

MILWAUKIE
CITY COUNCIL MEETING
July 20, 1982
7 p.m.

Va (1)

COUNCIL CHAMBERS

1412th Meeting

The one thousand four hundred and twelfth meeting of the Milwaukie City Council was held on July 20, 1982 with the following councilors present:

Mel Paulson	Don Graf
Wallace Bischoff	Roger Hall
Mayor Joy Burgess	

Also present:

Hugh Brown, City Manager	Dick Bailey, Fire Chief
Greg Eades, City Attorney	Gordon Erickson, Finance Director
Steve Hall, Pub. Wks Director	Laurie Perkin, Secretary

The invocation was given by Wallace Bischoff and the pledge of allegiance was recited.

AUDIENCE PARTICIPATION

James Backenstos, 3626 SE Harrison, addressed the Council. He said that considering the poor economy, higher taxes, higher utility bills and the failure of the first budget levy, the city should hold the line on expenses and that large raises for management are inappropriate.

PUBLIC HEARING - Street vacation - 34th and Harrison

The public hearing was declared open at 7:07 p.m. Public Works Director made the staff presentation, recommending vacation of 6 feet of SE 34th Ave right-of-way. The reason for the request is that a portion of an existing structure extends into the public right-of-way. The vacation of this 6 feet plus any future vacation from the west side of 6 feet would leave a 48 foot right-of-way which would be adequate for any street construction of a local street such as this. The only owner affected would be Mr. Michael Henley, 3405 SE Harrison Street. Mr. Henley addressed the Council. He said that he would like his property to be out of the public right-of-way and had nothing further to add to the staff report. Bill Hupp, 2626 SE Washington, addressed the Council speaking in support of the vacation since the property would go on the tax rolls. There were no further questions. No correspondence has been received and no one appeared to speak in opposition to the street vacation. The public hearing was declared closed at 7:20 p.m.

It was MOVED by Graf, SECONDED by Bischoff, that Ordinance 1526 (AN ORDINANCE OF THE CITY OF MILWAUKIE VACATING A PORTION OF SE 34th AVENUE) be read the first time by title only.

MOTION CARRIED unanimously. It was MOVED by Hall, SECONDED by Bischoff, that the ordinance be read the second time by title only. MOTION CARRIED unanimously. It was MOVED by Hall, SECONDED by Graf, to adopt Ordinance No. 1526. MOTION CARRIED with the following roll call vote: AYES: Burgess, Bischoff, Paulson, Graf, Hall. NO: none.

V
a (2)

LEGISLATION

Payment of bills

It was MOVED by Hall, SECONDED by Graf, that the bills listed for July 20, 1982 be approved for payment. MOTION CARRIED unanimously.

State Revenue Sharing Funds

City Manager said that this was a routine matter, that the resolution would allow the city to accept state revenue sharing funds. It was MOVED by Graf, SECONDED by Paulson, to adopt Resolution 19-1982 (A RESOLUTION OF THE CITY OF MILWAUKIE DECLARING THE CITY 'S ELECTION TO RECEIVE STATE REVENUES). MOTION CARRIED unanimously.

Bill Hupp addressed the Council, stating that he heard of dozens of cities which had received federal grants for sewer improvements and asked why Milwaukie wasn't included. Public Works Director said that this was probably money from Environmental Protection Agency grants for sewage treatment plants which the City of Milwaukie does not have. The City is not eligible for any such grants at this time.

Personnel Rule Change

Jo Durand, Administrative Assistant, has prepared memo recommending a change in personnel rules regarding anniversary dates. Currently, for employees hired on any day other than the first of the month, the first of the following month is established as their anniversary date. The proposed change would establish a mid-month cut-off which would minimize loss in compensation and would be consistent with practices of other cities. All bargaining units and managers have agreed to the change. Bischoff asked why the actual date of hire could not be used. The City Manager said that since the city does not have a computer, there would be too many problems with accounting. Paulson asked how much money was involved. Finance Director said that it would not amount to very much since only new employees would be affected.

Al Liane, 4809 SE Monroe, addressed the Council regarding state practices in matters such as this. He said that PERS benefits were not included until a whole month of employment had passed. The same was true of sick leave and vacation. It was MOVED by Graf, SECONDED by Bischoff, to adopt Resolution 20-1982 (A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE AMENDING THE CITY PERSONNEL RULES) MOTION CARRIED unanimously.

CONSENT AGENDA

Approval of Minutes - June 29 & July 6, 1982

Results of June 29, 1982 election

It was MOVED by Paulson, SECONDED by Bischoff to approve the Consent agenda. City Manager pointed out an error in the July 6 minutes. On page 2, under Water & Sewer Rate Increases, paragraph 2, the increase in the water division which was listed as 22.4% should be changed to read 6%. Paulson restated his motion to include this correction. MOTION CARRIED unanimously.

Va ③

OTHER BUSINESS

Discussion of Salary - City Attorney

City Attorney has prepared memo requesting a 5% salary increase which would be consistent with salary for similar positions in other cities and would be less than increases requested by bargaining units. The following persons addressed the council protesting wage increases for management.

Al Liane, 4809 SE Monroe

Arnold Callan, 12012 Wood Ave

James Backenstos, 3626 SE Harrison

Kathleen Hulme, 11519 SE 30th

It was pointed out that many state employees were taking a wage freeze and that due to the poor economy, administration should set an example to other employees. Mr. Callan said that he felt it was wrong for the union members to ask for an increase at this time also. It was MOVED by Burgess, SECONDED by Paulson to delay this discussion until the August 3 meeting. Eades said he saw no reason to delay it but if Council so chose, he had no objection. MOTION CARRIED unanimously.

It was MOVED by Burgess, SECONDED by Paulson that because of the depressed economy, and to hold the line on spending, a freeze be put on salaries of management and confidential employees. Graf expressed concern that this group of people be treated differently than the bargaining units.

Hall said that he saw no reason to compare the groups. Bischoff said that he would abstain from voting since he had not had sufficient time to consider the matter. The City Manager asked that consideration of this motion be postponed until the August 3 meeting at which time he would bring a proposal to the Council. The City Attorney expressed concern that the Council was considering a drastic change in policy which had in the past been to keep management and confidential employee salary increases equal to those of the bargaining units. He said that this group of people included some of the lower paid employees of the city and that in many cases these employees did not receive overtime pay and in some cases received fewer benefits than union employees. It was MOVED by Hall, SECONDED by Graf, to table the motion until the next council meeting on August 3. MOTION CARRIED with the following roll call vote: AYES: Graf, Bischoff, Hall. NOES: Burgess, Paulson. City Manager commented that the recommendation regarding management and confidential employee compensation was his responsibility and he felt that it was inappropriate to discuss this matter before he had a chance to bring a proposal to the Council.

INFORMATION

The City Manager asked if any member of the Council were interested in attending the National League of Cities convention in Los Angeles. No member expressed interest in attending. The Manager commented on the new hours at City Hall. From now on City Hall is open during the noon hour and hours of some offices have been extended. A report on new hours at the Library would be ready for the next Council meeting.

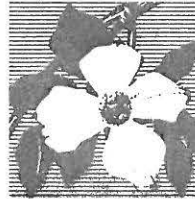
City Manager asked Council if they would like to set a public hearing on McLoughlin improvements. Mayor Burgess gave an update in developments in regard to highway improvements. She said the city has been in contact with other jurisdictions and that the Portland City Council was to have a public hearing on July 22. The city has asked them to delay a decision on McLoughlin improvements. It was agreed to set a public hearing date for August 3 to consider proposed improvements to McLoughlin Boulevard. Hall asked for a report on Cable T.V. City Manager said that the questions submitted to the companies have been returned and that the evaluation process would be completed by early Fall. Mayor Burgess asked if there had been a reply from the Boundary Commission regarding the city's request for a meeting with other jurisdictions. Manager said there had been no word as yet.

The meeting was adjourned at 8:30 p.m.

Joy Burgess, Mayor

Laurie Perkin, Secretary

CITY OF MILWAUKIE



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

CITY COUNCIL AGENDA July 20, 1982 7 p.m.

COUNCIL CHAMBERS

REGULAR MEETING (1412th)

- I CALL TO ORDER
a) Call to Order
b) Invocation
c) Pledge of Allegiance
- II AUDIENCE PARTICIPATION
- III PUBLIC HEARING
a) Street Vacation - 34th and Harrison
ORDINANCE 1526
- IV LEGISLATION
a) Payment of bills
b) Resolution on State Revenue Sharing Funds
RESOLUTION 19-1982
d) Personnel Rule Change - Anniversary Date.
RESOLUTION 20-1982
- V CONSENT
a) Approval of Minutes - June 29, July 6, 1982 meetings
c) Results of special election, June 29, 1982
- VI INFORMATION
a) Litigation report - 1981-82
b) Letter to Boundary Commission re annexation policy
c) Minutes, SCAC - June 1, 1982
d) Minutes, Center Ad. Board - June 18, 1982
e) Traffic Safety Recommendation re Light Rail
TSC minutes - July 12, July 14, 1982
g) Information re National League of Cities convention
h) Report on "Operation Turnabout"
i) Letter to ODOT re highway improvements
j) Status report from P.W. Director re Island Station
Water improvements
k) Letter from Metro re highway improvements
l) Letter to Mayor Ivancie re highway improvements
- VII OTHER BUSINESS
a) Memo from City Attorney re salary
- VIII ADJOURNMENT

III a ①

ORDINANCE NUMBER _____

AN ORDINANCE OF THE CITY OF MILWAUKIE VACATING A PORTION OF SE 34TH AVENUE.

WHEREAS, the city initiated vacation of the street described below and

WHEREAS, a public hearing was held before the City Council on July 20, 1982 upon proper notice and in accordance with ORS Chapter 271,

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

Section 1. The City Council finds that notice has been duly given of this vacation, consent of the requisite owners has been obtained and the vacation is in the public interest.

Section 2. The following described street is vacated:

That portion of 34th Street along the West property of TL 500 11E36AB.

Section 3. The Recorder is directed to file a certified copy of this ordinance with the County Clerk, Assessor and Surveyor for Clackamas County, Oregon

Read the first time on _____, 1982 and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____, 1982.

Signed by the Mayor on _____, 1982.

Joy Burgess, Mayor

ATTEST:

Laurie Perkin, City Recorder

Approved as to form:



Greg Eades, City Attorney

CITY OF MILWAUKIE
M E M O R A N D U M
PUBLIC WORKS DEPARTMENT

III
a2
DATE: May 26, 1982

TO: Hugh Brown
City Manager

FROM: Steven Hall
Public Works Director *S.M.H./dl*

SUBJECT: Partial Street Vacation
S.E. 34th Ave.
3405 S.E. Harrison Street

ACTION REQUESTED

City Council set public hearing at the regular meeting of Tuesday, 6 July 1982 to consider the vacation of a portion of S.E. 34th Ave., 6 ft. in width by 100 ft. in length adjacent to the west property line of Tax Lot 500, 1-1E-36AB also known as 3405 S.E. Harrison Street. This vacation request is in accordance with ORS 271.130, Vacation on Council's own motion.

BACKGROUND

Mr. Michael Henley applied to the Planning Commission for a conditional use to use the existing single family residence located at 3405 S.E. Harrison Street as a photographic studio. The conditional use was granted with requirements attached.

One of the conditions was a requirement for a property survey of the subject lot by a registered land surveyor to determine if a portion of the single family residence was actually located within the right-of-way. This factor came to light when Public Works was researching the initial conditional use request and the aerial photos of the City indicated a potential of a part of the subject structure being located within the public right-of-way. The survey conducted by a registered land surveyor in fact confirmed that suspicion. The house itself is 4.3 feet into the southeast 34th Avenue right-of-way plus an additional 1.4 feet for a fireplace which exists on the west side of the home. This brought about the discussions at the Public Works level for a potential of vacation of the portion of S.E. 34th Avenue so that the existing structure would be actually located on privately owned property.

Staff is recommending the vacation of 6 feet of the S.E. 34th Ave. right-of-way as indicated in the memo from Paul Reoger, Office Engineer dated 12 May 1982 and also within a letter to the Planning Department from Mr. Henley dated 20 May 1982.

Partial Street Vacation
3405 S.E. Harrison .

-2-

III
203

May 26, 1982

BACKGROUND (continued)

The vacation of this 6 feet plus any future vacation from the west side of 6 feet would leave a 48 foot right-of-way which would be adequate for any street construction of a local street such as this. Normally this type of street would be 32 to 36 feet in width and have 4 foot sidewalks on each side which would comfortably fit within the right-of-way which would remain.

In part the section of Oregon Revised Statutes as noted within the recommendation are as follows:

"The City governing body may initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110, but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property IF the vacation will substantially affect the market value of such property,"

In this case, with the City initiating the right-of-way vacation, the only "owner" affected as noted in the statute stated above is the actual property owner of 3405 S.E. Harrison Street.

However, notification will be sent to adjacent property owners so that they may give their opinion as to the proposed action of a vacation of the portion of S.E. 34th Ave.

Enclosure: Memo/Roeger
Letter/Hanely
Map
Survey

SMH:js

APPROVED



HUGH H. BROWN
CITY MANAGER

CITY OF MILWAUKIE
M E M O R A N D U M
PUBLIC WORKS DEPARTMENT

DATE: May 12, 1982

TO: Steve Hall
Public Works Director

FROM: Paul Roeger *P.N.R.*
Office Engineer

SUBJECT: Partial Street Vacation (S.E. 34th Ave.)

Attached is a survey of the property on the northeast corner of 34th and Harrison Street. As you can see the survey shows the house and fireplace projecting into the 34th Ave. public right-of-way 5.7 feet.

Right-of-way width on 34th Ave. is presently 60 feet. I recommend we vacate a 6 foot strip of public right-of-way abutting the entire west side of this one parcel. This would leave 54 feet of right-of-way which is adequate for any street the City would ever construct in this area.

Please have City Council set a hearing date and we will notify the property owners as perscribed in ORS 27L130.

III
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To: Planning Dept. City of Milwaukee

This is a request to have the city vacate six feet of S.E. 34th street along the west property line of 3405 S.E. Harrison St.

The reason for this request is to have the house out of the public right of way. A six foot street vacation will remove the building from the right of way and still allow plenty of room for any street improvements made on 34th street.

A check for \$150.00 is enclosed to pay for the necessary public hearing on this matter.

Thank You

Michael D Henley

Michael Henley
Contemporary Images

RECEIVED

MAY 21 1982

J. M. Hill
CITY OF MILWAUKIE

DEPT. OF PUBLIC WORKS

Rec'd \$150.00

Receipt G 93785

III
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S.E. 34TH STREET

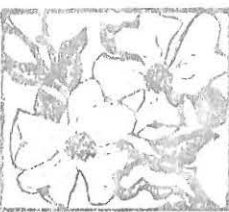
VACATION REQUEST, 6' x 100'

PROPERTY LINE

TAX LOT 500
36-1-1E-36AB
3405

6'

S.E. HARRISON STREET



City of Milwaukee
PUBLIC WORKS DEPT

SHEET
1
OF
2

PROJECT

CALCULATED BY
SM HALL

DATE
2AMAY82

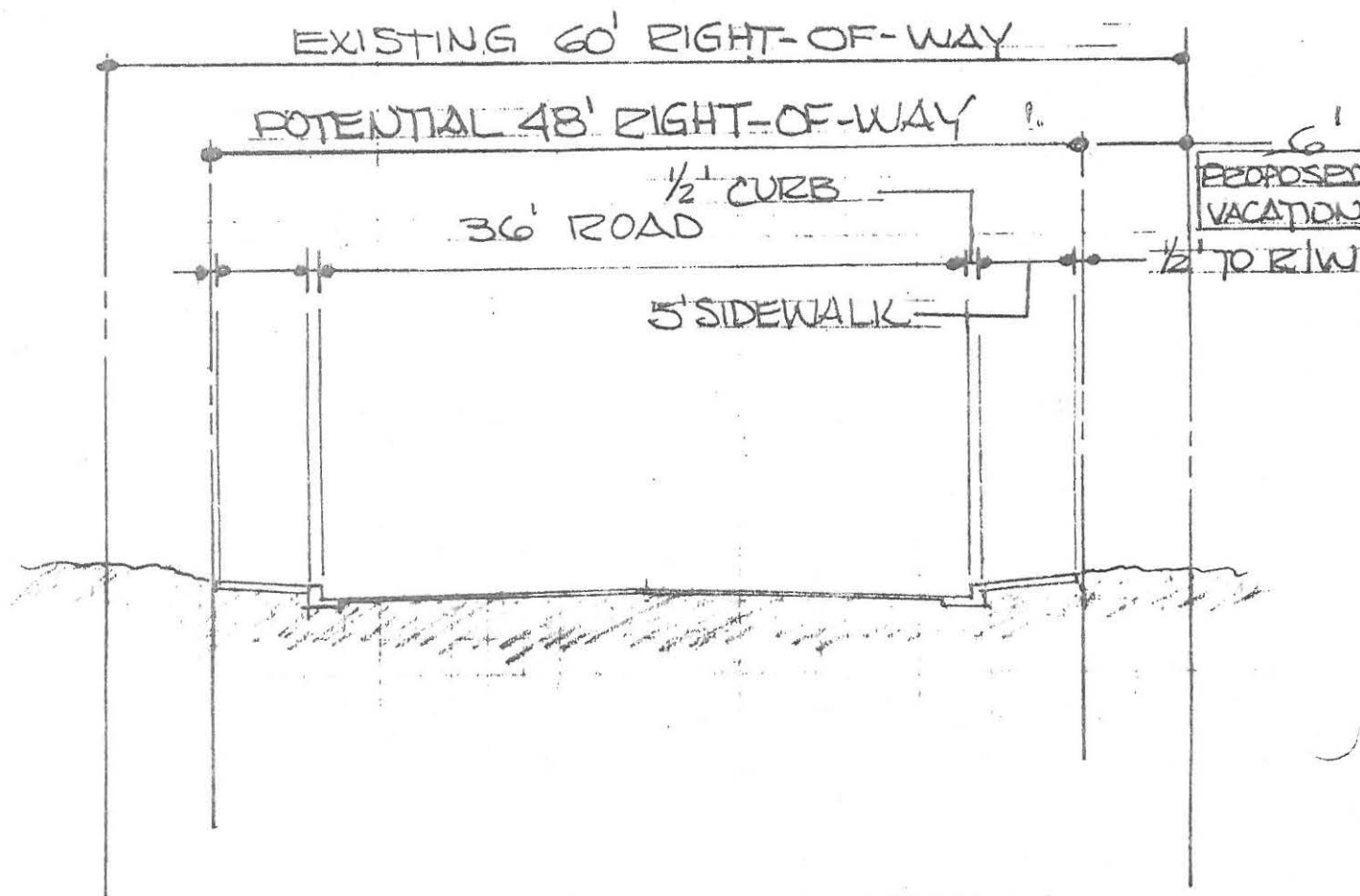
FILE NO.

DRAWING NO. (S)

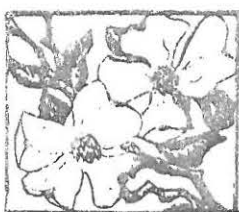
CHECKED BY

DATE

III
a (7)



WORST CONDITION - MAXIMUM
STREET & SIDEWALK WIDTH



City of Milwaukee
PUBLIC WORKS DEPT

SHEET
2
OF
2

PROJECT

CALCULATED BY
S.M. HALL

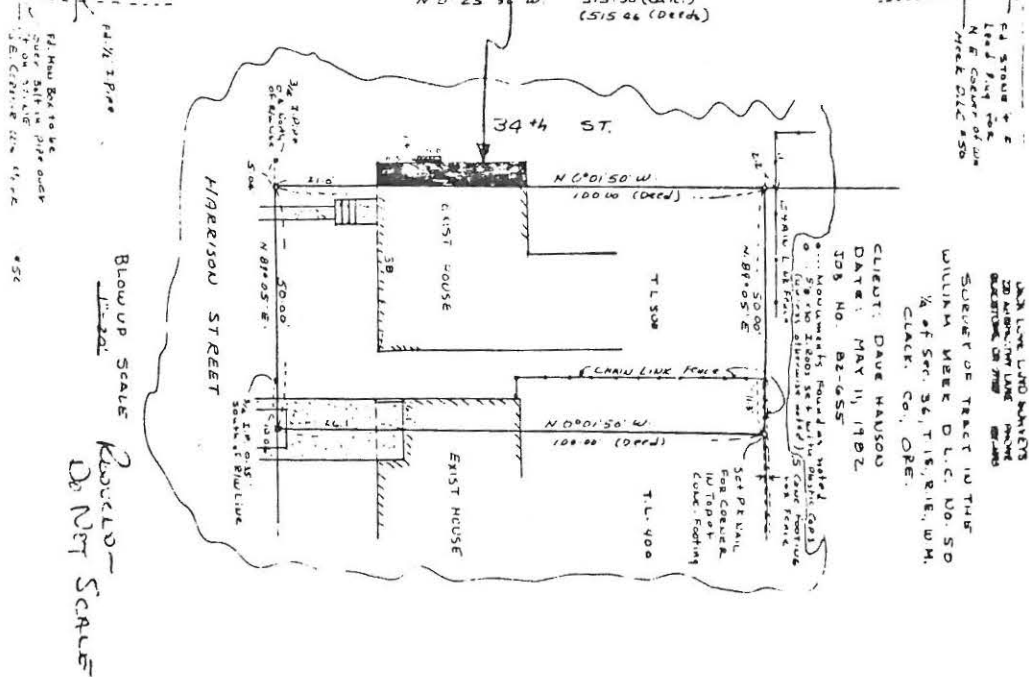
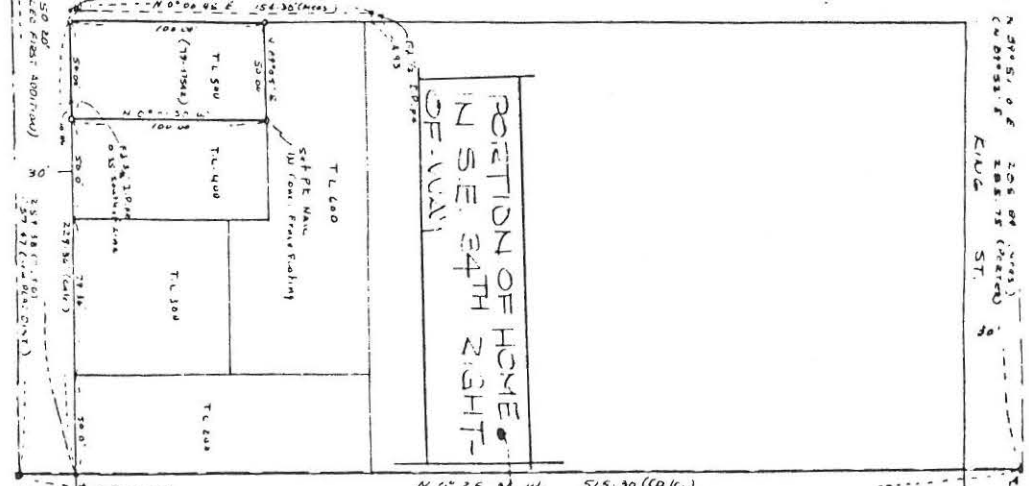
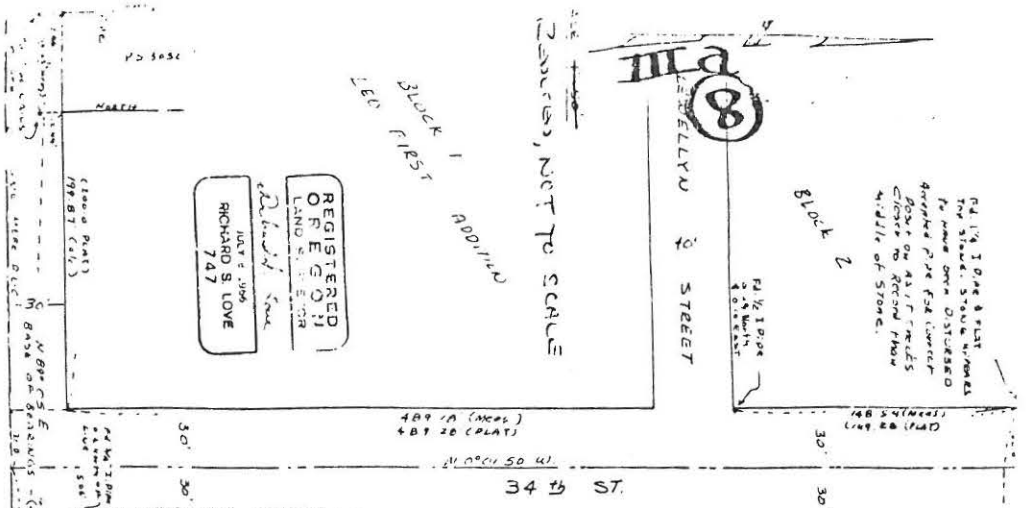
DATE
24 May 62

FILE NO.

DRAWING NO. (S)

CHECKED BY

DATE



DAVE LOVE LAND SURVEYOR
200 W. 10th Street
BENTON, ORE. 97103

SUBJECT OF TRACT IN THIS
WILSON MERRILL D.L.C. NO. 50
1/4 of Sec. 36, T.15, R.1E, W.1M.
CLACK, CO., ORE.

CLIENT: DAVE HAVSOD
DATE: MAY 11, 1982
JOB NO. 82-655

CITY OF MILWAUKIE
BILLS PAYABLE JULY 20, 1982

IV
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10

1.	Airweld	23.79	1-62	23.79
2.	Allen's Press Clippings	27.00	1-21	27.00
3.	American Water Works Assn.	15.00	1-91	15.00
4.	Audio Visual Supply Co.	64.50	1-53	64.50
5.	BS Rental Center, Inc.	18.00	20-	18.00
6.	Baker & Taylor	98.43	1-34	98.43
7.	Bernan Associates	5.25	1-80	5.25
8.	Bernard's Garage	168.26	1-62	168.26
9.	Boise Cascade	283.12	1-53	180.10
			1-70	7.98
			1-91	95.04
10.	Brooks Products, Inc.	20.34	30-	20.34
11.	Brown, Hugh	205.00	1-21	205.00
12.	Bruneau	5.00	1-23	5.00
13.	Business Equipment Bureau	80.75	1-22	80.75
14.	Chevron U.S.A. Inc.	468.45	4-	468.45
15.	City Council	275.00	1-10	275.00
16.	Clackamas Communications, Inc.	500.00	1-61	500.00
17.	Clackamas Cty. Sports Officials Association	960.00	1-94	960.00
18.	Clackamas Water District	191.25	1-22	173.25
			1-94	18.00
19.	Conference on New Federalism	35.70	1-10	35.70
20.	Coover, Lewis Bryan III	35.00	1-23	35.00
21.	Clackamas County Assessors	182.77	30-	182.77
22.	" " Service Dist. #1	42,964.80	1-32	93.50
			20-	42,871.30
23.	" " Fire Dist. #1	4,074.64	1-62	4,074.64
24.	Diesel Service Unit Co.	124.93	7-	124.93
25.	Doubleday & Company, Inc.	223.08	1-34	223.08
26.	EBSCO Subscription Services	7.20	1-34	7.20
27.	Eades, Greg	26.20	1-22	26.20
28.	Eastside Heating & Air Conditioning, Inc.	432.00	1-37	432.00
29.	Electrical Construction Co.	329.15	1-53	329.15
30.	Flexible Pipe Tool Co.	115.00	20-	115.00
31.	Goodyear	37.00	1-62	37.00
32.	Good Samaritan Hospital	5.00	1-32	5.00
33.	Home Laundry	167.48	1-62	167.48
34.	Honeywell Protection Services	66.00	20-	33.00
			30-	33.00
35.	Hyneman, Glorianne C., R.N.	261.35	1-32	261.35
36.	IBM	453.20	1-21	62.75
			1-22	24.00
			1-41	311.69
			1-80	37.66
			1-91	17.10
37.	IPMA	190.00	1-21	190.00
38.	ISSPRO	12.33	7-	12.33
39.	John Inskeep Environmental Learning Center	2,130.00	13-	2,130.00

IV
a 2

CITY OF MILWAUKIE
BILLS PAYABLE JULY 20, 1982

40.	Kerr Associates, Inc.	25.50	1-36	25.50
41.	Kovac, Leonard J., Jr.	257.50	1-30	257.50
42.	LGPI	465.00	1-21	465.00
43.	McCall Oil	7,568.33	GL	7,568.33
44.	McFarlane's Bark	2.75	4-	2.75
45.	Main Street Cleaners	595.55	1-53	492.50
			1-61	3.09
			1-62	92.75
			1-63	7.21
46.	Milwaukie Automotive	2,643.00	3-	2,643.00
47.	Milwaukie Lumber Co.	38.70	4-	38.70
48.	Mobile Radio Communication Service, Inc.	67.47	1-62	67.47
49.	Moen Machinery Co.	45.35	1-36	45.35
50.	Molalla Community School	170.00	1-36	170.00
51.	New Review	42.42	1-21	32.44
			20-	9.98
52.	Northwest Law Enforcement Equipment	16.00	1-52	16.00
53.	Northwest Natural Gas	50.08	4-	9.35
			30-	40.73
54.	Northwest Outdoor Equipment	69.36	1-36	69.36
55.	Nudelman Bros.	307.50	1-52	307.50
56.	OMFOA	45.00	1-24	45.00
57.	Oregon Tri-City Chamber	10.00	1-21	10.00
58.	State of Oregon, Secretary	200.00	1-41	200.00
59.	PGE	4,280.16	1-24	6.21
			1-34	234.99
			1-53	220.12
			1-61	214.85
			4-	238.15
			20-	53.08
			30-	3,312.76
60.	Pacific Northwest Bell	17.28	1-62	17.28
61.	Pacific Northwest Bell	1,378.56	1-34	130.55
			1-53	766.01
			1-61	112.73
			4-	247.07
			20-	81.50
			30-	40.70
62.	Parkrose Machine & Fab.	350.00	7-	350.00
63.	Petty Cash	111.90	1-43	2.84
			1-51	4.90
			1-52	10.91
			1-53	15.54
			1-61	3.99
			1-62	15.62
			1-70	16.50
			1-80	8.00
			1-91	2.89
			7-	30.71

CITY OF MILWAUKIE
BILLS PAYABLE JULY 20, 1982

IV
a(3)

64.	City of Portland	107.80	4-	107.80
65.	Portland Road & Driveway	200.00	4-	160.00
			20-	40.00
66.	Printer Terminal Communications	9,777.56	1-62	9,777.56
67.	Recker, Yvonne	15.20	1-32	15.20
68.	Robben Oil	552.53	1-37	233.93
			1-62	318.60
69.	Rodda Paint	36.00	1-52	36.00
70.	Rossman's Landfill, Inc.	118.90	4-	118.90
71.	Stettler Supply Company	32.00	30-	32.00
72.	Stevens Automotive	831.71	7-	831.71
73.	Sweeney Construction and Cabinet Company	2,384.71	1-37	2,384.71
74.	Teague Motors	15,279.74	12-	15,279.74
75.	Totten, Leslie	7.40	1-22	7.40
76.	Town Concrete Pipe, Inc.	759.24	20-	759.24
77.	Valley Communications	236.00	1-52	161.00
			30-	75.00
78.	Valley Lock & Key Service	90.00	30-	90.00
79.	Water, Food & Research Lab., Inc.	121.00	30-	121.00
80.	Water Metrics Co.	412.50	30-	412.50
81.	Weiler Chevrolet	88.57	1-52	88.57
82.	Westate Tractor Company, Inc.	115.32	7-	115.32
83.	Western Gerontological Society	50.00	1-32	50.00
84.	Western Pacific Construction	101.75	4-	101.75
85.	Wichita Feed & Hardware	165.26	1-36	66.94
			4-	2.85
			7-	25.83
			20-	47.69
			30-	21.95
		\$105,522.57		\$105,522.57

CHART OF ACCOUNTS
FUNDS, DEPARTMENTS & DIVISIONS

Effective July 1, 1982

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

IV
B
①

MEMORANDUM

July 13, 1982

TO: HUGH BROWN, CITY MANAGER

SUBJECT: Resolution on State Revenue Sharing Funds

Attached is a resolution declaring the City's intention to receive shared State Revenues. The resolution is a part of the requirements each year for obtaining the funds.

These funds have been identified as an offset to property taxes. The estimated amount of \$100,000 is about the same as last year. A copy of the completed resolution must be filed with the Intergovernmental Relations Division by July 31, 1982.

Gordon Erickson
Gordon Erickson
Finance Director

Att.: Proposed Resolution

Hugh H. Brown
Approval Recommended
Hugh H. Brown
City Manager

IV
B
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RESOLUTION NUMBER _____

A RESOLUTION OF THE CITY OF MILWAUKIE DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUES.

BE IT RESOLVED, that the Council of the City of Milwaukie hereby elects to receive State Revenues for fiscal year 1982-83.pursuant to ORS 221.770.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon on the 20th day of July, 1982.

Joy Burgess, Mayor

ATTEST:

Laurie Perkin, City Recorder

Approved as to form:

Greg Eades, City Attorney

MEMORANDUM

IV
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TO: HUGH BROWN
FROM: JO DURAND
SUBJECT: PROPOSED CHANGE IN ANNIVERSARY DATE POLICY
DATE: JULY 16, 1982

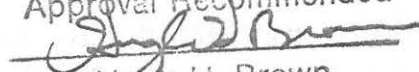
The attached proposed resolution would amend the City's Personnel Rules regarding anniversary dates. Currently, for all employees hired on any day other than the first of the month, the first of the following month is established as their anniversary date for purpose of eligibility for merit step increases and increases in vacation accrual rate. The proposed change would establish a mid-month cut off to minimize the potential loss in compensation for employees hired on dates other than the first of the month.

A review of the practices of other similar-sized metropolitan area cities indicates that most cities use a mid-month cut off. Several use the actual date of hire as the anniversary date. No city forwards all non-first of the month anniversary dates to the following month. Our payroll accounting methods are more suited to the mid-month cut off system.

All employee bargaining units and department heads and division managers have reviewed the proposed change and have raised no objections to it.

Action on this proposed change in the Personnel Rules by the City Council on July 20, 1982 would permit this change to be effective with the start of this fiscal year without necessitating retroactive payments.

Approval Recommended


Hugh H. Brown
City Manager

RESOLUTION NUMBER _____

IV D (2)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE
AMENDING THE CITY PERSONNEL RULES.

BE IT RESOLVED by the council of the City of Milwaukee
that Personnel Rule I (5) (B) (b) is amended to read as
follows:

(B) Accumulation of Vacation Credits.

- b) shall be available for use on the first day of
the month following six months of continuous service
from the employee's initial anniversary date (see
Rule II (5) (F) regarding anniversary dates.)

BE IT FURTHER RESOLVED that Personnel Rule II (5) (B) is
amended to read as follows:

(B) Salary Increases. Unless otherwise provided, step
increases shall be based on merit and satisfactory
performance appraisal by the employee's supervisor,
with the concurrence of the City Manager. Step
increases shall be considered on the following
schedule:

- a) on the first of the month six months after
the anniversary date of an employee that is
receiving the minimum salary for the range.
- b) on the first of the month twelve months after the
anniversary date of an employee that is receiving
a salary above the minimum salary and below the
maximum salary for the range.
- c) after each subsequent year of service until reaching
the maximum salary for the range.

Performance adjustments may be made at other than
designated steps within an employee's salary range.

BE IT FURTHER RESOLVED that Personnel Rule II (5) is
amended by adding Section F to read as follows:

(F) Anniversary Dates: For the purpose of determining the
accumulations of and eligibility to use vacation
credits, of considering step increases and of administering
other appropriate personnel rules, anniversary dates
will be set as follows:

IV-D (3)

- a) An employee's initial anniversary date will be the first of the month of hire if the actual date of hire occurs on or before the fifteenth (15th) of the month.
- b) An employee's initial anniversary date will be the first of the following month if the actual date of hire occurs on or after the sixteenth (16th) of the month.
- c) All permanent changes to classifications resulting from promotions, demotions, transfers, etc. result in the establishment of a new anniversary date for consideration of step increases.

Introduced and adopted by the City Council on

MOTION CARRIED unanimously. It was MOVED by Graf, SECONDED by Paulson, to adopt Ordinance 1525. MOTION CARRIED with the following roll call vote: AYES: Burgess, Bischoff, Paulson Graf. NO: Hall.

PUBLIC HEARING- Water and Sewer Rate Increases

Public hearing was declared open at 7:36 p.m. Steve Hall, Public Works Director made staff presentation. He reported on the number of stations, lines, hydrants and number of staff. He said there were no new projects or staff. He pointed out minor corrections in report. On the resolution regarding water services under No. 3, \$0.6 should be \$0.66 per 100 cubic feet. On page 12, under Water Division Projections, Item A, after Less Construction Reserve, the figure should read \$174,000 rather than \$273,000. Hall presented a pie chart showing how money would be spent. The sewer increase would amount to 14.7% and in the water division the increase would be 22.4%. He recounted problems in the system and spoke of improvements which should be made. There were questions from Council and extended discussion on the city's contract with Clackamas Service District # 1. The Council questioned the large increase. Public Works Director said that the city is obligated to pay 40% for the construction of the plant and explained the method of payment.

Arnold Callan, 12012 SE Wood, addressed the Council stating that the request for increases was a serious blow to the credibility of the city government and the council, that no correspondence had been sent to the citizens regarding this. He criticized the contract with the County and stated that the City has not negotiated with the county for several years.

Jim Backenstos, 2626 SE Harrison, said that the matter should be tabled until the city has a full report from the county.

Also speaking against the increases: Kathleen Hulme, 11517 SE 30th; Al Liane, 4809 SE Monroe; Bill Hupp, 2626 SE Washington.

The Public Hearing was declared closed at 8:35 p.m.

There was further discussion on the contract with Clackamas Service District #1. It was MOVED by Paulson, SECONDED by Burgess, to postpone both the increases until a clear and accurate report from the County could be obtained.

Graf asked staff to give an accounting of what would happen if the increases were not approved. Public Works Director said that if the sewer increase was not approved, 2 vacancies would not be filled and the department would have to operate out of the Replacement Construction Fund. As to the water increase, the result would be again that the Replacement Construction fund would have to be cut into. On the MOTION to postpone both resolutions, MOTION FAILED with the following roll call vote: AYES; Burgess, Paulson. NOES: Bischoff, Hall, Graf.

It was MOVED by Hall , SECONDED by Graf to adopt Resolution No. 18-1982 (A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON SETTING FEES FOR WATER SERVICES PROVIDED BY THE CITY UNDER ORDINANCE NUMBERS 1418 and 1424. REPEALING RESOLUTION 8-1981.) MOTION CARRIED with the following roll call vote: AYES: Bischoff, Hall, Graf. NOES: Paulson, Burgess

It was MOVED by Hall, SECONDED by Graf, that Council postpone action on the resolution regarding sewer increases until there is received a clear and accurate report from Clackamas Service District #1 justifying increases. City Attorney suggested that the Council be involved in negotiating the contract with the county . It was the consensus of the Council that City Attorney research this matter. On the MOTION to postpone the resolution regarding sewer increases, MOTION CARRIED with the following roll call vote: AYES: Burgess, Bischoff, Graf, Hall. NO: Paulson.

LEGISLATION

It was MOVED by Hall, SECONDED by Graf, that the bills listed for June 29 be approved for payment. MOTION CARRIED unanimously.

Request to approve sale of Engine 56 and letter of credit.

Fire Chief, Dick Bailey, explained purchasing procedures and replacement needs of Fire Department. He said a buyer was found for Engine 56 and a letter of credit would be used for the purchase of fire related equipment. It was MOVED by Graf, SECONDED by Bischoff, to approve request as stated in Bailey's memo dated July 1, 1982. MOTION CARRIED unanimously.

Request to approve contract with PACC for medical insurance.

City Manager is recommending a change in medical insurance carriers which hopefully will result in a savings to the city and will provide basically the same services. The plan is not completed yet and has to have approval of unions. He requested authorization to sign such a contract if it is acceptable to employees. There was discussion on a self-insurance program for the city. It was MOVED by Graf, SECONDED by Bischoff, to authorize City Manager to sign a contract with PACC for medical insurance as requested. MOTION CARRIED unanimously.

CONSENT AGENDA

Approval of Minutes - June 10, 15, 21, 22, 1982

Liquor License - Mont Rouge World Wines Inc.

Renewal of agreement with Clackamas County regarding Animal Control.

It was MOVED by Graf, SECONDED by Bischoff to approve the consent agenda. MOTION CARRIED unanimously.

Paulson said he wished to receive more information regarding liquor licenses from now on.

INFORMATION

Bill Hupp has written a memo dated June 25, 1982 requesting ordinance prohibiting various pornographic establishments within the City of Milwaukie. City Attorney said he could draft such an ordinance but it would be vague in order to cover a variety of situations and he would prefer dealing with a specific problem. He suggested that he get a copy of the Portland ordinance and Council could review it. Council agreed to this.

OTHER BUSINESS

Appointments to Commissions.

It was MOVED by Graf, SECONDED by Hall, that Don Kopp be reappointed to the Traffic Safety Commission. MOTION CARRIED unanimously.

It was MOVED by Graf, SECONDED by Hall, to reappoint Brian Coover to the Library Board. MOTION CARRIED unanimously.

It was MOVED by Hall, SECONDED by Bischoff, to reappoint David Larson to the Parks and Recreation Commission.

MOTION CARRIED unanimously.

It was decided to interview applicants for vacancies on the Parks and Recreation Commission prior to the July 20 Council meeting.

The meeting adjourned at 9:50 p.m.

MILWAUKIE
CITY COUNCIL MEETING
June 29, 1982
7 p.m.

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COUNCIL CHAMBERS

SPECIAL MEETING

A special meeting of the Milwaukie City Council was held on June 29, 1982 with the following councilors present:

Mel Paulson	Don Graf
Wallace Bischoff	Roger Hall
Mayor Joy Burgess	

Also present:

Hugh Brown, City Manager	Dick Bailey, Fire Chief
Steve Hall, Public Works Director	Laurie Perkin, Secretary
Gordon Erickson, Finance Director	

The meeting was called to order by Mayor Burgess at 7 p.m.

LEGISLATION

Bid Award for Equipment for Well # 7

Public Works Director said the city opened bids for equipment for Well # 7 on June 25, 1982 and requested that Council award contract to Queen Pump Co. for the low bid of \$19,917. It was MOVED by Graf, SECONDED by Bischoff, to award bid to Queen Pump Co. as recommended by Public Works Director. MOTION CARRIED unanimously.

Resolution adopting Budget

Finance Director requested Council to adopt budget, levy taxes and appropriate funds for the operating year 82-83. This budget is based on the passing of the levy submitted to the voters on this day, June 29, 1982. He said the city has two pieces of property that lie in both Multnomah and Clackamas County and tax recordings have to be filed with both counties. This resolution is an operating document which gives the city the authority to spend money beginning July 1, 1982. It was MOVED by Paulson, SECONDED by Bischoff, to adopt Resolution 15-1982 (A RESOLUTION OF THE COUNCIL OF THE CITY OF MILWAUKIE ADOPTING THE 1982-83 BUDGET, MAKING APPROPRIATIONS AND LEVYING TAXES) MOTION CARRIED unanimously.

Workers Compensation Insurance proposals

Finance Director has prepared memo dated June 29, 1982 recommending the EBI Standard Premium Plan. This is the same company which presently provides coverage but is a different type of coverage which will be less expensive. It was MOVED by Paulson, SECONDED by Bischoff to accept recommendation of Finance Director. MOTION CARRIED unanimously.

MEA Pay Plan Approval

It was MOVED by Graf, SECONDED by Bischoff to adopt Resolution No. 16-1982 (A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE RATIFYING AND ADOPTING PAY PLANS FOR CERTAIN EMPLOYEES OF THE CITY OF MILWAUKIE FOR THE PERIOD FROM JULY 1, 1982 THROUGH JUNE 30, 1983.) MOTION CARRIED unanimously.

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6Payment of Bills

It was MOVED by Graf, SECONDED by Bischoff, that the bills listed for June 29, 1982 be approved for payment. MOTION CARRIED unanimously.

City Manager suggested that the Council might want to take a look at which organizations the City belongs to. The Mayor asked that such a list be prepared for Council review.

INFORMATION

Graf, Bischoff and Burgess all asked to be registered for the governor's conference on July 8.

Mayor Burgess asked for Council consensus on a direction to take regarding the status of the Milwaukie Post Office facility, whether to seek independent status or concentrate on upgrading the present facility. There was discussion on the location of the new Finance Center. City Manager said that staff has identified all the vacant areas in the city and that's all that can be done at this point but staff will keep in contact with the Portland Post Office. There was discussion on the problems with the present facility. Graf said that though it may not be possible to get independent status, it was important to keep options open and keep in contact with Congressmen, especially to try to get the problem with bulk mail solved. Hall asked to go on record as asking why the post office could not continue in its present facility. There was Council consensus to research this matter and to keep in touch with Congressmen as to other alternatives.

Mayor Burgess has received a letter from Metro regarding the new resource recovery plant. There was discussion as to how this would affect Milwaukie Citizens as far as garbage rate increases. It was agreed that staff would seek further information and keep Council informed.

It was decided to meet on Thursday, July 1 in the event that the budget levy fails.

A work session was scheduled for 6 p.m. on July 6 prior to the regular council meeting to discuss the possibility of working with Cogan and Associates.

The meeting was adjourned at 8:28 p.m.

APPROVED

Joy Burgess, Mayor

Laurie Perkin, Secretary

MILWAUKIE
CITY COUNCIL MEETING
July 6, 1982
6 p.m.

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THE MILWAUKIE CENTER

WORK SESSION

A work session of the Milwaukie City Council was held on July 6, 1982 with the following councilors present:

Mel Paulson	Don Graf
Wallace Bischoff	Roger Hall
Mayor Joy Burgess	

Also present:

Hugh Brown, City Manager	Topaz Faulkner, Comm. Services Director
Greg Eades, City Attorney	Laurie Perkin, Secretary

Mayor Burgess called the meeting to order at 6 p.m. and asked Council to work toward a decision concerning an annexation policy. She said the city must act quickly if they want to carry through with a plan for annexation. There was discussion on whether to retain Cogan and Associates for further study on annexation.

Hall said he did not see any advantage to the city to annex at this time. Graf said that though the city should straighten out its boundaries, he does not see any major annexation to be feasible in light of the results of the recent report by Cogan and Associates. Burgess said she felt that Cogan and Associates could help the city remove its negative image and show that Milwaukie has something to offer. They could, she said, draw up an urban growth boundary. Graf suggested asking the advise of the boundary commission. There was discussion on the possible incorporation of other cities. City Attorney said that the primary function of the boundary commission was to mediate disputes and that from a planning standpoint and for the protection of the city's interests, the city should be concerned about this. Hall suggested talking to other areas and find the best solution to the problems of the entire region.

The meeting was recessed at 6:59 p.m.

The meeting reconvened at 10:55 p.m.

There was discussion on the Oak Lodge and Clackamas plans for incorporation. Graf said that it was important to have Council consensus on this subject and he felt it was important to find out what other areas thought about consolidation, incorporation etc. Hall said he would like to see the city revoke its previous policy on annexation and ask boundary commission for its suggestions. City Attorney suggested that the boundary commission might take the initiative to call a meeting of all jurisdictions concerned at which time the City of Milwaukie would make known its desire to work with all citizen groups to provide better services. It was MOVED by Burgess, SECONDED

Graf that the city revoke its "progressive annexation" policy and make an effort to work with other jurisdictions to solve problems of mutual concern. MOTION CARRIED unanimously.

It was MOVED by Hall, SECONDED by Graf, to direct staff to write to the boundary commission requesting them to initiate the process of a cooperative planning effort with other jurisdictions. MOTION CARRIED unanimously.

The meeting was adjourned at 11 p.m.

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Joy Burgess, Mayor

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Laurie Perkin, Secretary

MEMORANDUM

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TO: MAYOR AND CITY COUNCIL
FROM: GREG EADES, CITY ATTORNEY *GE*
DATE: JULY 9, 1982
SUBJECT: LITIGATION REPORT, 1981-82

Following is a list of the claims and suits handled by the legal department during the past year.

Cases closed

1. Claimant: A. Arlene Bartlett
Date filed: 10/28/80
Date closed: 10/28/81

Sex discrimination complaint filed with Oregon Civil Rights Division. Claimant was terminated from Police Reserve program in 1979 for failure to report for assignments and sought \$3,000 in damages for discriminatory practices of department. City did not admit any liability, but settled the complaint for \$900 because of the inadequacy of our records and possibility of extended litigation.

2. Claimant: Grant Fulmore
Date filed: 2/10/81
Date closed: 6/25/82

Claim for over \$100,000 in back pay, attorney's fees and damages arising out of claimant's termination. The Civil Service Commission ordered Fulmore reinstated, but order was defective due to a problem with the vote. Claim was settled for \$6,500.00.

3. Claimant: Thomas Meyer
Date filed: 3/20/80
Date closed: 5/17/82

Defamation suit for \$170,000 arising out of removal of applicant's name from hiring list. Settled by liability insurance carrier for \$3,250.00

4. Claimant: James P. Strand
Date filed: 5/9/81
Date closed: 4/28/82

Discrimination claim for \$70,000 in Federal District Court for violation of civil rights arising out of Police Dept. arrest. Lawsuit was withdrawn.

TO: MAYOR AND CITY COUNCIL
DATE: JULY 9, 1982
LITIGATION REPORT, 1981-82

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5. Claimant: City of Milwaukee
Date filed: 10/5/76
Date closed: 10/23/81

City sued surety company for \$6,000 for developer's failure to complete required storm drainage improvements. Work was completed by city and lawsuit was settled for \$2,800.

6. Claimant: Floyd Jones and Chevron, Inc.
Date filed: 2/25/82
Date closed: 6/8/82

Appeal to Land Use Board of Appeals of Council's decision on site for Tri-Met transfer station. Appeal dismissed after oral argument for lack of jurisdiction.

7. Claimant: Dennis Miller
Date filed: 9/17/81
Date closed: 10/8/81

Claim for \$2,000 damages to car when it struck sign and cable across McBrod Ave. Insurance company settled claim with payment of \$1,548.01.

Pending cases

1. Claimant: Robert H. Adams
Date filed: 5/29/80

Claim for death benefits arising out of police chase involving several agencies. No amount is specified. Case will be handled by our liability insurance carrier.

2. Claimant: James Redman
Date filed: 7/16/80

Claimant sought an injunction against enforcement of stop work order on building remodeling. Work was completed to city's satisfaction and case will be dismissed.

3. Claimant: 1000 Friends of Oregon and State Housing Council
Date filed: 3/31/81

Claimants appealed LCDC approval of city's Comprehensive Plan on the grounds that it did not provide for up-zoning of property designated for increased density development. Case will probably be heard sometime this fall.

TO: MAYOR AND CITY COUNCIL
DATE: JULY 9, 1982
LITIGATION REPORT, 1981-82

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New Cases

1. Claimant: Several property owners on 32nd Ave.
Date filed: 2/5/82

Claim for damages arising out of vibrations caused by asphalt street patch. Insurance company denied claim. City liability limited to \$2,000.
2. Claimant: Douglas L. Jones
Date filed: 5/6/82

False arrest claim, being investigated now by our insurance carrier.
3. Claimant: Vern G. & Susan Bradshaw Davis
Date filed: 10/23/81

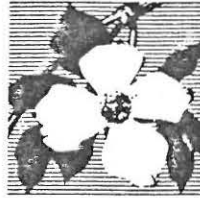
Claim for \$75,000 damages against police department arising out of child custody dispute. Under investigation by the insurance carrier.
4. Claimant: Sarah Sue Wiedman
Date filed: 11/19/81

Claim for damages incurred when claimant stepped into a hole in the pavement on SE 33rd Ave. Under investigation by insurance carrier.
5. Claimant: Jacqueline Washington
Date filed: 5/3/82

Claim for \$75,000 for false arrest. City officer arrested claimant under a Multnomah County warrant. Case against city will probably be dismissed soon.

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CITY OF MILWAUKIE



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CITY COUNCIL
in the City Hall • phone 659-5171

July 13, 1982

Mr. Gene Ginther, Chairman
Portland Metropolitan Area
Local Government Boundary Commission
320 SW Stark, Room 530
Portland, OR 97204

Dear Mr. Ginther:

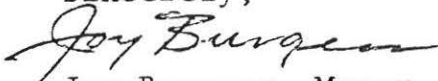
The future of unincorporated Clackamas County has been the topic of considerable discussion and disagreement over the past several years and which continues today. A variety of ideas to serve the needs of the developing areas have been honestly presented but, as we have all witnessed, they all seem to cause the same feelings of suspicion, resentment and opposition among many of the residents and area jurisdictions.

The City of Milwaukie supports well-planned urban growth and the provision of urban services which reflect the needs and desires of the area residents. The city also strongly feels that a resolution of differences can best be achieved through cooperation rather than competition among all concerned. As a first step toward improved cooperation, the City Council on July 6 repealed its previous policy of "progressive annexation". This policy had apparently caused many to feel the city was insensitive to the concerns of the larger area. With this action, the city emphatically indicates a sincere desire to work with its neighbors to solve problems of mutual concern.

As a second step, the City of Milwaukie requests the Boundary Commission to initiate and facilitate discussions among area residents, citizen groups and jurisdictions. The purpose would be to identify and evaluate alternatives to meet the service needs of the area residents. It is hoped that the knowledge and experience of the Commission and staff will help provide a broader perspective to aid us in our efforts.

Please feel free to call me (654-4951) or City Manager Hugh Brown to discuss this request. Your assistance is greatly appreciated.

Sincerely,


Joy Burgess, Mayor

cc: Members of City Council, Hugh Brown, City Manager
CITY HALL • 10722 S.E. MAIN STREET • MILWAUKIE, OREGON 97222 • TELEPHONE (503) 659-5171

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MINUTES

SENIOR CITIZEN ADVISORY COMMISSION

June 11, 1982

Present: Gail Roach, presiding; Art Renner, Art Johnson, Ron Kinsella,
Kay Stevens

Staff: Sara Hite

Absent: Excused: Doris Olsen, Alice Measure, Nick Knapp, Joe Keller.

Minutes of May 13 were approved as printed.

Committee Reports: Housing - Sara reported for Nick that the King-Bell project is almost a certainty, that work is expected to start in 30 days.

Center Program: Interest in the garden plots is becoming extensive.

Date of September 12 as been set for the Fallfest.

Transportation: Sara stated the shuttle bus will start a new schedule August 1 to accommodate working people who will pick up the low ridership hours. Regular Tri-Met rates will be charged for them.

Center Survey: Commission members were asked to fill out a questionnaire. Only about 5% have been returned so far. PSU will do an analysis on those mailed out and returned.

City Budget election: Commission members expressed a willingness to telephone just before the election. Each is asked to submit a "target" list of those who would probably be positive voters.

Zoning and Development Code: Excerpts from the new Code were reviewed and studied for further questions. Topaz Faulkner or Jon Stein will be asked to come to the next meeting to clarify some points.

Meeting time: General agreement to leave the time as is, second Friday at 10 a.m.

Meeting adjourned.

Kay Stevens,
Secretary, pro tem.

MILWAUKIE CENTER ADVISORY BOARD

Minutes June 18, 1982

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Present:	Sharon McCartney	Excused:	Bernice Johnson
	Cathryn Boyles		Irene Suchsland
	Janet Witter		Janel Warren
	Paul Schafer		Rev. John O'Hara
	Helen Kappler	Staff:	Sara Hite
		Guest:	Don Graf

The meeting was called to order by Janet Witter, Chairman.

The minutes were read and accepted.

Center Survey:

Sara Hite reported the questionnaires were mailed out May 20. Response has been generally positive. Return of survey has been slow; therefore, sending a reminder is being considered. A survey was completed by each board member and submitted (for comparison purposes).

Shuttle Update:

As of August 1, the shuttle will be utilized by the business people 6:30-9:30 a.m. and then by seniors 9:30-2:00 (1:44 will be the last bus to leave the Center). In the late afternoon the shuttle will again be available to the business community.

The fare will remain 25¢ for seniors and 65¢ for non-seniors. Transfers may also be obtained.

This change should promote greater utilization of the shuttle.

City Budget:

June 20th the City budget will again be presented to the voters. This budget reflects a decrease of \$70,000 from the last proposed budget. (Don Graf stated that this budget is down to the bare minimum. Paul asked him what would happen to the emergency vehicle if this budget failed. Don answered that it was in jeopardy if the budget was not passed).

Policy Review:

The health programs held at the Center were discussed. Since Keep Well and Foot Clinics are being cut at the county level, alternate providers must be located.

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Loaves & Fishes will continue the Blood Pressure Clinics. Concern was expressed regarding liability and protection for the patient if volunteers were utilized in administering flu shots and foot clinics, etc. There was a consensus that these services should be provided by a health service agency certified by the state which could provide adequate supervision and an experienced staff and has adequate insurance coverage.

Announcements:

A strawberry pancake breakfast is scheduled for Sunday, June 20, 9:30-1:30 p.m. The charge will be \$2.50 for adults and \$1.25 for children under age of twelve. This is sponsored by Friends of The Milwaukie Center.

Policy on Petitions and Vendors:

There was a consensus that petitions may be circulated in the hallway only. Vendors (such as insurance brokers) will be restricted to displaying material only (in the hallway). These materials may be considered educational.

Meeting was adjourned.

Sharon McCartney
Secretary

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MEMORANDUM

TO: MAYOR AND CITY COUNCIL
FROM: MILWAUKIE TRAFFIC SAFETY COMMISSION
DATE: JULY 15, 1982
SUBJECT: RECOMMENDATION - LIGHT RAIL TRANSIT SYSTEM.

After study and discussion of the McLoughlin Corridor information from the Oregon Department of Transportation and Tri-Met, the Commission voted unanimously to recommend and support the inclusion of a Light Rail Transit system in the implementation of improvements to McLoughlin Blvd. The Commission feels that a Light Rail Transit system will best serve the future transportation needs of Milwaukie and adjacent communities, and prefer the 17th and McBrod route.

Very truly yours,

Paul H. Roeger

Paul Roeger
Office Engineer

For the MILWAUKIE TRAFFIC
SAFETY COMMISSION

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TRAFFIC SAFETY COMMISSION
MINUTES JULY 12, 1982

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I CALL TO ORDER: The meeting was called to order by Chairman BUKOVI at 7:37 p.m., in the City Council Chambers.

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

MEMBERS ABSENT: Louis Bruneau, Excused
John Cory

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

II APPROVAL OF MINUTES: BOTTEMILLER made a MOTION to APPROVE the MINUTES of the JUNE 14 meeting. SECONDED by SAMUELS, PASSED UNANIMOUSLY.

III AUDIENCE PARTICIPATION: NONE.

IV OLD BUSINESS:

A. Project Status Report

1. Signalization

a. Harrison St. (Highway 224 - 34th Ave.) The project is still on "hold" due to a conflict between the State Highway Div. and P.G.E. over who will pay for the moving of P.G.E. power lines that are in the way of the new luminaire.

b. Lake & Oatfield Rds. - Signal turn-on July 15.

2. McLoughlin Blvd. - Tabled for further discussion later. See Page 2.

3. Railroad Crossings

a. Monroe St. - Curbs needed to protect new crossing arms.

b. Johnson Creek Blvd. - No additional information.

c. 17th Ave. - In process of negotiations with Portland regarding maintenance of the advance warning signs, etc., on Ochoco St. As this area involves five governmental jurisdictions maintenance agreements must be worked out and this will delay installation of crossing arms.

4. Traffic Revisions

a. Monroe St. Crosswalk completed.

The Commission returned to item 2, McLoughlin Blvd. Discussion followed regarding widening of McLoughlin Blvd. and proposed Light Rail Transit system. The members discussed the alternate routes and concluded that the LRT system using the 17th-McBrod route into Milwaukie would be most feasible.

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STELL made a MOTION that the Commission recommend and support the Light Rail Transit system as proposed in the Preliminary Analysis by Tri-Met staff with the 17th Ave.-McBrod plan favored by the Commission. The MOTION was SECONDED by SAMUELS and BUKOVI polled the Commission. All members voted AYE. The MOTION PASSED UNANIMOUSLY AND THE COMMISSION SO RECOMMENDS TO THE COUNCIL.

V NEW BUSINESS:

- A. The Clackamas Co. Traffic Safety Comm. minutes and agenda were discussed and ROEGER explained the blue hydrant marker program. A blue plastic disc is placed in the street paving in the area of each fire hydrant to mark the location for firefighters responding to an alarm. ROEGER was requested to obtain more information on the program from the Clackamas County Traffic Safety Comm. Director.
- B. STELL reported that the Funny Farm is still in business in the Heidi Restaurant complex with no apparent change in policy.
- C. SAMUELS reported there is a "No Parking At Any Time" sign posted on Main St. for the space between the curb and the Fire Station driveway. ROEGER was not aware of the sign and will check to see if the Fire Dept. posted it for use during Milwaukie Festival Daze. It is not a standard sign.
- D. BOTTEMILLER asked who is maintaining railroad crossings. ROEGER reported that the railroad company maintains the rails and two feet on each side of the rails. The city does not have funds to repair the crossings and letters sent to the SP Co. have not received a response. Copies of the letters have been sent to the P.U.C. So far no action has been taken. ROEGER will look into this.
- E. The intersection of Linwood and Monroe Sts. was mentioned by BOTTEMILLER as very dark at night and needs illumination. ROEGER will bring this to the attention of Clackamas County.

KOPP asked about major traffic route marking on 43rd Ave. to Howe St. jog to 42nd Ave. between Johnson Creek Blvd. and King Rd. as there is no indication as to through traffic routing. ROEGER said major route signs are used but he had not seen any in Oregon. He will check to see if major route signs could be used in Milwaukie.

VI INFORMATION ITEMS:

The Commission appreciated inclusion of the City Council minutes in the Agenda packet and requested minutes of future City Council meetings be added to the monthly packets.

VII ADJOURNMENT: SAMUELS made a MOTION to ADJOURN, SECONDED by STELL. PASSED UNANIMOUSLY. Meeting adjourned at 8:06 p.m.

David Bukovi, Chairman

Virginia Kopp, Secretary

Date _____

TRAFFIC SAFETY COMMISSION
MINUTES JUNE 14, 1982

VI
E-4

I CALL TO ORDER: The meeting was called to order at 7:30 p.m. by Acting Chairman Louis BRUNEAU.

MEMBERS PRESENT: Louis Bruneau, Acting Chairman
Warren Bottemiller
John Cory
Don Kopp
Dick Samuels
Jim Stell

MEMBERS ABSENT: David Bukovi, Chairman - Excused

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

II APPROVAL OF MINUTES: A MOTION was made by STELL to APPROVE the MINUTES of the May 10 meeting, SECONDED by SAMUELS, MOTION PASSED UNANIMOUSLY. (Correction: Item VI C - Please strike the words "National Guard" and substitute "Army Reserves".)

Acting Chairman BRUNEAU introduced JOHN CORY, the new Commission member from Milwaukie High School.

III AUDIENCE PARTICIPATION: NONE

IV OLD BUSINESS:

A. Project Status Report

1. Signalization

a. Harrison St. - Highway 224 to 34th Ave.

Project is temporarily slowed until PGE can change the power lines that conflict with the luminaire at the NW Corner of 32nd Ave.

BRUNEAU requested that ROEGER have the contractor on this project cover up the flashing amber light on the Caution sign when men are not working. The lane stripes will be painted by the city in the future and the lanes will be straightened out. The signals will be operational this summer.

b. Lake & Oatfield Rds.

Work is being done on the NW and SE corners; curbs being installed. Work will be in progress for another month.

2. McLoughlin Blvd. - Information handed out for discussion later in the meeting.

3. Railroad Crossings

a. Monroe St. - Completed.

b. Johnson Creek Blvd. - Still pending.

c. 17th Ave. - No new information.

4. Traffic Revisions

a. Monroe St. Crosswalk completed.

VI
E (5)

Monroe St. Crosswalk - Continued
Designated a "School Crossing" to serve Milwaukie
Jr. High School and St. Johns Catholic School.

V NEW BUSINESS:

KOPP reported on the June 10 Special City Council meeting and the presentation by Tri-Met representatives on the McLoughlin Corridor Light Rail Feasibility Study requested by Mayor Burgess. (Also present at the June 10 meeting were representatives of ODOT and Metro.) KOPP reported that Tri-Met and the City Council were in favor of the possible LRT because it would be cost effective in a shorter time than the bus lanes and road construction proposed at this time. The light rail system would have four alternate routes and replace buses from Portland to Milwaukie with future plans to extend light rail service to Oregon City. The system is in place from Portland to Golf Jct. but right-of-way would have to be acquired from Milwaukie to Oregon City. At this point, the funds can be used for improvements to McLoughlin with light rail included, or for improvements to the widening project only.

The City Council would like to have a recommendation regarding light rail from the Traffic Safety Comm. The recommendation should be made soon, preferably at the next meeting.

BRUNEAU suggested that the matter be tabled until the July meeting when the Commission has had a chance to read the materials presented. It was agreed by general consensus.

ROEGER reported on the Traffic Engineer's workshop at Oregon State University June 9. The meeting focused on legal liability in traffic management. The one day program featured three speakers; John McCulloch, Chief Trial Counsel, Oregon Dept. of Justice, Profession Roy Sawhill, U of W, and Bud George of ODOT, Traffic Safety Engineer. The subjects covered were tort liability for local governments illustrated by actual court cases and responsibilities of traffic engineers. BOTTEMILLER inquired about the schedule for striping. ROEGER reported that the crews will do white striping at one time and yellow striping in a separate operation. Crosswalks are painted with the addition of glass beads.


BRUNEAU described a new process for crosswalk painting. A slight trench is made and filled with plastic material creating a durable, visual area.

BOTTEMILLER asked what caused the condition of high water and flooding in the Monroe St. area. ROEGER explained that there are no storm sewers in the area and excess surface water drains into dry wells. The wells fill up with silt and debris and the street floods. The street is barricaded when flooded to protect houses in the area.

TRAFFIC SAFETY COMM.
MINUTES JUNE 14, 1982
PAGE 3

VI
E (6)

VI ADJOURNMENT: KOPP made a MOTION to ADJOURN. MOTION was
SECONDED by SAMUELS. Meeting was adjourned at 8:27 p.m.



David Bukovi, Chairman

Date 12 June 1982



Virginia Kopp, Secretary



League of Oregon Cities

VI
2

SALEM: Local Government Center, 1201 Court Street N.E., P.O. Box 928, Salem 97308, Telephone: (503) 588-6466

EUGENE: Hendricks Hall, University of Oregon, P.O. Box 3177, Eugene 97403, Telephone: (503) 686-5232

Salem, Oregon
June 23, 1982

To: Mayors and City Managers of Oregon Cities
Other City Officials

This mailing contains important information about the 1982 National League of Cities Congress of Cities. It will be held in Los Angeles on November 27 to December 1. We would appreciate it if you would make this information available to any members of your council or other officials of your city who might be interested in attending.

There will be no reserved block of rooms for Oregon delegates again this year, and room reservations will be made on a first-come, first-serve basis. We encourage you to make reservations at the hotel of your choice as soon as possible. Please note that room reservations will be made for you only if you have pre-registered for the Congress of Cities.

Advance registrations postmarked by September 3, 1982, will be eligible for the early registration fee of \$195 for direct member cities and \$220 for other cities. Advance registration after that date but before November 5, 1982, is \$220 and \$265. On-site registration fees will be \$245 and \$295.

NLC is arranging unrestricted group discount flights to Los Angeles for interested registrants. You can call about this service toll-free (800) 368-3239 or check the appropriate box on the registration form for more information.

Please let us know which officials from your city will be attending the Congress of Cities so that we can coordinate any arrangements for the Oregon delegation. If you have any questions, please contact the League office in Salem.

Sincerely,

Stephen C. Bauer
Executive Director

SCB:bas
Enclosure

MEMORANDUM

July 12, 1982 ①

TO: HUGH BROWN, CITY MANAGER
FROM: BILL MCDONALD, ADMINISTRATIVE ASSISTANT
SUBJECT: REPORT ON OPERATION TURNABOUT

The Tri-Cities area organized a conference at Clackamas Community College on July 10, 1982 to discuss six subjects related to the economic development picture. Brainstorming was encouraged through subcommittees and the production of resolutions. The top priority resolution in each of the subject areas are noted in Exhibit 1.

The experiences of the Tri-Cities area can be related to Milwaukie. Their downtown areas are losing businesses, and there is a general deterioration of the quality of the buildings in the downtown area. Oregon City Shopping Center and Clackamas Town Center are blamed for some of the problem just as our merchants complain.

From a broader perspective of what's wrong with the Oregon Economy, Mr. Allan Mann of the State Economic Development Department had some observations.

1. We are paying the price for creating a negative image and a state bureaucracy that is inhospitable. (The impact of LCDC, DEQ, and other alphabet agencies as well as Governor McCall's "Come to visit but don't stay")
2. The state hasn't diversified its economic base so it is still subject to severe contraction when wood products are in a slump.
3. Knowledge based industries can go where they want so they must be aggressively pursued. They just will not settle where government isn't at least cooperative.

State efforts are geared to doing everything possible to change our image and to eliminate department level interference with industrial attraction.

The following recommendations were made by Mr. Mann to the Tri-Cities group. It could be implied that Milwaukie would also benefit from their application. In order to turn our local economy around, the following elements should be in place:

1. A local leadership group cutting across government, business, professional associations, and the educational community.
2. Identified industrial space and future sites. Sufficient information must be available to allow decisions to be made. Office campus settings are now preferred by industry.
3. Market a larger area. Milwaukie shouldn't try to go it alone. The County brochure is a good concept because it alligns us with a broader area to create jobs.
4. Develop financing knowledge and ability. There has to be a deal maker available to put together the combinations of public and private financing necessary to bring in large businesses. (This too can be done on a broader basis as the county suggests in their 503 LCDC proposal.)
5. Be sure we will accomodate business. The city and its merchants, industry, and leaders can not be fence sitters. When it gets down to the point of courting business we must be positive, cooperative, and facilitators (not blockers).
6. The effort which is invested must be substantial not just superficial.
7. We must position ourself today to exploit the future.

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③

SUMMARY OF RESOLUTIONS
ADOPTED BY OPERATION TURNABOUT
(Paraphrased)

COMMERCIAL/INDUSTRIAL ATTRACTION

Pass a \$500,000 economic development serial levy to be utilized as a revolving loan fund to assist commercial and industrial development.

DOWNTOWN REVITALIZATION

Organize and promote the downtown area through an office of Downtown Manager. Form a downtown council composed of representatives from city government, business, property owners and associations (i.e. Chamber of Commerce). Incorporate and adopt a budget to support this office. Funding should initially be voluntary but should move into a performance based system.

SMALL BUSINESS - LOOKING TO THE 80'S

Form a coordinating committee to find solutions for tax problems and business problems which are caused by the burdens of taxation and governmental interference.

LOCAL DEVELOPMENT CORPORATIONS

Form a county wide LDC with 503 certification to make deals throughout the county. Raise \$60,000 as first year costs from a variety of public and private sources. Move to a self-sufficient operation generating resources from revenues incident to the successful completion of projects.

NEW IDEAS FOR BUSINESS VENTURES

A rather weak resolution was adopted indicating that the county might pursue attraction of the Oregon wine industry into the county.

JOB TRAINING

Create a coordinated effort among the Community College, Marylhurst, CETA and secondary schools to be responsive to high-tech industries.

CITY OF MILWAUKIE
M E M O R A N D U M
PUBLIC WORKS DEPARTMENT

IV
j

DATE: 14 July 1982

TO: Hugh Brown
City Manager

FROM: Steven Hall
Public Works Director J.M.H.

SUBJECT: Island Station
Water Improvements
Status Report

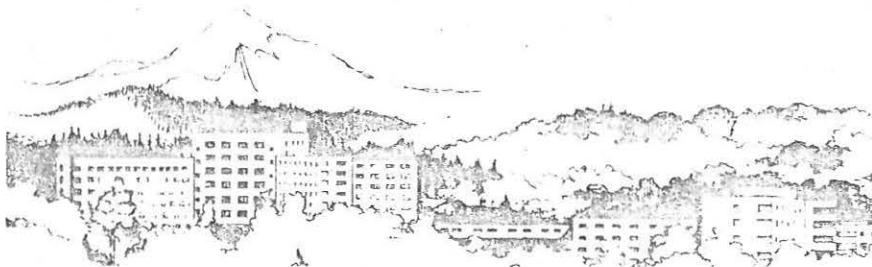
At the Boundary Commission meeting we attended on Thursday, 8 July 1982, the City was granted the right to serve the property owned by Mr. Allen Pynn. In return, an easement for the intertie across Mr. Pynn's property will be released from escrow by Clackamas County of Environmental Services.

This action culminates over seven years of negotiations with several owners of the subject property in order to obtain an easement to cross the property. The plans and specifications for the project are complete and bidding for the intertie is anticipated within one month.

Also, I have requested and received verbal approval to begin the design for upgrading the Island Station water distribution system. A contract is being drawn up by Clackamas County for the design of this remaining portion covered under a CDBG grant the City received approval of in the amount of \$340,000. The completion of this final phase will provide adequate water for domestic and fire protection of a majority of the Island Station Area.

I am requesting that this information be presented to the City Council as an update on this vital project.

sh:SMH



WILLAMETTE VIEW MANOR, INC.

12705 S E RIVER RD • PORTLAND, OREGON 97222 • (503) 654-6581

7/2/82

Dear Joy,

Congratulations on
the passage of the
city budget. Things
are looking good
for the future.

Best wishes,

Jim Edwards

BANFIELD LIGHT RAIL JOINT DEVELOPMENT

By G. B. Arrington

The Banfield Light Rail Transit (LRT) system will start operating in 1985. Construction is already underway and 26 LRT vehicles ordered.

The LRT provides a unique opportunity to integrate new development with the \$309 million transit project. The Transit Station Area Planning Program (TSAP) has provided a positive planning framework to guide and promote new development around the 25 LRT stops. TSAP, under



Metro's coordination, is resulting in specialized zoning, design standards and parking requirements at many of the stations.

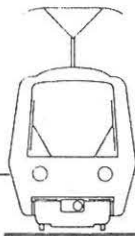
Significant development response to the LRT is not expected to occur until the system opens in 1985. The opportunity to tie new development to the LRT, however, is already here. Development projects are now coming forward at over one-third of the LRT stations. Pioneer Courthouse Square, the site of the major downtown LRT station, is a good example of the potential to tie LRT together with new development. Tri-Met has turned over its budget and specifications for the Pioneer Square LRT station to the Friends of Pioneer Square. The LRT station and the Square will be constructed and designed together.

The LRT is expected to have the greatest impact on development at its two ends--in particular, First Avenue in downtown Portland and the three stops in Gresham. LRT will enhance retail activity along First Avenue and strengthen the link between Lloyd Center and downtown Portland. The city of Gresham is looking to light rail

Continued on next page

as a tool to literally reshape the growth of its core. Gresham's central area plan capitalizes on LRT, abundant vacant land and strong market demand. An intensification of residential uses is forecast for the East Burnside Street stations. The only major constraint to achieving intensification around these stations is lack of sanitary sewer facilities.

**HIGHWAY &
TRANSIT
LEGISLATION**



LRT news

Issue No. 6

June 1982

LARGE ATTENDANCE MARKS THIRD NATIONAL LRT CONFERENCE

The Third National Conference on Light Rail Transit (LRT) was held March 28-30, 1982, in San Diego, California—the home of North America's newest light rail system. The conference was conducted by the Transportation Research Board (TRB) and sponsored by the Urban Mass Transportation Administration (UMTA). Some 350 persons attended the conference, attesting to the continued high interest in LRT. There were also representatives from 10 foreign countries.

The conference hosted guest speakers from federal, state, and local government sectors who provided their perspectives on the proper and effective role of each level in implementing mass transit strategies such as LRT in urban areas. A majority of conference sessions were devoted to examining the unique issues encompassing the installation of LRT in a mature urban situation. These included a detailed description of design and implementation of facilities, vehicle procurement strategies, fare collection methods, and operating options. Other sessions focused on the experience with LRT systems in North American and European cities. Most session presentations included visual examples of LRT in practice. In contrast to previous conferences and in recognition of the intense LRT activities in North America over the past six years, slides primarily depicted North American LRT operations and design characteristics.

The conference concluded with an inspection of the San Diego trolley, a 15.9-mile LRT system that opened in July 1981 between center city San Diego and the Mexican border at San Ysidro. Conference participants rode the length of the line, toured the new shop and storage yard, and observed the LRT system in operation.

Conferees were also offered a field trip opportunity to the San Francisco Municipal Railway light rail system. This system was

substantially upgraded to LRT standards over the past decade. The inspection tour included a visit to the new light rail vehicle (LRV) maintenance and storage facility and a trip through the new downtown subway.

A copy of the conference resource materials will be sent to all conference registrants and will be available to the public in the Fall of 1982. Thomas F. Larwin of The San Diego Metropolitan Development Board was chairman of the TRB Conference Steering Committee, which arranged the conference.

This is LRT, an 8-page brochure, was prepared for the Third National Conference on Light Rail Transit. The brochure describes LRT, right-of-way features, North American light rail vehicle procurements from 1977 to 1982, station types, operational aspects, and costs. Free copies are available from Wm. Campbell Graeb, Transportation Research Board, 2101 Constitution Avenue, N.W., Washington, DC 20418.

MUNI BUYS LRVs FROM BOEING-VERTOL

The San Francisco Municipal Railway has negotiated a \$17.2 million contract with Boeing-Vertol to purchase and revamp 22 light rail vehicles, with an option for eight more. The LRVs were originally ordered by the Metropolitan Boston Transit Authority a few years ago, then later cancelled.

Boeing-Vertol will reconfigure the vehicles to Muni specifications. Work will include removing the air conditioning system, changing the seating capacity, and train-lining the cars. Train-lining will allow all doors and safety controls to be operated by the lead driver. Boeing-Vertol will also train-line the Muni's 100 other LRT cars. At present each car in the system needs its own operator for these functions (from *Modern Railroads*, April 1982).

AUTOMATIC TRAIN DETECTION SYSTEM

Vehicle tagging (VETAG) is an automatic

system for selective detection, location, and identification of transit vehicles. This technology, developed in the Netherlands, has among its applications the actuation of track switches on light rail systems.

The most common method of switching today is based on a car moving past an overhead line contact either under power or with power off. This conventional switch control point has disadvantages, including the following:

- A car may only pass a switch at very low speed because immediately in advance the operator must apply or remove power while passing the overhead contact and then be prepared to stop if switchpoints do not properly align themselves;

- Considerable operator skill is required, particularly when operating in congested traffic where attention may be diverted from track switching;

- Acceleration of cars from standstill will be interrupted by necessity to give a "no current" command if stops are made in advance of switching points;

- Overhead line contacts require regular maintenance from special vehicles and defects can damage pantographs; reliability of switch operation may be affected by variations in current drawn by differing types of streetcars and light rail vehicles.

The Phillips VETAG system is finding its first application in the United States on Philadelphia lines of the Southeastern Pennsylvania Transportation Authority (SEPTA) where a total of 70 switches will be fitted for the new control along with all 125 of SEPTA's new LRVs. The basic elements of VETAG are

1. A loop installed between the rails;
2. An interrogator installed along the track in the equipment cabinet, which also has the control equipment;
3. A transponder fitted underneath the car;
4. A code control box in the operator's cab linked with the transponder to set line and run number.

Before the car leaves the depot, the operator sets the code control box for the

correct line number and car number. As the vehicle proceeds along the route, track switches are automatically positioned for that particular line as the car passes the loops. When a car passes a VETAG loop, the 18-bit data are received by the intercom at least twice and checked for validity. After this check the message is decoded into a switching command.

A following car can proceed over the loop and its message will be stored in a memory until switch points are released to immediately receive the new switching command.

VETAG introduces other interesting possibilities such as priority intersection control, timetable supervision, operation of platform indicators at tram stations and stops, centralized location plotting, and automation of maintenance and administration.

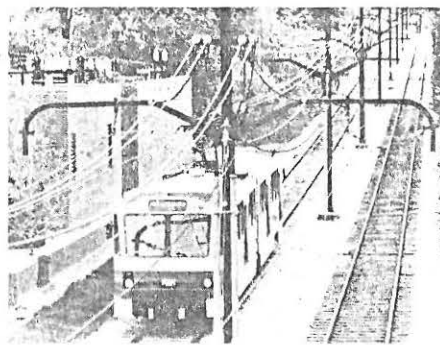
Observations show that time through a switch in the TURN position is reduced by more than 10 s. When passing straight through, the saving is 15 s. In actual practice the gain is even better because switching failures from overhead contacts can be as high as 20-30 percent in adverse weather and traffic.

For further information, contact J.W.F. Dolle, Phillips' Telecommunicatie Industrie BV, P.O. Box 32, 1200 JD Hilversum, The Netherlands.

RECONSTRUCTION OF CLEVELAND'S SHAKER HEIGHTS LRT SYSTEM COMPLETE

Absorbed by the Greater Cleveland Regional Transit Authority (GCRTA) in 1975 with the promise of a complete renewal of the system, Shaker Heights' 15-mile light rail system has witnessed the implementation of a \$100 million reconstruction program. Between April 1980 and October 1981, the light rail line (comprised of two suburban branches and a trunk line into Cleveland's Union Terminal) was completely dismantled and rebuilt to exacting LRT standards. The low-platform system received 56,000 new ties, 44 miles of continuous welded rail, and 22 miles of bronze contact catenary wire during this period. In addition, new, esthetically pleasing catenary poles were installed (see photo) together with a modern, upgraded power distribution system. The promise also included new vehicles, and a total of 48 articulated, pantograph equipped LRVs were ordered from Breda Costrizione of Pistoia, Italy. These vehicles are currently being delivered and a large number have already been placed in service. The new, high speed LRVs will supplant the bulk of the existing President's Conference Committee (PCC) car fleet built between 1946 and 1949; selected PCC cars will be retained for peak-period service and will also be retrofitted with pantographs.

All 25 stops on the system have been



New articulated LRV 805 traverses the recently reconstructed right-of-way of GCRTA's Shaker Heights Line. Note the distinctive pole and arms to support the catenary wire. (Photo courtesy of GCRTA)

modernized and old asphalt waiting areas consigned to the past. New concrete low-level platforms have appeared along with attractively designed benches and shelters.

Finally, a \$31 million central rail maintenance complex is being constructed to serve both the Shaker Heights light rail network and the heavy rail system (Red Line). The facility will replace the existing Shaker maintenance structure located in a flood plain.

The light rail system consists of two branches that, in conjunction with the modernization program, have been redesignated as the Blue and Green Lines. Both lines share common tracks from Union Terminal in downtown Cleveland to Shaker Square in suburban Shaker Heights. At this point, the lines diverge with the Blue Line traveling 3.3 miles to the southeast in the median of Van Akin Boulevard to Warrensville Center Road, while the Green Line continues east for 3.8 miles in the very wide median of Shaker Boulevard to Green Road.

Future plans include a proposed 1.8-mile, \$39.7 million extension of the Green Line from the current Green Road Terminal to a proposed park-and-ride facility adjacent to I-271. When the Shaker line was originally developed in the late 1920s by the Van Suijveren brothers, much of the right-of-way of the proposed extension was graded in anticipation of a future expansion. Such foresight will lead to reduced costs if the extension is built.

Contact Arlene Butler, Director of Public Relations, Greater Cleveland Regional Transit Authority, 615 Superior Avenue, N.W., Cleveland, OH 44113, telephone 216-566-5100.

INTERNATIONAL LIGHT RAIL COMMISSION MEETS IN LISBON

The International Light Rail Commission of the International Union of Public Transport (UITP) held its semiannual meeting in Lisbon, Portugal, in October 1981. Com-

mission members in attendance were drawn from countries across the world and represented both operating authorities as well as LRT systems currently under construction or authorized. The meeting was hosted by the local surface transport operator, the Companhia Carris de Ferro de Lisboa (known locally as CARRIS), which operates an extensive 900-mm gauge tram system carrying more than 300,000 passengers daily. Carris recently announced a comprehensive five-year plan to upgrade the existing 15-route network. This will initially entail refurbishing existing rolling stock and the acquisition of new articulated LRVs (to be built locally by SOREFAME). The plan also calls for the extensive use of preferential traffic engineering measures on selected lines to reach LRT standards. Extensions to existing lines are also envisioned.

As one of its charges, the Commission is engaged in a continuing effort to define and further refine the LRT concept. This activity was underlined as the Commission deliberated on various aspects of LRT design and operation. This is being accomplished through the work of three standing committees (Infrastructure, Vehicles, and Operations).

Contact the International Union of Public Transport (UITP), Avenue de l'Uruguay 19, B-1050, Brussels, Belgium.

GOTHENBURG, SWEDEN, MODERNIZES SYSTEM

One of the most successful light rail operations in the world is entering the 1980s with a comprehensive plan to extend the system and replace the current stock of 250 trams. Also planned is the construction of a new heavy maintenance and depot facility to be completed by 1985. The first extension, involving 0.8 mile of new construction, was begun in April 1981 and will be opened for service this fall. A local Swedish supplier has been selected to build 30 new articulated LRVs with an option for 50 additional vehicles. Delivery of the order will begin in 1986. Eventually, 200 LRVs of this design will be acquired.

Contact Ragnar Domstad, Director of Planning, Goteborg Sparvegar, Stampgatan 15-Box 424, S-401, 26 Goteborg, Sweden.

JAPANESE DEVELOPMENTS

After a period of retrenchment, Japanese cities are moving forward to renew remaining tram operations and upgrade to light rail standards. The Japanese Ministry of Transport has funded an effort to develop a standard light rail vehicle with articulated and single-unit versions. A prototype of each version has been built by Kawasaki and deployed to the field for testing. The ar-



articulated version is being evaluated in Hiroshima, and the single-unit has been placed in experimental service in Nagasaki.

A total of 14 Japanese cities continue to operate conventional tram or light rail services. The largest systems are found in Hiroshima and Kitakyushu. Tokyo, which boasted 39 routes as recently as 1967, has retained one 6.8-mile line with extensive reserved rights-of-way. Known locally as the Arakawa line, the service carries 44,000 passengers daily in 60 recently modernized LRVs. All stops on the line feature high platforms. Sapporo, site of the 1964 Winter Olympics and operator of the only rubber-tired subway in Japan (or the Orient for that matter) has likewise, continued one tram line. It operates in circular fashion connecting with two subway stations.



The ability of LRT to meld into a variety of urban configurations is graphically illustrated in this scene in Munich, Germany. A 1964 Rathgeber-built LRV heads for Cosimastrasse, the terminal for route 20. (Photo courtesy of Kenneth P. Fletcher)

WORKSHOP ON TROLLEY BUS APPLICATIONS

At the request of the Urban Mass Transportation Administration, the Transportation Research Board will conduct a workshop to explore the current state of the art of trolley coach transportation. New propulsion systems will be discussed as well as vehicles, overhead systems, and socioeconomic aspects. The meeting will be held in Seattle,

Washington, August 29-September 1, 1982.

Trolley coach use declined sharply during the 1950-1970 period as larger high performance diesel buses became available; the transit industry declined and economics of trolley coach operations became less favorable. Eventually 10 systems remained in North America.

Since that time, trolley coach interest has been rekindled by changes in the relative cost of diesel fuel and the attractive environmental qualities of trolley coaches. Every trolley coach operator in the United States and Canada has purchased new vehicles. Noteworthy also is the introduction of new technology in propulsion system hardware, the complete rebuilding and expansion of an existing system, and the installation of an entirely new system in North America.

For further information, contact Adrian G. Clary, Transportation Research Board, 2101 Constitution Avenue, N.W., Washington, DC 20418.

A TALE OF THREE LRT CITIES

Three North American cities that have recently opened light rail systems have exceeded expectations in all cases.

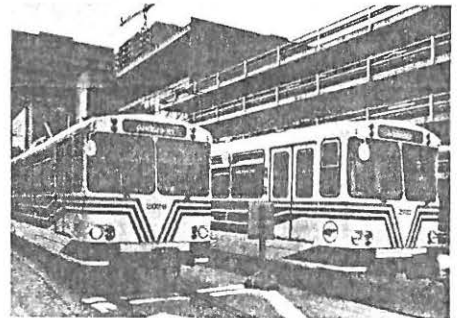
In San Diego...

The San Diego Trolley, a 15.9-mile system connecting the central business district with San Ysidro, near the Mexican border, has experienced a sustained and heavy ridership level throughout a typical seven-day period. The line was opened to traffic on July 26, 1981; it was built within budget estimates (\$86 million) and tight construction schedules. Currently carrying 13,000 daily passengers (well above estimates), the route is being double tracked at an additional cost of \$27 million. Ten additional LRVs have also been ordered (\$890,000/LRV) from Siemens-Düwag, the German car manufacturer that also built the original 14 cars for the system. A flat fare of \$1.00 (with discounts for journeys within the central business district) currently covers 82% of operating costs, one of the best operating ratios in the United States. A referendum held in 1981 overwhelmingly approved plans to expand the system to El Cajon, east of the city, a distance of 17.3 miles. The line would use the right-of-way of the San Diego and Arizona Eastern Railroad in the same manner as the extant line to San Ysidro. To be initially single tracked with passing sidings, the line is projected to cost \$89 million (1980 dollars). An additional 15 LRVs would be required to carry the estimated 35,000 daily trips that would be generated by the line in 1995. Preliminary studies have also been initiated to examine the possibility of extensions to the north of the city.

In Calgary...

In Calgary, where a 7.5-mile line began operations on May 25, 1981, ridership has grown steadily to a peak of 38,000/day. The present fleet of 27 Siemens-Düwag articulated LRVs is to be augmented by an additional 35 vehicles from the same manufacturer to relieve overcrowding on the line and initially serve a recently approved extension.

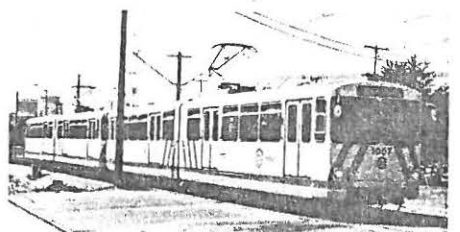
The system is completely high platform (unlike San Diego) but uses surface streets in the downtown area (similar to San Diego). Calgary has also adopted the self-service fare collection system. Two further extensions to the system are also actively being considered.



Two German-built LRV's meet on the transit-only street in downtown Calgary. (Photo courtesy of Calgary Transportation Department).

In Edmonton...

Edmonton opened its line on April 24, 1978. The 4.5-mile route, which includes 1 mile of subway in the downtown area, now carries approximately 25,000 passengers per day. A small expansion to the system occurred in 1981 with the opening of approximately 1 mile of track on the outer suburban portion of the line to Clareview. A 0.5-mile extension of subway is currently under construction in anticipation of a greater expansion of the system across the Saskatchewan River into the south side of the city. The system is currently served by 17 Siemens-Düwag articulated LRVs (of the same variety as used in Calgary and San Diego, with variations); an additional 20 LRVs are on order from the same



An Edmonton train of two LRVs enters a protected grade crossing en route to suburban Clareview.

manufacturer, Edmonton has also instituted the self-service fare collection system for its LRT line.

SACRAMENTO TO BUILD LRT SYSTEM

Sacramento, California, is moving forward to become the third city in California with an LRT system. The others are San Francisco and San Diego.

The city has begun preliminary engineering for a 19-mile light rail system in lieu of a previously planned Interstate highway facility. Approximately \$96 million originally designated for the highway will now be made available by the federal government for the replacement transit line. Consisting of two routes, the system will cost \$124 million with the federal monies to be supplemented with state and local funds.

The system will follow a U-shaped alignment with the two lines converging in downtown Sacramento from the Folsom and I-80 corridors respectively. Only the downtown portion of the system will be double tracked; the remaining mileage into the suburbs will be single tracked with passing sidings at strategic locations. A total of 26 LRVs will be required to serve the system.

For further information, contact the Sacramento Transit Development Agency, 926 J Street, Suite 11, Sacramento, CA 95814, telephone 916-442-3168.

RECENT PUBLICATIONS

Light Rail Transit Car Specification Guide. Urban Mass Transportation Administration, December 1981. Available from NTIS, Springfield, VA 22161

The Urban Mass Transportation Administration has published a detailed guide to assist prospective purchasers of LRVs in the preparation of technical specifications. In recognition of varying site-specific requirements, the guide provides a large degree of flexibility with a wide range of options from which to choose. Users may opt for either a sophisticated vehicle or a simpler model with equal ease in drafting individual specifications.

The Status of German Light-Rail Systems. Journal of Advanced Transportation, Summer, 1980, pp. 197-211.

This article describes the process used by Hannover, West Germany, to reach its decision to upgrade an existing tram system to light rail (Stadtbahn) standards. In doing so, the city rejected going to a fully grade-separated, all high-platform subway system. The article details the systematic manner in which Hannover examined various factors, such as area coverage, efficiency, speed, comfort, operational and technical

aspects, and cost considerations, before selecting the LRT option. Trade-offs are explicitly confronted, and the article contains numerous graphs comparing various factors.

2020 Vision: A Forward Look at Metropolitan Transit. Greater Minneapolis Chamber of Commerce, January 1981.

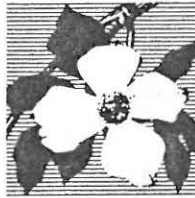
Developed as a consequence of a study to explore transportation issues as they affect growth, development, and the vitality of the Minneapolis area, this report concludes that transportation poses a serious problem for the future of the Minneapolis area. It specifically recommends that LRT should be included in metro area transportation planning policies.

LRT News is published intermittently by the Transportation Research Board for the purpose of disseminating information on new developments in light rail transit planning, technology, and operations. The newsletter also reports on new studies, completed research, and current literature. Glen Bottoms, editor. Robert J. Landgraf, chairman, TRB Subcommittee on Light Rail Transit. Wm. Campbell Graeb, TRB staff. Submit news items to *LRT News*, Transportation Research Board, 2101 Constitution Avenue, N.W., Washington, DC 20418, telephone 202-389-6548. ISSN 0162-8429.

LRT NEWS
Transportation Research Board
2101 Constitution Avenue, N.W.
Washington, DC 20418

nonprofit
organization
U.S. postage paid
Washington, D.C.
Permit 42970

CITY OF MILWAUKIE



CITY COUNCIL
in the City Hall • phone 659-5171

July 19, 1982

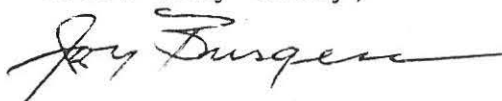
Gerard K. Drummond, President
Tri-Met Board of Directors
4012 SE 17th Avenue
Portland, OR 97202

Dear Mr. Drummond:

The Milwaukie City Council wishes to express our appreciation to you, the Board and staff for the light rail preliminary analysis. Tri-Met's responsiveness to this request should serve as a good example for all of us as we mutually face the service needs of the metropolitan area. The task was completed under rather severe limitations of available information in addition to the short time limit we requested. Please express our particular commendation to William Lieberman, the project development manager.

Major decisions remain on the McLoughlin Corridor, but it is apparent the report conclusions have caused not only Milwaukie, but also other jurisdictions, to reconsider assumptions and the options subsequently available to us. We look forward to continued joint efforts in meeting our transportation needs.

Yours very truly,


Joy Burgess, Mayor

cc: Milwaukie City Council

JB/le

RON WYDEN
3D DISTRICT, OREGON

WASHINGTON ADDRESS:
SUITE 1440
CONGRESS HOUSE OFFICE BUILDING
PHONE: 202-225-4811

DISTRICT OFFICE:
P.O. Box 3621
1002 N.E. HOLLADAY STREET
PORTLAND, OREGON 97208
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Congress of the United States

HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

COMMITTEES:
ENERGY AND COMMERCE
SMALL BUSINESS
SELECT COMMITTEE ON
AGING

July 1, 1982

Mayor Joy Burgess
City of Milwaukie
10722 SE Main
Milwaukie, OR 97222

Dear Mayor ^{Joy}~~Burgess~~:

Recently, Merrie Buel of my District staff, met with Mick Lauder, postal operations specialist for Postmaster Ben Lusher, to further discuss the status of Milwaukie area postal operations.

The Postal Service is currently looking for a facility in which to relocate the Monroe Street station. The new location will include both counter service and lock boxes, and should also have adequate parking.

With the opening of the new Oak Grove station on Naef Road, the Milwaukie area should experience real improvements in post office service. As Merrie mentioned to you earlier, carriers will operate out of the Naef Road facility. This should improve the traffic situation in downtown Milwaukie.

If we can be of additional assistance, please don't hesitate to contact my office.

With warm regards,

Sincerely,



RON WYDEN
Member of Congress

RW/mb

cc: Mick Lauder

MEMORANDUM

July 20, 1982

TO: CITY COUNCIL

FROM: GREG EADES, CITY ATTORNEY 

SUBJECT: ADULT ENTERTAINMENT ORDINANCE

You asked me to look into an ordinance on adult entertainment. I'm still waiting for a copy of Portland's ordinance and I haven't finished my research, but I thought you'd like a preliminary report now.

Although there are state statutes dealing specifically with prostitution and massage parlors, the law on obscenity is far from clear and contained primarily in U.S. Supreme Court decisions. The only obvious rule is that the city could not prohibit adult bookstores, theaters, etc. An outright prohibition would violate the free speech and press provisions of the U.S. and State Constitutions. However, there are at least two other options available. First, the city can regulate the time, manner and place of adult entertainment. In 1976, the U.S. Supreme Court upheld a Detroit ordinance which controlled the location of adult theaters and a number of cities have enacted similar zoning ordinance amendments which create either adult entertainment zones or criteria for evaluating such business as a conditional use. An example from Sparks, Nevada is attached. Other zoning type regulations would probably be enforceable.

A second approach would be to regulate the content of particular books, magazines, movies and other forms of entertainment. The First Amendment does not protect obscenity, so the city could adopt an ordinance prohibiting the sale, distribution or exhibition of allegedly obscene publications and shows. There are several problems with this approach. First, there's no way to objectively define in advance what's "obscene". The attached model ordinance contains what is essentially the court's formula for how you determine what's obscene, but as you can see, it's anything but clear. Prosecutions under this ordinance would be lengthy and complicated, especially without a prosecutor. Second, ORS Chapter 167 creates certain obscenity offenses and is apparently intended to be exclusive (see 167.100 attached). Although I haven't completed my research on this, the statutes may restrict our ability to legislate in this area.

City Council
July 20, 1982
page 2.

Finally, any comprehensive regulation like this, whether done through a zoning ordinance amendment or a new ordinance, may make us subject to anti-trust liability. Since the U.S. Supreme Court decided Community Communications v. City of Boulder in January of this year, cities are no longer immune from liability under the anti-trust laws. If a regulatory ordinance is found to have an anti-competitive effect, the city could be liable for treble damages. Whether or not a violation of the anti-trust laws is ultimately established, the city couldn't even afford to defend an anti-trust lawsuit.

In conclusion, we can't enforce an outright prohibition on adult entertainment. Of the other options available, amendments to the zoning ordinance establishing time, manner and location regulations seem the most feasible. I'd still like to see what Portland and Multnomah County are doing and prepare a recommendation as soon as I finish my research.

Let me know if you have any questions.

CITY OF SPARKS

ADULT ENTERTAINMENT BUSINESSES

genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct: analingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or

2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
 3. Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or
 4. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
 5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or
 6. Erotic or lewd touching, fondling or other contact with an animal by a human being; or
 7. Human excretion, urination, menstruation, vaginal or anal irrigation.
- (Ord. 1212 § 1 (part), 1979.)

20.51.030 Location restrictions.

- A. In those land use districts where the "adult entertainment" businesses regulated by this chapter would otherwise be permitted uses, it shall be unlawful to establish any such "adult entertainment" business if the location is:
1. Within five hundred feet of any area zoned for residential use;
 2. Within one thousand feet of any other adult entertainment business; or
 3. Within one thousand feet of any public or private school, park, playground, public building, church, synagogue, any noncommercial establishment operated by a bona fide religious organization, or museum, or other establishment where large numbers of minors regularly visit or congregate.
- B. The establishment of any "adult entertainment" business shall include the opening of such business as a new business, the relocation of such business, or the conversion of an existing business location

- to any "adult entertainment" business use.
- C. Distances shall be measured from property line to property line.
- (Ord. 1212 § 1 (part), 1979.)

20.51.040 Waiver of locational restrictions.

- A. Any property owner or his authorized agent may apply to the city council for a special use permit waiving any locational provision contained in this chapter. The city council, after a hearing, may waive any locational provision, if the following findings are made that:
1. The proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this chapter will be observed;
 2. The proposed use will not enlarge or encourage the development of a "skid row" area;
 3. The establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation, nor will it interfere with any program of redevelopment;
 4. All applicable regulations of this code will be observed.
- B. The provisions of Chapter 20.13 shall apply to applications for special use permits made pursuant to this chapter.
- (Ord. 1212 § 1 (part), 1979.)

11/1973

NIMLO MODEL OBSCENITY ORDINANCE

[EDITOR'S NOTE: See Annotation—Modern Concept of Obscenity, 5 A.L.R. 3d 1158 (1966); Comment Note—Validity of Procedures Designed to Protect the Public Against Obscenity, 5 A.L.R. 3d 1214 (1966); Annotation—Topless or Bottomless Dancing or Similar Conduct as Offense, 49 A.L.R. 3d 1084 (1973); Annotation—Operation of Nude Photographic Studio as Offense, 48 A.L.R. 3d 1313 (1973); Annotation—Constitutionality of Regulation of Obscene Motion Pictures: Federal Cases, 22 L.Ed.2d 949 (1970).

Three cases after the Supreme Court decision in *Miller v. California*, 413 U.S. 15, 93 S.Ct. 2307 (1973), have upheld prosecutions under state or local laws involving obscene movies. *State v. Boyd*, 35 Ohio App.2d 147, 300 N.E.2d 752 (1973); *City of Tacoma v. Lewis*, 513 P.2d 85 (Ct. App. Wash. 1973); *People v. Enskat*, 109 Cal. Rptr. 433 (Ct. App. 1973).]

AN ORDINANCE PROHIBITING OBSCENE CONDUCT, DISTRIBUTING OBSCENE MATERIAL, AND PROMOTING THE SAME; PROVIDING NOTICE OF OBSCENE MATERIAL OR ACTION; PROVIDING STANDARDS FOR EVIDENCE AND DEFENSES; AND PROVIDING PENALTIES FOR VIOLATION OF SUCH ORDINANCE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF _____:

Section 7-301. *Definitions.*

- (a) *Obscene* means that to the average person applying contemporary community standards:
- (1) The predominant appeal of the matter taken as a whole, is to prurient interest; i.e. a shameful or morbid interest in sexual conduct, nudity, or excretion, and
 - (2) The matter depicts or describes in a patently offensive manner sexual conduct regulated (*by the applicable state statute*), and
 - (3) The work, taken as a whole, lacks serious literary, artistic, political or scientific value.
- (b) *Material* means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statute or other figure, or any recording, transcription or mechanical, chemical, or electrical reproduction or any other articles, equipment or machines.
- (c) *Person* means any individual, partnership, firm, association, corporation or other legal entity.
- (d) *Disseminate* means to transfer possession of, with or without consideration.

NIMLO MODEL ORDINANCE SERVICE

- (e) *Knowingly* means being aware of the character and the content of the material.
- (f) *Nudity* means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, or the depiction of covered male genitals in a discernibly turgid state.
- (g) *Performance* means any preview, play, show, skit, film, dance or other exhibition performed before an audience.
- (h) *Available to the public* means that the matter or performance may be purchased or attended on a subscription basis, on a membership fee arrangement, or for a separate fee for each item or performance.
- (i) *Service to patrons* means the provision of services to paying guests in establishments providing food and beverages; including but not limited to hostessing, hat checking, cooking, bar tending, serving, table setting and clearing, waiter and waitressing, and entertaining.
- (j) *Promote* means to cause, permit, procure, counsel or assist.

Section 7-302. *Prohibited Conduct.*

- (a) It shall be unlawful for any person to:
 - (1) Knowingly disseminate, distribute or make available to the public any obscene material; or
 - (2) Knowingly engage or participate in any obscene performance made available to the public; or
 - (3) Knowingly engage in commerce for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements and other public sales efforts that promote such commerce primarily on the basis of their prurient appeal; or
 - (4) Provide service to patrons in such a manner as to expose to public view:
 - (A) His or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
 - (B) Any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - (C) Any portion of the female breast at or below the areola thereof; or
 - (5) Knowingly promote the commission of any of the above listed unlawful acts.

Section 7-303. *Notice of Obscene Material or Action.*

- (a) Actual notice of the obscene nature of such material, performance, or activity may be given to a person involved in or responsible for such from the City Attorney on the basis of information lawfully gathered and supplied to him by the Bureau of Police or citizens.
 - (1) Such notice shall be in writing and delivered by mail or in person to the alleged offender.
 - (2) Such notice shall state that:

MODEL OBSCENITY

- (A) In the opinion of the City Attorney the activity engaged in falls within the prohibitions of section 7-302;
 - (B) That if such activity has not ceased within seven (7) judicial days the City will take appropriate legal action; and
 - (C) That a declaratory judgment proceeding as described in section 7-304(b) is available if a person engaged in the challenged activity wishes to initiate the legal determination of whether the activity is in fact obscene.
- (b) A person who promotes any obscene activity as prohibited in section 7-302 in the course of his business is presumed to do so with knowledge of its content and character.

Section 7-304. *Types of Proceedings.*

- (a) In Rem Proceedings
 - (1) The Chief of Police may apply to the City Attorney to institute an attachment proceeding against any material which is alleged to be obscene in a sworn affidavit.
 - (2) Upon filing of an application for attachment authorized in subsection (a)(1) of this section, the Chief of Police shall immediately cause notice thereof to be served either personally or by mail upon any person residing or doing business in the City who is known or believed by the Chief of Police to have any of the following interests in material named in the complaint:
 - (A) The publisher; and
 - (B) The wholesaler, distributor, circulator; and
 - (C) Every retailer or dealer who has, or may have, possession of any material identical to material named in the complaint.
 - (3) Trial shall be held no later than the fourth judicial day following the filing for attachment. No trial under this section shall be continued or otherwise postponed more than one judicial day, but may be conducted by a judge pro tempore in the event of unavailability of the trial judge.
- (b) Declaratory Judgment
 - (1) Any person receiving notice in writing from the City Attorney under section 7-303(a) that a specified activity is obscene may bring action against the City for a declaratory judgment to determine whether such activity is obscene.
 - (2) If it is adjudged and declared by the court that such activity is obscene, then the City Attorney may cause the publication of such judgment in a newspaper of general circulation in the City and upon such publication all persons residing or doing business in the City will be presumed to have actual notice of the nature of the activity.
- (c) Criminal Prosecution
 - (1) The City Attorney may cause criminal charges, to be brought

NIMLO MODEL ORDINANCE SERVICE

against any person presently engaging in or who has engaged in any prohibited activity in violation of sections 7-302(a)(1), (3), and (5).

- (2) If the City attorney has given notice pursuant to section 7-303(a) then such criminal charges may be brought only after seven (7) judicial days after receipt of said notice.

(d) Injunction

- (1) The City Attorney may seek a temporary restraining order in (*Municipal Court*) in order to enjoin any obscene performance or the service of patrons in violation of section 3(a)(2).

- (2) If the City Attorney has given written notice pursuant to section 7-303(a), he may after the passage of seven (7) judicial days seek such a temporary restraining order.

- (3) A judicial hearing on a request for such order must be granted within three (3) judicial days, and if the temporary restraining order is issued a trial on the issue of the obscenity of the activity must be commenced within ten (10) judicial days of the issuance of the temporary restraining order. Such trial is not to be postponed, stayed, or adjourned, by the (*Municipal Court*) for more than two (2) judicial days, but it may be conducted by a judge pro tempore (or master, justice of the peace, magistrate, etc.) if no trial judge is available.

- (e) Proceedings authorized by this Section shall be in addition to any others provided by law.

Section 7-305. Evidence; Defenses.

- (a) Expert affirmative evidence that the materials or activities are obscene is not required when the materials or activities themselves are presented as evidence.
- (b) It shall be an affirmative defense in any prosecution under this ordinance that allegedly obscene material was disseminated, or presented for a bona fide scientific, medical, educational, governmental, or judicial purpose by a physician, psychologist, teacher, clergyman, prosecutor, or judge.

Section 7-306. Penalties.

- (a) In an *in rem* proceeding against sexually explicit material under Section 7-304(a) the Court shall, upon a determination by the trier of fact that the material is obscene, make an order confiscating the obscene material and authorize and direct the Chief of Police to, pending the exhaustion of all appeals, destroy the same.
- (b) Whoever violates this ordinance shall, upon conviction thereof, be fined not less than _____ nor more than _____ and imprisoned for a period not to exceed _____ months, or both.
- (c) After conviction, in addition to any other penalty imposed for a violation of this ordinance, the (*municipal authority*) may, in its

MODEL OBSCENITY

discretion, revoke the business license of the offender and upon conviction of the offender for a second violation, the (*municipal authority*) shall revoke the business license of such person.

COMMENTS TO MODEL OBSCENITY ORDINANCE

(Comments are designated by the particular subsection to which they relate.)

prepared by

Chris Oynes, Brian Fitzgerald, Robert Ganz

Section 7-301

(a) This conforms to *Miller v. California*, 413 U.S. 15, 93 S.Ct. 2607 (1973). The most important change is the replacement of the "utterly without redeeming social value" test of *Memoirs v. Mass.*, 383 U.S. at 419 (1966), with the test of "lacks serious literary, artistic, political or scientific value." However, a law which retains the more burdensome "utterly" test is not unconstitutional. *People v. Enskat*, 109 Cal. Rptr. 433 (App. 1973).

Perhaps the most controversial aspect of the obscenity rulings is the determination of what standards are to be used to determine the obscenity of particular materials or performances. In *Miller* the majority of the Court categorically rejects the idea of uniform national standards and replaces them with "contemporary community standards." Left unclear is what community the Court is referring to. It is believed by the NIMLO staff, after a thorough review of the decision, that the Supreme Court divided its "community standard" test between the state and the municipality in the following manner:

- (A) In the "predominant appeal" test, the *Miller* language reveals an interest for a wide latitude in what constitutes an appeal to prurient interest and therefore the community standard here is believed to be the municipality.
- (B) In the "depiction or description" test, *Miller* made an explicit reference to state laws prohibiting the portrayal of specified sexual conduct, included statements in the opinion to the effect that First Amendment limitations on the power of the states do not vary from community to community, and upheld a charge to the jury to consider the state community standard in determining obscenity. Therefore the community standard to be used here is believed to be the state as whole. (a)(2) requires that the municipal attorney investigate the applicable state statute on sexual conduct and either directly refer to it or incorporate its prohibitions.
- (C) The "value of the work or performance" test gives one no clue as to what community standard should be used. The heavy reliance in *Miller* on state power to regulate obscenity and the feeling each state should be allowed its own separate formulation is somewhat offset by the rejection of the argument that "local" community standards would prevent the dissemination of protected materials because of the variations in standards from place to place. Until the Court resolves this, either of the "community standards" tests may be used.

PROSTITUTION AND RELATED OFFENSES

167.002 Definitions for ORS 167.002 to 167.027. As used in ORS 167.002 to 167.027, unless the context requires otherwise:

(1) "Place of prostitution" means any place where prostitution is practiced.

(2) "Prostitute" means a male or female person who engages in sexual conduct or sexual contact for a fee.

(3) "Prostitution enterprise" means an arrangement whereby two or more prostitutes are organized to conduct prostitution activities.

(4) "Sexual conduct" means sexual intercourse or deviate sexual intercourse.

(5) "Sexual contact" means any touching of the sexual organs or other intimate parts of a person not married to the actor for the purpose of arousing or gratifying the sexual desire of either party. [1971 c.743 §249; 1973 c.699 §5]

167.005 [Repealed by 1971 c.743 §432]

167.007 Prostitution. (1) A person commits the crime of prostitution if:

(a) He engages in or offers or agrees to engage in sexual conduct or sexual contact in return for a fee; or

(b) He pays or offers or agrees to pay a fee to engage in sexual conduct or sexual contact.

(2) Prostitution is a Class A misdemeanor. [1971 c.743 §250; 1973 c.52 §1; 1973 c.699 §6]

167.010 [Repealed by 1971 c.743 §432]

167.012 Promoting prostitution. (1) A person commits the crime of promoting prostitution if, with intent to promote prostitution, he knowingly:

(a) Owns, controls, manages, supervises or otherwise maintains a place of prostitution or a prostitution enterprise; or

(b) Induces or causes a person to engage in prostitution or to remain in a place of prostitution; or

(c) Receives or agrees to receive money or other property, other than as a prostitute being compensated for personally rendered prostitution services, pursuant to an agreement or understanding that the money or other property is derived from a prostitution activity; or

(d) Engages in any conduct that institutes, aids or facilitates an act or enterprise of prostitution.

(2) Promoting prostitution is a Class C felony. [1971 c.743 §251]

167.015 [Repealed by 1971 c.743 §432]

167.017 Compelling prostitution. (1) A person commits the crime of compelling prostitution if he knowingly:

(a) Uses force or intimidation to compel another to engage in prostitution; or

(b) Induces or causes a person under 18 years of age to engage in prostitution; or

(c) Induces or causes his spouse, child or stepchild to engage in prostitution.

(2) Compelling prostitution is a Class B felony. [1971 c.743 §252]

167.020 [Repealed by 1971 c.743 §432]

167.022 [1971 c.743 §253; repealed by 1979 c.248 §1]

167.025 [Repealed by 1971 c.743 §432]

167.027 Evidence required to show place of prostitution. (1) On the issue of whether a place is a place of prostitution as defined in ORS 167.002, its general repute and repute of persons who reside in or frequent the place shall be competent evidence.

(2) Notwithstanding ORS 136.655, in any prosecution under ORS 167.012 and 167.017, spouses are competent and compellable witnesses for or against either party. [1971 c.743 §254]

167.030 [Repealed by 1971 c.743 §432]

167.035 [Repealed by 1971 c.743 §432]

167.040 [Repealed by 1971 c.743 §432]

167.045 [1953 c.641 §1, 7; 1955 c.636 §6; repealed by 1971 c.743 §432]

167.050 [1953 c.641 §7; 1955 c.636 §7; 1963 c.353 §1; repealed by 1971 c.743 §432]

167.055 [1955 c.636 §9; 1963 c.513 §1; repealed by 1971 c.743 §432]

OBSCENITY AND RELATED OFFENSES

167.060 Definitions for ORS 167.060 to 167.095. As used in ORS 167.060 to 167.095, unless the context requires otherwise:

(1) "Advertising purposes" means purposes of propagandizing in connection with the commercial sale of a product or type of product, the commercial offering of a service,

the commercial exhibition of an entertainment.

(2) "Displays publicly" means the exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a public thoroughfare, depot or vehicle.

(3) "Furnishes" means to sell, give, rent, loan or otherwise provide.

(4) "Minor" means an unmarried person under 18 years of age.

(5) "Nudity" means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and areola only are covered.

(6) "Obscene performance" means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sadomasochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

(7) "Obscenities" means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

(8) "Public thoroughfare, depot or vehicle" means any street, highway, park, depot or transportation platform, or other place, whether indoors or out, or any vehicle for public transportation, owned or operated by government, either directly or through a public corporation or authority, or owned or operated by any agency of public transportation that is designed for the use, enjoyment or transportation of the general public.

(9) "Sadomasochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being

fettered, bound or otherwise physically restrained on the part of one so clothed.

(10) "Sexual conduct" means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(11) "Sexual excitement" means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity. [1971 c.743 §255]

167.062 Sadomasochistic abuse or sexual conduct in live show. (1) It is unlawful for any person to knowingly engage in sadomasochistic abuse or sexual conduct in a live public show.

(2) Violation of subsection (1) of this section is a Class A misdemeanor.

(3) It is unlawful for any person to knowingly direct, manage, finance or present a live public show in which the participants engage in sadomasochistic abuse or sexual conduct.

(4) Violation of subsection (3) of this section is a Class C felony.

(5) As used in ORS 167.002, 167.007, 167.087 and this section unless the context requires otherwise:

(a) "Live public show" means a public show in which human beings, animals, or both appear bodily before spectators or customers.

(b) "Public show" means any entertainment or exhibition advertised or in some other fashion held out to be accessible to the public or member of a club, whether or not an admission or other charge is levied or collected and whether or not minors are admitted or excluded. [1973 c.699 §§2, 3]

167.065 Furnishing obscene materials to minors. (1) A person commits the crime of furnishing obscene materials to minors if, knowing or having good reason to know the character of the material furnished, he furnishes to a minor:

(a) Any picture, photograph, drawing, sculpture, motion picture, film or other visual representation or image of a person or portion of the human body that depicts nudity, sadomasochistic abuse, sexual conduct or sexual excitement; or

(b) Any book, magazine, paperback, pamphlet or other written or printed matter, however reproduced, or any sound recording which contains matter of the nature described in paragraph (a) of this subsection, or obscenities, or explicit verbal descriptions or narrative accounts of sexual conduct, sexual excitement or sadomasochistic abuse.

(2) Furnishing obscene materials to minors is a Class A misdemeanor. Notwithstanding ORS 161.635 and 161.655, a person convicted under this section may be sentenced to pay a fine, fixed by the court, not exceeding \$10,000. [1971 c.743 §256]

167.070 Sending obscene materials to minors. (1) A person commits the crime of sending obscene materials to minors if, within this state, he knowingly arranges for or dispatches for delivery to a minor, whether the delivery is to be made within or outside this state, by mail, delivery service or any other means, any of the materials enumerated in ORS 167.065.

(2) Unless the defendant knows or has good reason to know that the person to whom the materials are sent is a minor, it is a defense to a prosecution under this section that the defendant caused to be printed on the outer package, wrapper or cover of the materials to be delivered, in words or substance, "This package (wrapper) (publication) contains material that, by Oregon law, cannot be furnished to a minor."

(3) Sending obscene materials to minors is a Class A misdemeanor. Notwithstanding ORS 161.635 and 161.655, a person convicted under this section may be sentenced to pay a fine, fixed by the court, not exceeding \$10,000. [1971 c.743 §257]

167.075 Exhibiting an obscene performance to a minor. (1) A person commits the crime of exhibiting an obscene performance to a minor if the minor is unaccompanied by his parent or lawful guardian, and for a monetary consideration or other valuable commodity or service, the person knowingly or recklessly:

(a) Exhibits an obscene performance to the minor; or

(b) Sells an admission ticket or other means to gain entrance to an obscene performance to the minor; or

(c) Permits the admission of the minor to premises whereon there is exhibited an obscene performance.

(2) No employe is liable to prosecution under this section or under any city or home-rule county ordinance for exhibiting or possessing with intent to exhibit any obscene motion picture provided the employe is acting within the scope of his regular employment at a showing open to the public.

(3) As used in this section, "employe" means any person regularly employed by the owner or operator of a motion picture theater if he has no financial interest other than salary or wages in the ownership or operation of the motion picture theater, no financial interest in or control over the selection of the motion pictures shown in the theater, and is working within the motion picture theater where he is regularly employed, but does not include a manager of the motion picture theater.

(4) Exhibiting an obscene performance to a minor is a Class A misdemeanor. Notwithstanding ORS 161.635 and 161.655, a person convicted under this section may be sentenced to pay a fine, fixed by the court, not exceeding \$10,000. [1971 c.743 §258]

167.080 Displaying obscene materials to minors. (1) A person commits the crime of displaying obscene materials to minors if, being the owner, operator or manager of a business or acting in a managerial capacity, he knowingly or recklessly permits a minor who is not accompanied by his parent or lawful guardian to enter or remain on the premises, if in that part of the premises where the minor is so permitted to be, there is visibly displayed:

(a) Any picture, photograph, drawing, sculpture or other visual representation or image of a person or portion of the human body that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse; or

(b) Any book, magazine, paperback, pamphlet or other written or printed matter, however reproduced, that reveals a person or portion of the human body that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse.

(2) Displaying obscene materials to minors is a Class A misdemeanor. Notwithstanding ORS 161.635 and 161.655, a person convicted under this section may be sentenced to pay a fine, fixed by the court, not exceeding \$10,000. [1971 c.743 §259]

167.085 Defenses in prosecutions under ORS 167.065 to 167.080. In any prosecution under ORS 167.065 to 167.080, it is an affirmative defense for the defendant to prove:

(1) That the defendant was in a parental or guardianship relationship with the minor; or

(2) That the defendant was a bona fide school, museum or public library, or was acting in the course of his employment as an employe of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization; or

(3) That the defendant was charged with the sale, showing, exhibition or display of an item, those portions of which might otherwise be contraband forming merely an incidental part of an otherwise nonoffending whole, and serving some legitimate purpose therein other than titillation.

(4) That the defendant had reasonable cause to believe that the person involved was not a minor. [1971 c.743 §260]

167.087 Disseminating obscene material (1) A person commits the crime of disseminating obscene material if he knowingly makes, exhibits, sells, delivers or provides, or offers or agrees to make, exhibit, sell, deliver or provide, or has in his possession with intent to exhibit, sell, deliver or provide any obscene writing, picture, motion picture, films, slides, drawings or other visual reproduction.

(2) As used in subsection (1) of this section, matter is obscene if:

(a) It depicts or describes in a patently offensive manner sadomasochistic abuse or sexual conduct;

(b) The average person applying contemporary state standards would find the work, taken as a whole, appeals to the prurient interest in sex; and

(c) Taken as a whole, it lacks serious literary, artistic, political or scientific value.

(3) In any prosecution for a violation of this section, it shall be relevant on the issue of knowledge to prove the advertising, publicity, promotion, method of handling or labeling of the matter, including any statement on the cover or back of any book or magazine.

(4) No employe is liable to prosecution under this section or under any city or home-rule county ordinance for exhibiting or possessing with intent to exhibit any obscene

motion picture provided the employe is acting within the scope of his regular employment at a showing open to the public.

(5) As used in this section, "employe" means an employe as defined in ORS 167.075 (3).

(6) Disseminating obscene material is a Class A misdemeanor. [1973 c.699 §4]

167.089 Exemption from prosecution under ORS 167.087. No employe of a bona fide school, museum or public library, acting within the scope of his regular employment, is liable to prosecution for violation of ORS 167.087 or any city or home-rule county ordinance for disseminating writings, films, slides, drawings, or other visual reproductions which are claimed to be obscene. [1975 c.272 §2]

167.090 Publicly displaying nudity or sex for advertising purposes. (1) A person commits the crime of publicly displaying nudity or sex for advertising purposes if, for advertising purposes, he knowingly:

(a) Displays publicly or causes to be displayed publicly a picture, photograph, drawing, sculpture or other visual representation or image of a person or portion of the human body that depicts nudity, sadomasochistic abuse, sexual conduct or sexual excitement, or any page, poster or other written or printed matter bearing such representation or a verbal description or narrative account of such items or activities, or any obscenities; or

(b) Permits any display described in this section on premises owned, rented or operated by him.

(2) Publicly displaying nudity or sex for advertising purposes is a Class A misdemeanor. [1971 c.743 §261]

167.095 Defenses in prosecutions under ORS 167.090. In any prosecution for violation of ORS 167.090, it shall be an affirmative defense for the defendant to prove:

(1) That the public display, even though in connection with a commercial venture, was primarily for artistic purposes or as a public service; or

(2) That the public display was of nudity, exhibited by a bona fide art, antique or similar gallery or exhibition, and visible in a normal display setting. [1971 c.743 §262]

167.100 Application of ORS 167.060 to 167.100. ORS 167.060 to 167.100 shall be applicable and uniform throughout the state

and all political subdivisions and municipalities therein, and no local authority shall enact any ordinances, rules or regulations in conflict with the provisions thereof. [1971 c.743 §262a]

167.105 [Repealed by 1971 c.743 §432]

167.110 [Repealed by 1971 c.743 §432]

167.115 [Repealed by 1971 c.743 §432]

GAMBLING OFFENSES

167.117 Definitions for ORS 167.117 to 167.162. As used in ORS 167.117 to 167.162, unless the context requires otherwise:

(1) "Bingo or lotto" means a game, played with cards bearing lines of numbers, in which a player covers or uncovers a number selected from a container, and which is won by a player who is present during the game and who first covers or uncovers the selected numbers in a designated combination, sequence or pattern.

(2) "Bookmaking" means promoting gambling by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcomes of future contingent events.

(3) "Contest of chance" means any contest, game, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

(4) "Gambling" means that a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. "Gambling" does not include:

(a) Bona fide business transactions valid under the law of contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance.

(b) Engaging in contests of chance under the following conditions:

(A) The contest is played for some token other than money;

(B) An individual contestant may not purchase more than \$10 worth of tokens for use in the contest during any 24-hour period;

(C) The tokens may be exchanged only for property other than money;

(D) Except when the tokens are exchanged for a beverage or merchandise to be consumed on the premises, the tokens are not redeemable on the premises where the contest is conducted or within 50 miles thereof; and

(E) Except for charitable, fraternal or religious organizations, no person who conducts the contest as owner, agent or employee profits in any manner from operation of the contest.

(c) Social games.

(d) Bingo or lotto operated by a charitable, fraternal or religious organization when no person other than the organization or a player profits in any manner from the operation of the lottery and when the organization has complied with the provisions of ORS 465.100 (2).

As used in this section, "charitable, fraternal or religious organization" means any person organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal or other nonprofit purposes, and who is also exempt from payment of federal income taxes because of its charitable, fraternal or religious purposes. The fact that contributions to an organization profiting from the contest do not qualify for charitable deduction for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1954, as amended, constitutes prima facie evidence that the organization is not a bona fide charitable, fraternal or religious organization.

(5) "Gambling device" means any device, machine, paraphernalia or equipment that is used or usable in the playing phases of unlawful gambling, whether it consists of gambling between persons or gambling by a person involving the playing of a machine. Lottery tickets, policy slips and other items used in the playing phases of lottery and policy schemes are not gambling devices within this definition. Amusement devices which do not return to the operator or player thereof anything but free additional games or plays shall not be considered to be gambling devices.