
- (M) State Librarian.
- (N) Administrator of Oregon Liquor Control Commission.
- (O) Superintendent of State Police.
- (P) Director of the Public Employees Retirement System.
- (Q) Director of Department of Revenue.
- (R) Director of Transportation.
- (S) Public Utility Commissioner.
- (T) Director of Veterans' Affairs.
- (U) Executive director of Oregon Government Ethics Commission.
- (V) Director of the State Department of Energy.
- (W) Director and each assistant director of the Oregon State Lottery.
- (X) Director of the Department of Corrections.
- (Y) Director of the Oregon Department of Aviation.
- (Z) Executive director of the Oregon Criminal Justice Commission.
- (AA) Director of the Oregon Business Development Department.
- (BB) Director of the Office of Emergency Management.
- (CC) Director of the Employment Department.
- (DD) Chief of staff for the Governor.
- (EE) Administrator of the Office for Oregon Health Policy and Research.
- (FF) Director of the Housing and Community Services Department.
- (GG) State Court Administrator.
- (HH) Director of the Department of Land Conservation and Development.
- (II) Board chairperson of the Land Use Board of Appeals.
- (JJ) State Marine Director.
- (KK) Executive director of the Oregon Racing Commission.
- (LL) State Parks and Recreation Director.
- (MM) Public defense services executive director.
- (NN) Chairperson of the Public Employees' Benefit Board.
- (OO) Director of the Department of Public Safety Standards and Training.
- (PP) Executive director of the Higher Education Coordinating Commission.
- (QQ) Executive director of the Oregon Watershed Enhancement Board.
- (RR) Director of the Oregon Youth Authority.
- (SS) Director of the Oregon Health Authority.
- (TT) Deputy Superintendent of Public Instruction.
- (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
- (i) Every elected city or county official.
- (j) Every member of a city or county planning, zoning or development commission.
- (k) The chief executive officer of a city or county who performs the duties of manager or principal administrator of the city or county.
- (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- (m) Every member of a governing body of a metropolitan service district and the executive officer thereof.
- (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- (o) The chief administrative officer and the financial officer of each common and union high school district, education service district and community college district.
- (p) Every member of the following state boards and commissions:
 - (A) Board of Geologic and Mineral Industries.

- (B) Oregon Business Development Commission.
- (C) State Board of Education.
- (D) Environmental Quality Commission.
- (E) Fish and Wildlife Commission of the State of Oregon.
- (F) State Board of Forestry.
- (G) Oregon Government Ethics Commission.
- (H) Oregon Health Policy Board.
- (I) State Board of Higher Education.
- (J) Oregon Investment Council.
- (K) Land Conservation and Development Commission.
- (L) Oregon Liquor Control Commission.
- (M) Oregon Short Term Fund Board.
- (N) State Marine Board.
- (O) Mass transit district boards.
- (P) Energy Facility Siting Council.
- (Q) Board of Commissioners of the Port of Portland.
- (R) Employment Relations Board.
- (S) Public Employees Retirement Board.
- (T) Oregon Racing Commission.
- (U) Oregon Transportation Commission.
- (V) Water Resources Commission.
- (W) Workers' Compensation Board.
- (X) Oregon Facilities Authority.
- (Y) Oregon State Lottery Commission.
- (Z) Pacific Northwest Electric Power and Conservation Planning Council.
- (AA) Columbia River Gorge Commission.
- (BB) Oregon Health and Science University Board of Directors.
- (CC) Capitol Planning Commission.
- (DD) Higher Education Coordinating Commission.
- (EE) Oregon Growth Board.
- (FF) Early Learning Council.
- (q) The following officers of the State Treasurer:
 - (A) Deputy State Treasurer.
 - (B) Chief of staff for the office of the State Treasurer.
 - (C) Director of the Investment Division.
- (r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725 or 777.915 to 777.953.
- (s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.
- (t) Every member of a governing board of a public university with a governing board listed in ORS 352.054.

(u) Every member of the board of directors of an authority created under sections 1 to 8 of this 2015 Act.

(2) By April 15 next after the date an appointment takes effect, every appointed public official on a board or commission listed in subsection (1) of this section shall file with the Oregon Government Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(3) By April 15 next after the filing deadline for the primary election, each candidate described in subsection (1) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(4) Within 30 days after the filing deadline for the general election, each candidate described in subsection (1) of this section who was not a candidate in the preceding primary election, or who was nominated for public office described in subsection (1) of this section at the preceding primary

election by write-in votes, shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or appointed public officials as of April 15 and to persons who are candidates on April 15. Subsections (1) to (4) of this section also apply to persons who do not become candidates until 30 days after the filing deadline for the statewide general election.

(6) If a statement required to be filed under this section has not been received by the commission within five days after the date the statement is due, the commission shall notify the public official or candidate and give the public official or candidate not less than 15 days to comply with the requirements of this section. If the public official or candidate fails to comply by the date set by the commission, the commission may impose a civil penalty as provided in ORS 244.350.

UNIT CAPTIONS

SECTION 13. The unit captions used in this 2015 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2015 Act.

Passed by House June 4, 2015

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 23, 2015

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

.....
Jeanne P. Atkins, Secretary of State



BROWNFIELD RESOURCES

Resources are Available for Cleaning up Brownfields at Federal, State, and Local Levels

Only a few sites within Milwaukie require brownfield remediation. These sites, however, are located in distinct opportunity areas with attractive economic potential. **Brownfield Resources** are available for firms looking to develop these sites.



Brownfields are commonly defined as properties where expansion or redevelopment is complicated by actual or perceived environmental contamination.

Many programs assist with brownfields. Listed below are federal, state, and local programs and funding sources commonly used to assist in brownfield investigation, cleanup, and redevelopment, plus news and links to related web pages. See the reverse of this flyer for more information about these programs.

Federal Brownfield Resources

EPA brownfields and land revitalization
EPA brownfield grants

State of Oregon Brownfield Resources

Oregon Health Authority's Brownfield Initiative
DEQ Prospective Purchaser Agreements
DEQ Site-Specific Assessments of Brownfields
Business Oregon Brownfield Redevelopment Fund
Oregon Coalition Brownfields Cleanup
Infrastructure Finance Authority
Technical Assistance to Brownfields Communities
The Center for Creative Land Recycling

Local Brownfield Resources

Local Government Environmental Assistance Network

Photo by Mark Gamba



Brownfield Resources

FEDERAL PROGRAMS

EPA Brownfields Program

The EPA's Brownfields Program is a federal program designed to empower states, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and sustainably reuse brownfields.

In the first quarter of 2015 alone, the EPA Brownfields Program completed 71 cleanups and 811 assessments. These actions leveraged an additional \$570 million from program recipients. The EPA estimates that these projects have already leveraged 2,937 jobs and has made 2,858 acres ready for anticipated reuse.

For more information visit <http://www.epa.gov/swerosps/bf/index.html>

EPA Grants & Funding

The EPA Brownfields Program offers funding for a variety of remediation activities. Various funds include Assessment Grants, Revolving Loan Fund Grants, Job Training Grants, Technical Assistance Grants, and Cleanup Grants. Cleanup Grants can be awarded up to \$200,000 for specific sites.

For more information visit: http://www.epa.gov/swerosps/bf/grant_info/index.htm

OREGON BROWNFIELD PROGRAMS

The Oregon Department of Environmental Quality manages two brownfields financing funds: the **Oregon Brownfields Redevelopment Fund**, funded by proceeds from the sale of state revenue bonds, and the **Oregon Coalition Brownfields Cleanup Fund**, capitalized through a revolving loan grant from the U.S. EPA.

Both programs are primarily revolving loan programs. However, limited grants can be awarded on a case-by-case basis for publicly-owned projects, depending on a financial analysis of the applicant's debt capacity and public benefits of the redevelopment project. Examples of public benefits include family-wage job creation, assistance for economically distressed communities, or addressing an urgent need of a local population.

For more information visit <http://www.orinfrastructure.org/Infrastructure-Programs/Brownfields/>

LOCAL BROWNFIELD RESOURCES

Local Government Environmental Assistance Network

The LGEAN offers numerous online resources including funding sources, EPA news and updates, and extensive information about various brownfield and pollution topics including air, water, wastes, materials, and energy.

For more information visit the LGEAN on the web at: <http://www.lgean.org/wastes/wastes.cfm>

MORE INFORMATION

For more information about brownfield resources as well as all the programs listed above visit the Oregon Department of Environmental Quality website at <http://www.deq.state.or.us/lq/cu/brownfields/index.htm>. For more information about specific brownfield sites in Milwaukie, contact Alma Flores at floresa@MilwaukieOregon.gov or (503)-786-7652.

Alma Flores
Community Development Director
Phone: 503-786-7652
Fax: 503-774-8236
floresa@MilwaukieOregon.gov



Photo by Mark Gamba

Oregon, Brownfields, and the New Land Bank Authority

How Does It All Work – And Why The City of Milwaukie Should Be Interested

Presented by David A. Rabbino, Esq.

Tonkon Torp LLP

March 15, 2016

City of Milwaukie



What is a “Brownfield”?

- Generally – Any Property With Some Environmental Contamination That Impedes Development;
- Per ORS 285A.185: “real property where expansion or redevelopment is complicated by actual or perceived environmental contamination”;
- Can Be Anything From A Former Dry Cleaner Site To A Large Scale Industrial Setting Such As The Former Blue Heron Site In Oregon City.

Why Are Brownfields Problems?

- They Present A Potential Health Hazard To The People Who Live Nearby;
- They Impair The Value Of Surrounding Properties, Reducing Property Tax Revenues;
- They Contribute To General Blight Conditions;
- They Can Result In "Dead Areas" In What Could Otherwise Be Vibrant Neighborhoods.

Brownfields in Milwaukie

- Why is this important?
 - The city is landlocked; redevelopment or infill development will be our main growth pattern in the future
 - Helps address limited supply of industrial and employment land in the city
 - Address public health concerns, and stimulate the local economy
- Milwaukie currently has 74 known brownfield sites, comprising 142.5 acres, (4.6%) of the City
- Milwaukie has a unique brownfield inventory ranging from vacant tax lots to industrial facilities
- Could provide opportunities to advance city goals and objectives while removing barriers/constraints to development

Impediments To Brownfield Redevelopment

- Many Brownfields Owners Have Neither The Will Nor Means To Clean Up Or Redevelop The Property;
- Private Developers Are Reluctant To Acquire Brownfields Due To Unknown Extent Of Liability And Costs To Clean Up The Properties;
- Environmental Laws Provide Limited Ways For Local Governments To Acquire Brownfields Without Being Subject To Environmental Liability As An “Owner.”

What Tools Exist To Help Remediate Brownfields?

- Tools Are Both Public And Private;
- There Are EPA/State Grants;
- There Is Contribution Litigation;
- There Are Prospective Purchaser Agreements (“PPAs”);
- The Is The “Land Bank Authority.”

HB 2734 - The Land Bank Authority Bill

- HB 2734, Was Enacted To Enable Local Government To "create an authority for the purpose of acquiring, rehabilitating, redeveloping, reutilizing, or restoring brownfield properties that are located within the geographic boundaries over which the local government has jurisdiction“;
- Once Established, A Land Bank Authority Has "all powers necessary to accomplish the purposes of acquiring, rehabilitating, redeveloping, reutilizing or restoring brownfield properties."

How Does The Land Bank Authority Work?

- Land Bank Authorities Are Created By Resolution/Ordinance Of The Local Government;
- The Land Bank Authority Is Managed And Controlled By A Board of Directors Made Up Of Individuals From The Local Government And Local Community;
- A Land Bank Authority May Also Establish A Community Advisory Committee.

How Does The Land Bank Authority Work?

- Once Set Up, An LBA Is A “Municipal Corporation” Under Oregon law;
- Subject To All Public Records Requirements;
- Must Give Public Notice Of Proposed Dispositions Of Land; and,
- Prepare An Annual Report To The Governor.

The Powers Of A Land Bank Authority

- LBA Can Buy And Sell Properties, Lease Properties, Accept Property By Gift, Issue Bonds, And Take On Debt To Acquire Properties;
- LBA Can Initiate Cleanup Activities At Brownfield Properties And Seek To Recover Cleanup Costs;
- LBA Can Develop Priorities For The Use Of The Property It Acquires;
- LBA Can Aggregate Properties And Serve As “Patient Capital”

Liability Protections Given To An LBA

- LBA Is A Separate Legal Entity - LBA's Actions And Debts Are Not Attributable To The Local Government That Creates It – Unless It Expressly Agrees To Be;
- LBAs Are Exempt From Both Property Tax And State Income Tax On Their Assets While They Own Them;
- LBA Does Not Acquire "Owner" Liability Under State Laws Simply As A Result Of Acquiring A Brownfield.

Possible Funding Mechanisms: Capitalization

- **General fund allocation(s)** - Allocations Can Be Made Over Multiple Years To Build Corpus, Requires Political Approval;
- **General Obligation (GO) Bond** - Significant Financial Capacity, But Requires Public Vote;
- **Revenue Bonds** - Requires Dedication Of A Revenue Stream For Debt Repayment; and,

Possible Funding Mechanisms: Capitalization

- **SDCs or Linkage Fees On New Development** - Dependent On New Development; Requires Legal Analysis;
- **Urban Renewal** - Strong Nexus Between Fund Purpose And LBA Actions, May Require Plan Amendments To Overcome Possible Limitations on UR \$\$ Use;
- **Public/Private Partnership** – JV; LBA and Developer.

New Opportunities Under Land Bank Authority Bill

- Opportunity To Acquire Property For Development;
- Opportunity For In Public/Private Partnership;
- Opportunity To Collaborate With Community;
- Opportunity To Acquire Brownfield Property Without Liability For Existing Contamination;
- Opportunity To Perform Remediation And Seek Cost Recovery.

Conclusion

- Brownfield Properties Exist in Milwaukie – They Are Opportunities, Not Necessarily Liabilities;
- The Liability Protection And Tax Exemption Provisions Of HB 2734 Remove Much Of The Financial Risk And Legal Uncertainty Previously Associated With A Local Government's Acquisition Of Contaminated Property;
- Land Bank Authorities Promote Local Control;
- Counties/Local Governments That Move First Will Benefit The Most.



ATTACHMENT 3

OREGON BROWNFIELDS COALITION

ORGANIZATIONAL COALITION MEMBERS AS OF JANUARY 2015

ASSOCIATION OF OREGON COUNTIES
LEAGUE OF OREGON CITIES
OREGON PUBLIC PORTS ASSOCIATION
CITIES OF BEAVERTON, BEND, EUGENE,
LINCOLN CITY, PORTLAND, SALEM AND
SPRINGFIELD
CLACKAMAS COUNTY
MULTNOMAH COUNTY
WASHINGTON COUNTY
METRO
PORT OF PORTLAND
BUSINESS OREGON
OREGON DEPT. OF ENVIRONMENTAL
QUALITY
OREGON HEALTH AUTHORITY
REGIONAL SOLUTIONS CENTER
US ENVIRONMENTAL PROTECTION
AGENCY
1000 FRIENDS OF OREGON
AUDUBON SOCIETY OF PORTLAND
BEYOND TOXICS
COMMUNITY HOUSING FUND
GROUNDWORK PORTLAND
NEIGHBORHOOD PARTNERSHIPS
OREGON ENVIRONMENTAL JUSTICE
TASK FORCE
OREGON OPPORTUNITY NETWORK
UPSTREAM PUBLIC HEALTH
VERDE
ASSOCIATED OREGON INDUSTRIES
COLUMBIA CORRIDOR ASSOCIATION
NORTHWEST ENVIRONMENTAL
BUSINESS COUNCIL
OREGON BUSINESS ASSOCIATION
OREGON ECONOMIC DEVELOPMENT
ASSOCIATION
OREGON STATE BUILDING &
CONSTRUCTION TRADES COUNCIL
OREGON STATE CHAMBER OF
COMMERCE
CLACKAMAS COUNTY BUSINESS
ALLIANCE
PORTLAND BUSINESS ALLIANCE
WESTSIDE ECONOMIC ALLIANCE
PORTLAND STATE UNIVERSITY

BROWNFIELDS: POLLUTED SITES, NEW HOPE

Oregon is burdened by thousands of polluted sites called brownfields. Ranging in size from large factory sites to small former gas stations and dry cleaners, over 13,000 brownfields are scattered throughout the state – only 35 percent of which have been assessed or cleaned up.

Nearly every Oregonian has a brownfield in their community. They are the vacant lots we drive by daily, the piles of polluted dirt behind rusting chain link fences, the abandoned storefronts blighting our main streets.

Brownfields must be cleaned up before they can be reused for jobs, housing and other community needs. However, cleanup is expensive. Current owners and potential developers are required to pay, even though the original polluters may have gone bankrupt, been acquired by other companies or disappeared. Landowners interested in cleanup often face a time-consuming and expensive maze of permits, regulations and inspections. Many landowners and developers steer clear of known or potential brownfields because the costs and risks are too high to justify action.

Government action to help get brownfields cleaned up could unlock billions of dollars of economic activity. The state's small Brownfields Redevelopment Fund has helped create \$2.3 billion in economic activity with relatively minimal investment. But so far the fund has barely scratched the surface of Oregon's brownfield challenge.

SOLUTIONS TO OREGON'S BROWNFIELD CHALLENGE

The Oregon Brownfields Coalition has this goal: find collaborative strategies to help turn these liabilities into community assets quickly and equitably. The members of the Coalition represent public, private and nonprofit partners and a wide range of disparate interests. But we share a common goal with respect to this critical challenge. Brownfields are holding our communities and our economy back. It's time to take action to help communities all over Oregon.

The Coalition proposes these solutions in the 2015 legislative session:

- **Recapitalize the state Brownfields Redevelopment Fund**, as proposed in the Governor's budget.
- Allow local communities to create **land banks** and offer **tax abatements** for brownfield cleanup and redevelopment.
- Create **state tax credits** for brownfield redevelopment.

We look forward to working with you to solve Oregon's brownfield challenge.

CONTACT

Oregon Brownfields Coalition
503-797-1562
oregonmetro.gov/brownfields

WS29



2015 LEGISLATIVE PROPOSAL: MORE DETAILS

Every brownfield is different. It is important to have a range of tools to solve Oregon's brownfield challenge. As such, the Brownfields Coalition is respectfully presenting a three-part legislative proposal for the 2015 Oregon Legislature. In addition to recapitalizing the state Brownfield Fund, here are the strategies the Coalition is recommending.

LAND BANKS: COMMUNITY CREATED, COMMUNITY DRIVEN

A land bank is a locally-created public authority that can acquire, hold, manage and transfer property to new owners. Land banks aim to return brownfield sites neglected by the open market back into productive use. They do this by:

- acquiring titles to contaminated, vacant, or blighted properties
- facilitating remediation and/or site improvements to eliminate barriers to redevelopment
- transferring properties to owners who will develop the property in a way that supports community priorities.

A land bank works in cooperation with local governments, non-profits, community organizations, lenders, and property developers to leverage available resources to clean up contaminated properties.

How would land banks benefit Oregon communities? Local land banks let the community create a streamlined process to acquire, clean up and redevelop brownfields throughout the state. By making the process faster, easier and cheaper, communities can more easily return brownfields to productive use, in a way that reflects their own values.

BROWNFIELD TAX ABATEMENTS: LOCAL SOLUTIONS MAKE THINGS HAPPEN

Brownfield tax abatements are partial property tax exclusions for specified improvements to brownfields. They can offset risks and costs of brownfield cleanup, especially for sites that would otherwise remain polluted. Abatements can:

- be targeted to specific reinvestment areas
- have a set of conditions attached for participation
- be enacted at the discretion of the local jurisdiction
- offer a new benefit to non-profit development organizations

A tax abatement program for brownfields would focus on work done to assess a property's current contamination and for any cleanup done by the owner. No abatement would be given for any subsequent redevelopment on the property.

How would a tax abatement benefit Oregon communities? A tax abatement program would give local control to municipalities to provide incentives for brownfield remediation and redevelopment. Properties that don't pencil out for redevelopment could potentially become feasible to property owners and industrial developers much sooner.

BROWNFIELD TAX CREDIT: STATE LEADERSHIP CREATES JOBS

A brownfield tax credit would allow property owners and developers to reduce income taxes by a percentage of the documented qualifying costs of brownfield cleanup. This incentive can help offset risks and costs of brownfield cleanup, especially for sites that would otherwise remain polluted. The tax credit can:

- apply to prospective purchasers or non-responsible owners (public, private, non-profit)
- have an annual program cap
- require property owners to be enrolled in a DEQ cleanup program
- require a contribution of cleanup costs from the owner

A tax credit program for brownfields would focus on any work done to assess and cleanup properties, including assessment, demolition, cleanup, and disposal.

How would a tax credit benefit Oregon communities? A tax credit would give a statewide incentive to property owners and developers that might not explore development on known brownfields. The credit could tilt the development feasibility of key industrial and employment sites, as well as town center and main street redevelopment opportunities statewide. Similar tax credits in other states have created thousands of jobs with relatively little state investment.



MILWAUKIE CITY COUNCIL
STAFF REPORT

To: Mayor and City Council

Through: Bill Monahan, City Manager
Alma Flores, Community Development Director

Subject: **Short-Term and Vacation Rentals**

From: Denny Egner, Planning Director

Date: February 24, 2016, for March 15, 2016, Study Session

ACTION REQUESTED

No action is requested. The purpose of the March 15 work session to prepare the Council for a public hearing tentatively scheduled for April 12, 2016.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

A. History of Prior Actions and Discussions

- **February 23, 2016:** The Planning Commission unanimously recommended (5-0) that code amendments to allow short term rentals and vacation rentals be adopted.
- **February 9, 2016:** The Planning Commission opened a public hearing on code amendments to allow short-term and vacation rentals in the City.
- **January 12, 2016:** A worksession was held with the Planning Commission to introduce the draft code language that would be discussed at the February 9, 2016 public hearing. Two key issues identified at the meeting included the use of accessory dwelling units for short-term rental purposes and parking.
- **October 13, 2015:** The Planning Commission held a worksession on the topic and provided general guidance for development of an initial set of draft code amendments.
- **September 23, 2015:** Staff held a worksession with owners/operators of local short-term rental businesses and Neighborhood District Association (NDA) representatives. The meeting was attended by ten local owners/operators and two representatives from NDAs.
- **July 23, 2015:** The City Council held a study session to discuss the sharing economy and provide staff with direction regarding program development and regulation. The Council directed staff to move forward with a process to provide greater flexibility for short-term rentals.
- **February 17, 2015:** During the Community Development Update at the Council meeting on February 17, 2015, the Planning Director noted that staff was developing an interim approach to allow short-term rentals in single family zones provided that a room was only rented once per month. This approach was in response to concerns about code enforcement on a number of short-term rental operations following a complaint about an Airbnb rental in a single family neighborhood.
- **February 7, 2015:** The City Council held a goal setting forum at City Hall on February 7, 2015. Among the 228 comments received at the forum were several that addressed

the sharing economy and opportunities for short-term rentals. Council members expressed interest in the subject but did not prioritize it during further discussion of goals.

BACKGROUND

A. What are short-term rentals?

Short-term rentals are housing units and rooms that are rented out for periods less than 30 days in length. There are two types of short-term rentals:

- Hosted – where the primary occupants are present during the rental.
- Unhosted – where the primary occupants vacate the unit during the rental period.

Vacation rental are similar to short-term rentals but are unhosted with no primary occupants. A short-term rental (whether hosted or unhosted) is generally considered to be an accessory use to a primary residence. A vacation rental is considered a primary use and is more commercial in nature.

Short-term rental operators typically rely on services such as Airbnb and Vacation Rentals by Owner (VRBO) to rent rooms and houses.

Short-term rental operators may or may not offer services similar to a typical bed and breakfast. Most bed and breakfast operators live in the house with the rental rooms and offer breakfast with a night's lodging.

B. Proposal

The proposal would amend the text of the zoning ordinance to allow short-term rentals in residential areas as a home occupation (rentals for less than 30 consecutive days) provided the house is occupied by an owner or primary occupant for no less than 270 days per year. For hosted rentals, the owner/occupant may rent out one or two bedrooms (rental of three or more rooms would be processed as a bed and breakfast). Unhosted rentals (for rental of the entire house) would be allowed for up to 95 days per year. The owner/occupant would be required to obtain an annual Lodging Operator's License to operate within the City. The license process would include an application fee and an inspection to verify that the sleeping rooms meet minimum building code requirements.

As a home occupation, the short-term rental would be expected to maintain the outward appearance of a residence and present no perceptible impacts on the surrounding neighborhood. Failure to maintain the residential character of the property would result in revocation of the license by the City.

Bed and breakfasts are a form of commercial lodging where hosts rent out three or more rooms to one or more parties on any given day. The proposal would make bed and breakfasts a conditional use in low density residential zones. Today they are prohibited.

Vacation rentals are unhosted short-term rentals where the owner or primary occupant is absent for more than 270 days per year. The proposal would make vacation rentals a conditional use in residential districts and the DMU zone and a permitted use in the C-L, C-G, NMU, and GMU zones.

Hotels and motels are common forms of commercial lodging but there are none located within the Milwaukie city limits. The proposal would continue to allow hotels and motels in commercial and mixed use zones but would prohibit hotels and motels in all residential

zones except the R1-B zone where it would remain a conditional use. Today, hotels and motels are permitted as conditional uses in the R-1 and R-2 high density residential zones. In the C-L zone and the C-G zone, hotels and motels are currently allowed as "High Impact Commercial Businesses" though the conditional use process. The changes would allow these uses outright in the C-G zone and clarify that they are conditional uses in the C-L zone.

Boarding houses are a form of residential lodging where rooms in a building are provided for lodging in exchange for compensation. Boarding house operators may provide meals to lodgers. Boarding houses are not occupied as a single-family unit and are subject to capacity requirements of the UBC. No substantive change is proposed for boarding houses.

| Use | Use Type - Residential or Commercial | Number of guest parties allowed | Owner/full-time operator present | Proposed Process in Residential Zones |
|------------------------------|--------------------------------------|---------------------------------|---|--|
| Short-term Rental - Hosted | Residential | 1 to 2 | Y | Home Occupation with Lodging Operators License |
| Short-term Rental - Unhosted | Residential | 1 | N - but use is limited to 95 days per calendar year | Home Occupation with Lodging Operators License |
| Bed and Breakfast | Commercial | 3 or more | Y | Conditional Use |
| Vacation Rental | Commercial | 1 | N | Conditional Use |
| Hotel/Motel | Commercial | Multiple | Y | Not allowed – except for the R1-B zone |
| Boarding House | Residential | Multiple | Y | CU in medium and high density zones |

The proposal includes new home occupation standards for short-term rentals. These include operational limitations on the number of days per year that that a unit can be rented and the number of parties that can occupy a dwelling at a given time.

In response to questions raised by the Planning Commission at the January 12, 2016, worksession, the proposal now clearly allows the use of properties with accessory dwelling units for short-term rental purposes. The proposal would require the owner to occupy one of the units on the property for no less than 270 days per year.

The proposed amendments make the following changes to base zone requirements:

| Uses Allowed by Base Zone | | | | |
|---|-------------------|------------------|-------------------|--------------------|
| Base Zone | Short Term Rental | Vacation Rental | Bed and Breakfast | Hotel and Motel |
| Low Density Residential | | | | |
| ▪ R-10, R-7, R-5 | P (adds use) | CU (adds use) | CU (adds use) | N (no change) |
| Medium Density Residential | | | | |
| ▪ R-3, R-2.5, | P (adds use) | CU (adds use) | CU (no change) | N (no change) |
| ▪ R-2, R-1, | P (adds use) | CU (adds use) | CU (no change) | N (removes use) |
| ▪ R-1-B | P (adds use) | CU (adds use) | CU (no change) | CU (no change) |
| Mixed Use Zones | | | | |
| ▪ GMU and NMU | P (adds use) | P (adds use) | P (no change) | P (no change) |
| ▪ DMU | P (adds use) | CU (adds use) | P (no change) | P (no change) |
| Commercial Zones | | | | |
| ▪ C-L | P (adds use) | P (adds use) | P (from CU) | CU (no change) |
| ▪ C-G | P (adds use) | P (adds use) | P (from CU) | P (from CU) |
| <p>Key: P – Permitted Outright; CU – Conditional Use; N – Not Permitted/Prohibited; Adds Use – New permitted use to be added; Removes Use – Existing permitted use to be prohibited; No change – amendments make no change to existing use status; From CU – Expands permitted uses with a change from conditional use to permitted use</p> | | | | |

C. Current Regulations

For most home-based businesses in residential zones, the City manages impacts on neighboring properties through the home occupation standards of the zoning ordinance (MMC Section 19.507). Home occupations are permitted outright without any special permitting process subject to the following limitations:

Standards – A home occupation shall:

- *Be incidental and accessory to the residential use of the property.*
- *Maintain the residential character of the building and premises.*
- *Not have the outward appearance of a business.*
- *Not detract from the residential character of the neighborhood.*
- *Be owned and operated by an occupant of the dwelling.*

Prohibitions and Use Restrictions

- *Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.*
- *Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.*
- *In the case of on-premises instruction, no more than 5 enrollees shall be present at the same time.*
- *Motor vehicle, boat, or trailer repair is prohibited as a home occupation.*
- *Only 1 home occupation is allowed per residence, except that 2 may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.*

Under current zoning code requirements, short-term rentals are only allowed as follows:

- Hotel/motels – Allowed outright or by conditional use permit in most commercial areas and high density residential zones.
- Bed and breakfast – Allowed by conditional use permit in medium and high density residential zones.
- Boarding, lodging, and rooming house – Allowed by conditional use permit in medium and high density residential zones.

KEY ISSUES

The following key issues were addressed by the Planning Commission:

- A. Parking – An early version of the proposal called for short term rentals to provide one additional off-street parking space for a short-term rental unit. In response to testimony, the Commission eliminated the requirement with the understanding that any parking problems can be addressed through home occupation requirements. It was noted that other home occupations do not require additional off-street parking.
- B. Hosted and Unhosted Rentals – An early version of the proposal called for rentals to occur under a single reservation to one party. In response to public testimony, the Commission mirrored one aspect of the Portland short-term rental code by allowing one or two rooms to be rented under a hosted rental. As recommended, two rooms can be rented to different parties. In addition, the Commission supported the concept of allowing unhosted rentals for up to 95 days per year.
- C. Vacation Rentals – At the Commission hearing, testimony was provided requesting that standards be developed for vacation rentals rather than require them to go through the conditional use process. The Commission chose to recommend that the conditional use process be required for vacation rentals.

CONCURRENCE

This report was prepared by the Planning Director and reviewed by the City Manager and Community Development Director.

FISCAL IMPACTS

There is an opportunity to capture additional revenue through a room tax on short-rentals and vacation rentals.

WORK LOAD IMPACTS

Work load impacts will be dependent on the extent of any new licensing or permitting procedures that result from legalizing short term and vacation rentals. No significant change in workload is anticipated.

ALTERNATIVES

This work session report presents the proposal that will come before the Council at a public hearing in April. No alternative approaches are being presented at this time.

ATTACHMENTS

None



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **WS 3.**
Meeting Date: **March 15, 2016**

To: Mayor and City Council
From: Mitch Nieman, Asst. to City Manager
Through: Bill Monahan, City Manager

Subject: **Farmers' Market Event Permit and Traffic Control Plan**

Date: **March 15, 2016**

ACTION REQUESTED

Provide direction on the Farmers' Market event permit and traffic control plan.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

April 21, 2015 – City Council approved execution of an 18-month lease and six-month temporary event permit with Celebrate Milwaukie, Inc. for use of City and Metro-owned parking lots (Block 14) to hold the Sunday Farmers' Market from May 1, 2015 through October 31, 2016.

Council issued a six-month temporary event permit versus a 12-month permit, so it could revisit the idea of closing Main Street between Jackson and Harrison prior to the start of the 2016 season.

DISCUSSION

The Milwaukie Sunday Farmers' Market begins on May 1, 2016 and runs through October 30, 2016. The event has been in operation at Block 14 for 18 years. Main Street has never been closed between Jackson and Harrison during that time. TriMet routes its buses away from that section of Main Street during market hours. Market vendors typically park in parking spaces on Main Street to reduce potential pedestrian and automobile conflicts.

Staff does not recommend that Main Street is closed. The Applicant is not requesting Main Street to be closed. The attached temporary event permit shows traffic control and pedestrian safety plans.

FISCAL AND WORK LOAD IMPACTS

There is no cost to the City to close Main Street if Council requires the applicant to pay for all costs associated with closing the street.

If Council wants to use city forces to close Main Street, then it will cost approximately \$10,800 in staff overtime for the six-month season.

There are no funds identified in the adopted FY 15-16 Biennium to pay for a city-funded street closure. Further, no funds have been identified in the proposed FY 17-18 Biennium to administer such an activity.

ALTERNATIVES

1. Direct staff to issue the permit subject to the same conditions as last year
2. Direct staff to issue the permit subject to different conditions as last year

ATTACHMENTS

1. Farmers' Market Temporary Event Permit

City of Milwaukie - City Hall
Attn: Jason Wachs
10722 SE Main Street
Milwaukie, OR 97222
(503) 786-7568 PH
wachsj@MilwaukieOregon.gov



Temporary Event Application for Permit

- ◆ The City of Milwaukie appreciates your interest in organizing an event in the City. Submitting and following the conditions of this application puts you in touch with resources and ensures the event is approvable, safe, and is considerate of your neighbors.
- ◆ The review period can be from 30 to 90 days, depending on the size and nature of the event. Events are scheduled on a first come, first served basis. You are encouraged to submit your application as early as possible to ensure that enough time is available to review your application. Your application may be denied if it is determined that not enough time is available to thoroughly review your request and work through issues and concerns.
- ◆ Permit, if issued, authorizes the applicant to conduct the temporary event that is described herein paying close attention to any conditions of approval that are attached.
- ◆ The City of Milwaukie will review your request and determine if there is a need to attach any fees for services rendered including staff time, police services, etc.

I. Applicant Information

Applicant Name: _____

Contact Person (If differs from applicant): _____

Applicant Organization/Business (If any): _____

Mailing Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Business Phone: _____

Cell phone during event: _____

Address of Event: _____

Email: _____

II. Event Information

This event is a (check all that apply):

- Parade Festival Concert Sales Event Other _____
 Competition Vendors (food, beverage, merchandise, etc.)

Name of event: _____

Purpose of event: _____

Date/s of Event: _____ Starting Time: _____ Ending Time: _____

Event Web site: _____

Is this a recurring event? Yes No Day (s) of week _____

Setup date(s): _____ Take down date(s): _____

Estimated attendance per day: _____

Does your event involve the use of a park? Yes ____ No ____

If so, what is the name of the park and where is it located? _____

Most of Milwaukie's parks are managed and maintained by the North Clackamas Parks & Recreation District (NCPRD). You can reserve spaces at North Clackamas Park, Stringfield Park, the Milwaukie Center and the Sara Hite Memorial Rose Garden. All other NCPRD parks are available on a first-come, first served basis. If your event is requesting the use of a park please visit NCPRD's Web site at www.NCPRD.com or call (503) 742-8013 to learn more about what is available.

III. Site Layout, Traffic Control, & Parking

Will event require closure of public streets? Yes ____ No ____

Will event require use of sidewalks or other public right of way? Yes ____ No ____

Note: Public right of way refers to a type of easement that is reserved over the land for public use such as the area between the sidewalk and road.

All applicants must attach a Site Layout Plan and Traffic Control Plan to this application, but the components required will vary by event.

Site Layout Plans include, at a minimum, the location of tents, stages, portable restrooms, fencing, food booths, alcoholic and non-alcoholic beverage booths, and any other components of the event.

Traffic Control Plans include, at a minimum, the location of barricades, directional signs, certified flaggers, course marshals, assembly and/or production facilities, emergency access routes, aid and first aid stations, trash and recycling receptacles, parking, and any other components of the event. Traffic control devices such as barricades may be rented or purchased from local companies. Please search the internet for "flagging companies and/or

barricades Portland Oregon" or look in the telephone yellow pages under the heading "Flagging or Barricades."

Has applicant attached a Site Layout Plan? Yes ____ No ____

Has applicant attached a Traffic Control Plan? Yes ____ No ____

Will event require police resources? Yes ____ No ____ Not sure ____

Note: Approved temporary events that require police or other city resources may require fees, which will be assessed on a case by case basis.

Do you intend to use a city-owned parking lot? ____ Yes ____ No

If yes, please give the location _____

Are you requesting to close public parking stalls anywhere in the city? ____ Yes ____ No

(**Note:** Public parking stalls refer to on-street parking.)

If you answered yes, what type of parking stalls are you requesting? Angled or Parallel

Number of stalls requested _____

Are all spaces requested directly in front of your business? ____ Yes ____ No

If not, the other business owner/s with affected stalls must agree in advance to the closures by signing here:

Name of Business: _____

Business Owner/Representative (Print or Type): _____

Business Owner/Representative (Signature): _____

Name of Business: _____

Business Owner/Representative (Print or Type): _____

Business Owner/Representative (Signature): _____

Name of Business: _____

Business Owner/Representative (Print or Type): _____

Business Owner/Representative (Signature): _____

Name of Business: _____

Business Owner/Representative (Print or Type): _____

Business Owner/Representative (Signature): _____

How will you block off the spaces? (e.g. orange cones, stanchions, barricades, etc.) _____

Diagram of parking stalls requested for closure. Please include signage, lighting, and other safety precautions: (Attach further documentation to this form if necessary.)

Is a county or state owned street or road affected by your event?

Yes ___ No ___ Not sure ___

If so, you must contact the Clackamas County Dept. of Transportation at 503-650-3452 and/or the Oregon State Dept. of Transportation at 503-653-3086.

IV. Further Considerations

1. Will food be served or prepared at your event? Yes ___ No ___

If so, you or the food provider must obtain a Food Handler's License from Clackamas County by calling (503) 650-3659. Provide a copy to the City of Milwaukie no less than 3 days prior to the start of the event.

2. Will alcoholic beverages be available at your event? Yes ___ No ___

If so, you or the alcoholic beverage provider must obtain an OLCC (Oregon Liquor Control Commission) permit by calling (503) 872-5000 or visit www.oregon.gov/OLCC/docs/liquor_license_and_license_process/tsl_app_form.pdf Provide a copy to the City of Milwaukie no less than 3 days prior to the start of the event.

3. Will there be any live or amplified entertainment or noise be generated at your event? Yes ___ No ___

If so, please complete a noise variance form, which is attached to this application in section VI.

4. Will additional electrical wiring be installed for your event? Yes ___ No ___

5. Will your event require restroom facilities? Yes ___ No ___ The City recommends following the minimum guidelines for temporary restrooms as shown in the table below. Temporary restrooms may be rented from local companies. Please search the internet for "portable restrooms Portland Oregon" or look in the telephone yellow pages.

| | 1 hr | 2 hrs | 3 hrs | 4 hrs | 5hrs | 6hrs | 7hrs | 8hrs | 9hrs | 10 hrs |
|------|------|-------|-------|-------|------|------|------|------|------|--------|
| 50 | 1 | 1 | 1 | 1 | 2 | 2 | 2 | 2 | 2 | 2 |
| 100 | 2 | 2 | 2 | 2 | 3 | 3 | 3 | 3 | 4 | 4 |
| 250 | 3 | 3 | 3 | 4 | 4 | 4 | 5 | 5 | 6 | 6 |
| 500 | 4 | 4 | 5 | 5 | 6 | 6 | 7 | 7 | 8 | 8 |
| 1000 | 6 | 7 | 8 | 8 | 9 | 9 | 10 | 10 | 11 | 12 |
| 2000 | 9 | 12 | 15 | 16 | 17 | 17 | 18 | 18 | 19 | 19 |
| 3000 | 12 | 18 | 22 | 24 | 25 | 26 | 27 | 28 | 29 | 30 |
| 4000 | 16 | 24 | 29 | 32 | 34 | 35 | 37 | 38 | 39 | 40 |

6. Have you arranged for security at your event? Yes ___ No ___

If so, who will be providing security: _____

Phone: _____ Email: _____

Details of security plan: _____

7. Describe your plans for Emergency Medical Services (Includes first aid stations, first aid kits, emergency medical equipment such as an IED, etc.): _____

The City recommends at least one trained emergency services provider (Minimum Certification – Emergency Medical Technician 1) be present on-site throughout the temporary event.

8. Describe your plans for trash minimization and removal. Include information as to the number, types and locations of all trash receptacles, a schedule for monitoring and emptying trash receptacles, and plans for cleaning up debris not placed in trash receptacles. Include information on any persons or entities who will be providing trash related services. (Attach additional sheets if needed)

V. Applicant is responsible for obtaining all additional permits, licenses, and insurance certificates required upon the issuance of this Temporary Event Permit. Please fulfill all of the obligations listed below before submitting this application. Once all of these obligations are complete you must place your initials in all of the designated areas marked with a () and then sign and date at the bottom.

() **CLEAN UP:** Applicant agrees to promptly clean up all paper or debris caused by applicant's use of the area and understands that if such clean up is not promptly undertaken the City reserves the right to do the cleaning itself and to charge the applicant for the actual time and expense incurred. The City reserves the right to deny future Temporary Event Permit requests should applicant not fulfill all conditions of this permit application.

() **INSURANCE:** Applicant agrees to provide a policy of liability insurance. This insurance shall provide coverage for not less than \$1,000,000 for personal injury to each person, \$1,000,000 for each occurrence involving property damage; or a single limit policy of not less than \$2,000,000 covering all claims per occurrence. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon. This insurance shall be without prejudice to coverage otherwise existing and shall name as additional insured the City of Milwaukie and its officers, agents, and employees. The sponsor agrees to maintain continuous coverage for the duration of the permit.

() **INDEMNITY:** Applicant agrees to defend, indemnify and hold the City of Milwaukie and NCPRD if the event is held in a park or facility owned or managed by the District, harmless from and against all claims, losses, and liability arising out of personal injuries, including death, and damage to property which are caused by applicant, or arising out of or in any way connected with the activities conducted pursuant to this application. The last page of this application contains an agreement form that you must sign and date before this application is reviewed.

() **CITY CODES/PERMITS:** Applicant agrees to obtain all City permits and licenses that may be required, and shall comply with all other City laws and other conditions that the City Manager determines necessary, including NCPRD park and facility rules or regulations. The Noise Control Variance form that is attached must be completed to fulfill this obligation. The Police Department will determine if such a variance is necessary after reviewing the variance application.

() **CONDUCT/NUISANCES:** Applicant understands that if the outdoor activity is conducted in such a way as to create a nuisance for any business or resident of the area, future permits may be denied for that reason alone. Applicant will be notified as soon as practical that the activity engaged in created a nuisance and may ask for a review of such determination.

() **SITE /TRANSPORTATION MAP: This application will not be processed unless a site map is included.** Indicate location of tents, stages, portable restrooms, fencing, food booths, alcoholic and non-alcoholic beverage booths, etc. Transportation/route maps should include: location of barricades, directional signs, certified flaggers and course marshals, assembly and/or production facilities, emergency access routes, aid and first aid stations, port-a-potties, trash and recycling receptacles, parking, etc.

() **SIGNAGE PLAN: This application will not be processed unless a sign plan is provided with details of sign size and location.**

I have read all information contained within the City of Milwaukie's Temporary Event Permit Application Packet and agree to abide by the terms and conditions contained herein.

Applicant's Signature: _____ **Date:** _____

VI. Indemnification Agreement for Temporary Event Permit

Note: All applicants must sign this Indemnification Agreement.

Grantee acknowledges and agrees as follows:

In consideration of the City's approval of this application for a temporary event permit, applicant accepts responsibility for the event and agrees to indemnify, defend and hold harmless the City of Milwaukie, and if necessary NCPRD, its officials, employees, agents, volunteers, and assigns from and against any and all claims, suits, liabilities and expenses (including but not limited to, damages, attorney fees, and costs) that may be asserted against the City of Milwaukie arising out of or in any way related to the temporary event for which permission is sought.

Applicant acknowledges that applicant has carefully read the foregoing and understands its contents. Applicant warrants that applicant is authorized to sign this document and does so freely and without reservation.

Applicant Name (print or type): _____

Applicant Signature: _____ **Date:** _____

VI. Noise Control Variance

If your event includes live or amplified entertainment or is expected to generate noise you may be asked to obtain a noise variance. The Milwaukie Police Department will review the entire application and determine if a Noise Variance is required. If a variance is not necessary it will be noted on this application and reported to the event applicant. If a variance is necessary it will be noted on this application and reported to the event applicant along with an explanation of why it was or was not approved.

Variance Information

Reason for the variance: _____

The time and duration of the emitted sound: _____

For Police Use Only

The physical characteristics of the emitted sound:

The geography, zone and population density of the affected area:

Residential Commercial Industrial Noise-sensitive

Population density: Light Medium Heavy

Is the public health and safety endangered by the noise: Yes No

Does the sound source predate the receiver: Yes No

Does the compliance with the standard(s) from which the variance is sought produce hardship without equal or greater benefit to the public:
Yes No

Is a Noise Variance Required for this Event: Yes No

(Note: If a Variance is required please complete the rest of the application, if not please sign on the next page where it reads "Authorized by" and return with other department recommendations.)

If a Noise Variance is required, is it granted: Yes No
Yes, but with conditions to follow

Please provide a brief description of why this application was approved or denied and if it is approved with conditions please list the conditions below:

Authorized by:

FOR OFFICE USE ONLY Department Recommendations

Name of event/purpose: _____

Note: Please review and respond to this proposal by sending an email to Jason Wachs in the City Manager’s Office at wachs@MilwaukieOregon.gov.

In your response please include your department/organization name, the name of the person who reviewed the application, whether or not it is approved or denied, and any conditions of approval. Call (503) 786-7568 with any questions.

____ This is a city-sponsored or supported activity. ____ This is an independent event.

City of Milwaukie:

Building

Engineering

Facilities

Planning

Police

Streets

Other (As applicable) _____

Regional and State Partners (If applicable):

Oregon Department of Transportation (ODOT)

North Clackamas Fire District #1

North Clackamas Parks & Recreation District (NCPRD)

TriMet

Other _____

Milwaukie Sunday Farmers Market

| | | McLoughlin Boulevard | | | | | | | | | | | | | | | | | | | | | | | | |
|---|-------------------------------|--|------|-----------------|---------|------|------|-------------------|----------------|-------|------|------|---------|------|------|------|----------------|------|----|-------|---------|--|--|--|--|--|
| | | Planter | | | 97 | 98 | 99 | 100 | 101 | 102 | 103 | 104 | 105 | 106 | 107 | 108 | 109 | | | | | | | | | |
| J a c k s o n S t r e e t | Drive up / Pick Up No Parking | Path | | | | | | Path | | | | | | | | | | | | | | | | | | |
| | | 90 | 91 | 92 | | | | Trailer | | | | 93 | 94 | Path | 95 | 96 | | | | | | | | | | |
| | | 83 | 84 | 85 | | Path | | Market Info Booth | | | | | 86 | 87 | | 88 | 89 | | | | | | | | | |
| | | Path | | | | | Path | | | | | | | | | | | | | | | | | | | |
| | | Trash | | | | 82 | 81 | | Demo Booth | | Tent | Tent | | Path | | 80 | | Path | 79 | | | | | | | |
| | | Porta potties | 67 | Path | | 68 | 69 | 70 | Path | 71 | 72 | 73 | 74 ATM | Tree | Path | 75 | 76 | 77 | | Water | | | | | | |
| | | Plant Divider | | | | Path | | | Path | | | | | | | | | | | | | | | | | |
| | | | 10 | | Path | 22 | 23 | 24 | Path | Music | 42 | 43 | 44 | Path | 66 | 65 | | | | | | | | | | |
| | | | 9 | | | | | | Path | | | | | | | | | | 64 | | | | | | | |
| | | | 8 | | | 21 | | 25 | | | 41 | | | 45 | | | | | 63 | | | | | | | |
| | | 7 | Path | 11 Face Painter | 20 | | 26 | | Tent | 40 | | | 46 | Path | | | | 62 | | | | | | | | |
| | | 6 | | | 19 | | 27 | Path | Tent | 39 | | | 47 | | 55 | | | 61 | | | | | | | | |
| | | 5 | | 12 City Booth | 18 | | 28 | | Tent | 38 | | | 48 | | | Path | | 60 | | | | | | | | |
| | | 4 | | | 17 | | 29 | | Tent | 37 | | | 49 | | 54 | | | 59 | | | | | | | | |
| | | 3 | | | 16 | | 30 | | | 36 | | | 50 | | | | | 58 | | | | | | | | |
| | | 2 | | 13 | 15 | | 31 | | 33 | 35 | | | 51 | Path | 53 | | | 57 | | | | | | | | |
| | | 1 | | | 14 | | 32 | | | 34 | | | 52 | | | | | 56 | | | | | | | | |
| | | | | | Main St | | | | No Parking [1] | | | | Main St | | | | No Parking [1] | | | | Main St | | | | | |
| Notes | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | [1] | No Parking on West side of Main Street[4 parallel spaces] Per Past Agreement between City Manager and Market Business Manager | | | | | | | | | | | | | | | | | | | | | | | | |

| | | | | | | | | | | | | | | | | | | | | |
|--|-----|---|---|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| | | | This is to improve visibility of pedestrians walking along Main Street from Harrison to Jackson Streets | | | | | | | | | | | | | | | | | |
| | | | It also provides visibility for driver to see pedestrians along Main St that other wise would be hidden by parked cars. | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | |
| | [2] | East side of Main Street diagonal parking [7 spaces, not handicapped space] will be used by venders and market staff to prevent the | | | | | | | | | | | | | | | | | | |
| | | Possibility of people backing out into traffic along Main street during to the poor visibility and the amount of traffic on Main Street during the Farmers Market | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | |
| | [3] | City will contact TriMet as to the closure of Main Street to busses from 8 AM to 3 PM each Sunday during the Farmers Market. | | | | | | | | | | | | | | | | | | |
| | | City will also ask for a contact phone number to report busses that use Main St during the Closures. | | | | | | | | | | | | | | | | | | |

Milwaukie Sunday Farmers Market

Sign Placement 2016

Downtown Streets

1. South side Jackson between 99E & Main between entrances to parking lot behind Chopsticks
2. West side SE 21st. between Jackson & Monroe between Key Bank lot entrances of their north lot
3. North side Jackson between 21st. & Main @ west side of entrance to City Hall parking lot
4. North side Harrison between 99E & Main @ east side of entrance to credit union parking lot
5. Northeast corner of 99E & Jefferson adjacent to Arco station
6. Northeast corner of 99E & Jackson
7. Southeast corner of 99E & Harrison
8. Southwest corner of 99E & Harrison/17th.
9. Northwest corner of 99E & Harrison/17th.
10. Southeast corner of Washington & Main
11. Southwest corner of Harrison & Main
12. Northeast corner of Monroe & 21st.
13. East end of Adams St. Connector.
14. West end of Adams St. Connector.

Signs on posts along 99E

- 1A. NW corner 99E & Harrison on "crosswalk closed" pole
- 2A. West side 99E @ Jefferson boat ramp entrance on "crosswalk closed" pole
- 3A. On Empress tree on W. side 99E across from funeral home
- 4A. NW corner of 99E & Millport St

Signs on posts along 224

- 1B. East side 224 between Oak & Monroe on pole at end of dead end street
- 2B. East side 224 between Oak & Monroe on "City Center" pole
- 3B. East side 224 between Monroe & Harrison on "Harrison Next Signal" pole
- 4B. West side 224 between Monroe & Harrison on "Monroe Next Signal" pole
- 5B. Oak St. and Washington on "No Thru Trucks" pole

17th Ave

- 1C. West side of 17th Ave just south of Ochoco St.

Signs for the Farmers Market will be up between 7:00 AM and 3:00 PM on Sundays starting in May. and ending the end of October. 2016.



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **WS 4.**
Meeting Date: **March 15, 2016**

To: Mayor and City Council
From: Mitch Nieman, Asst. to City Manager
Through: Bill Monahan, City Manager

Subject: **Museum Lease**

Date: **March 15, 2016**

ACTION REQUESTED

Discuss options for the Milwaukie Museum lease.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

April 16, 1996 – City executed a 20-year lease with Milwaukie Historical Society for use of real property located on 3737 Adams Street. The existing lease includes an option to renew for an additional 20 years by written notice and city acceptance. City owns the land. Historical Society owns the museum building and vintage trolley that's displayed on the property.

BACKGROUND

The existing lease has a termination provision that gives the City or Historical Society an option to end the lease every three years provided either party gives a six months' written notice at the end of each three-year period.

The last period in the twenty year term referenced above began on April 16, 2014, and is scheduled to end on April 16, 2016.

DISCUSSION

Staff is asking Council to determine if it makes sense for the City to execute a new lease, or amend or renew the existing lease with the Historical Society.

Staff made comments on sections of the existing lease to facilitate Council's discussions. Refer to attached pdf with highlighted comments.

There have been no citizen complaints or code enforcement violations on the property. The Museum maintains all flower beds and trees. The City maintains the lawn because the City's landscaping contractor maintains adjacent well site and Burtman House lawns.

FISCAL AND WORK LOAD IMPACTS

There are no financial or work load impacts other than Staff time to write and process a new, amended or renewed lease.

The existing lease requires the Historical Society to quit and deliver the premises to the City in the condition in which it was leased, and transfer ownership of the museum building to the City in the event of termination.

If this provision remains intact, it's uncertain about what costs or repercussions the City would be responsible for should the building transfer happen.

For example, would the City be allowed to operate, relocate or deconstruct the museum building?

Further, to what extent would City ownership of the building mean to any effort in returning the site back to its original state, or implementing future improvements to adjacent well site or Burtman property?

Last, the existing lease references "proper" insurance in one section and "fire and liability" in another section. Staff recommends including new language that requires the Historical Society to "carry all insurance coverages as required by the City."

ALTERNATIVES

1. Direct staff to prepare a new lease for execution by each party
2. Direct staff to prepare an amendment for execution by each party
3. Direct staff to process a renewal for execution by each party

ATTACHMENTS

1. Existing lease with Staff comments

Attachment 1

REVISED - LEASE

THIS LEASE, made at Milwaukie, Oregon this 16 day of April, 1996, by and between the CITY OF MILWAUKIE, a municipal corporation under the laws of the State of Oregon, hereinafter referred to as "City," and the MILWAUKIE HISTORICAL SOCIETY, INC., an Oregon corporation, hereinafter referred to as "Society."

WITNESSETH

That in consideration of the covenants, agreements, and stipulations herein contained on the part of said Society to be paid, kept, and faithfully performed by said Society, the city does hereby lease, demise, and let unto the Society the premises known as:

Lot 23, 24, 25 and 26, Block 74 - Minthorn Addition to the City of Portland. Except that portion within Railroad Avenue, and also except that portion needed for future widening of Railroad Avenue. (3737 Adams Street)

in the City of Milwaukie, County of Clackamas, State of Oregon.

Said Society is to have and hold the above-described premises on a lease basis for a period of not to exceed 20 years from the date of this lease, with an option to **renew said lease for additional 20-year periods** of time by written notice and acceptance on behalf of the City.

That Society agrees to maintain the real property in an acceptable manner to the City, and that at all times any use of said property by Society will have **proper insurance** to protect and hold harmless the City from any liability caused by activity of the Society.

It is understood and agreed between the parties that Society will construct and maintain on the property an Historical Museum for the benefit and privilege and enjoyment primarily of the citizens of the community of the City of Milwaukie, as well as other people of the county, and that said building will be used solely for the purpose of the Historical Society.

That Society agrees to maintain adequate **fire and liability insurance** on the structure and activities carried on by the Society, holding harmless the City of Milwaukie.

It is agreed and understood between the parties that if at some future time the City decides to sell the property upon which is located the Historical Society Museum, the Society shall have the first right of refusal of purchase of said property.

That said Society will make no unlawful or improper or offensive use of said premises.

That at such time as this lease is terminated, the Society agrees to quit and deliver the premises to the City in the condition in which it was leased, with the exception of the addition of the museum building; and if this lease is terminated, said building is to become the sole property of the City.

Taking. If a condemning authority takes all of the premises or a portion sufficient to render the remaining premises reasonably unsuitable for the use that Society was then making of the premises, the lease shall terminate as of the date the title vests in the condemning authorities. The parties shall be entitled to share in the condemnation proceeds in proportion to the values of their respective interests in the premises.

This lease may be terminated by six months' written notice by either party to the other at the end of each three-year period. The last period in the twenty year term referenced above shall be a two year period starting on April 16, 2014.

Dated this 16 day of April, 1996.

CITY OF MILWAUKIE

By Craig J. Lomwicki

MILWAUKIE HISTORICAL SOCIETY, INC.

By Lew J. Beckman