



Study Session

SS

Milwaukie City Council



CITY OF MILWAUKIE
COUNCIL STUDY SESSION

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

AGENDA

JULY 11, 2017

Page #

1. **5:15 p.m. Construction Excise Tax (CET) Discussion**
Staff: Alma Flores, Community Development Director

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2. **6:15 p.m. Adjourn Study Session**

6:15 p.m. EXECUTIVE SESSION

The City Council will meet in Executive Session pursuant to Oregon Revised Statute (ORS) 192.660(2)(e) to deliberate with persons designated by the governing body to negotiate real property transactions.

Americans with Disabilities Act (ADA) Notice

The City of Milwaukie is committed to providing equal access to all public meetings and information per the requirements of the ADA and Oregon Revised Statutes (ORS). Milwaukie City Hall is wheelchair accessible and equipped with Assisted Listening Devices; if you require any service that furthers inclusivity please contact the Office of the City Recorder at least 48 hours prior to the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502 or 503-786-7555. Most Council meetings are streamed live on the City's website and cable-cast on Comcast Channel 30 within Milwaukie City Limits.

Executive Sessions

The City Council may meet in Executive Session pursuant to ORS 192.660(2); all discussions are confidential and may not be disclosed; news media representatives may attend but may not disclose any information discussed. Executive Sessions may not be held for the purpose of taking final actions or making final decisions and are closed to the public.

Meeting Information

Times listed for each Agenda Item are approximate; actual times for each item may vary. Council may not take formal action in Study or Work Sessions. Please silence mobile devices during the meeting.



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MINUTES

JULY 11, 2017

Mayor Mark Gamba called the Council meeting to order at 5:13 p.m.

Present: Council President Lisa Batey; Councilors Angel Falconer, Wilda Parks, Shane Abma

Staff: City Manager Ann Ober
City Attorney Tim Ramis
City Recorder Scott Stauffer
Planning Director Denny Egner

Community Development Director Alma Flores
Right-of-Way and Contract Coordinator Reba Crocker
Senior Planner David Levitan

Community Development Update

Mr. Egner provided an update on land use and housing applications. He discussed the upcoming Comprehensive Plan update and asked for Council input on the formation of an advisory committee for that process. **Council President Batey** and **Mr. Levitan** commented on the need to encourage business owners to participate in the Comprehensive Plan Advisory Committee (CPAC).

Mayor Gamba discussed the Visioning Advisory Committee (VAC) process and the group discussed inclusion, representation, and liability related to the CPAC.

It was the group consensus that Council wanted an open CPAC selection process that would include an interview phase, with specific groups targeted for inclusion. The group discussed the size and expectations for the CPAC.

Ms. Flores announced that the grand opening of the food cart pod would be held on the First Friday in August 2017. She discussed additional Community Development projects, including an update on City-owned development sites, the relocation of the Milwaukie Farmers Market, the Housing Affordability Working Group (HAWG), upcoming construction projects, and the recruitment of a grocery store. She provided an update on recent building division activity including the number of permits issued and inspections performed. **Ms. Flores** and **Ms. Ober** provided an update on the Anderson Die & Manufacturing fan noise issue and the new sound barriers to be installed.

Construction Excise Tax (CET) Discussion

Ms. Flores and **Mr. Ramis** discussed inclusionary zoning (IZ) in relation to the CET. **Mr. Ramis** believed the IZ was meant to be a standalone discretionary option.

Ms. Flores discussed recent State Legislation that enables cities to enact CETs. She noted differences in CET revenue collection for different types of construction and explained how CET revenue could be allocated. She presented staff recommendations regarding the implementation of CETs on residential and commercial construction and explained how such revenue could be distributed. She noted which CET exemptions were required by the State and which had been recommended by staff.

The group discussed the possibility of including CET program exemptions based on percentages and/or a set number of years. It was noted that staff would research other cities' CET practices and report back to Council.

Mayor Gamba asked whether the City could require property management companies to report rent information. The group discussed the collection of rent data and noted privacy concerns related to such data being collected. They remarked on the City's need for housing information and noted that staff would look into possible data sources.

Ms. Flores and the group discussed accessory dwelling units (ADUs) in relation to the staff recommendation to exempt ADUs from the CET. They commented on when an ADU would and would not be exempt based on the property valuation. **Ms. Flores** provided revenue data on what a CET would have generated if it had been in place in previous years in Milwaukie.

Ms. Flores asked if Council agreed with the program parameters and exemptions proposed by staff. It was Council consensus to establish a CET program with 1% of permit valuation for new and additional residential construction, and 1% on new commercial or industrial development.

Ms. Flores discussed ADU exemptions and **Mayor Gamba** suggested that if an ADU was being rented at 80%, like an apartment, it would be exempt, and if an ADU was rented as Airbnb it would not be exempt. The group discussed Mayor Gamba's suggestion and noted the possibility of requiring property covenants.

Ms. Flores reviewed the staff recommended exemptions and asked if Council wanted to include other exemptions.

The group discussed exempting affordable for-sale housing. It was Council consensus that affordable for-sale housing at or below 80% Median Family Income (MFI) and ADUs at or below 80% MFI be exempt from the CET.

The group discussed concerns about home improvement valuations regarding the recommendation that ADUs be exempt from the CET for 5 years. **Ms. Flores** clarified that the recommendation was based on the added square footage. It was Council consensus to follow the staff recommendation to allow a 5-year ADU exemption.

Ms. Flores asked for Council clarification on the proposed commercial exemptions. The group discussed the exemptions and agreed to add "up to" language to the CET program statements regarding commercial tax revenue allocations.

Ms. Flores explained how residential tax revenue could be allocated for programs and incentives to encourage affordable housing. The group discussed how CET revenue could be distributed and how flexible State requirements would be regarding future adjustments of established CET allocation parameters.

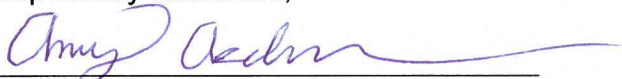
Ms. Flores summarized that Council was comfortable adding the "up to" language regarding commercial tax revenue. The group discussed how unused funds from commercial revenue would be distributed.

Councilor Abma asked about administrative costs associated with the CET program and **Ms. Ober** noted staff would do research and get back to Council.

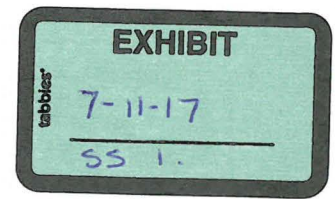
The group noted that Council had no additional exemptions at this time.

Mayor Gamba adjourned the Study Session at 7:09 p.m. and announced that Council would convene in Executive Session pursuant to Oregon Revised Statute (ORS) 192.660(2)(e) to deliberate with persons designated by the governing body to negotiate real property transactions

Respectfully submitted,



Amy Aschenbrenner, Administrative Specialist II



MILWAUKIE ALL ABOARD

VISIONING ADVISORY COMMITTEE APPLICATION

The City of Milwaukie is currently accepting applications for the Visioning Advisory Committee. The committee will aid the City in developing a long-range Community Vision Statement that describes what Milwaukie community members want the city to be like in the year 2040, and a 5-Year Action Plan that spell out how the community can achieve that vision and which will be periodically updated. Entitled **Milwaukie All Aboard**, the vision is anticipated to take approximately 9-12 months to complete and will feed into a complete update of the Comprehensive Plan. **Applications are due on June 17, and can also be filled out online at <http://www.milwaukieoregon.gov/planning/vision>.**

Name: _____ Date: _____

Home address: _____

Mailing address (if different): _____

Best contact phone: _____

E-mail address: _____

Occupation: _____ Company/Organization: _____

Are you: A **resident** of Milwaukie? ☐ If so, for how long? _____

A **business owner** in Milwaukie? ☐ If so, which one and for how long? _____

An **employee** in Milwaukie? ☐ If so, which one and for how long? _____

Otherwise invested in Milwaukie? ☐ If so, in what context? _____

Are you currently serving on a City of Milwaukie Advisory Board or Commission? _____

If so, which one(s)? _____

For the following questions, please limit each response to 200 words. Attach additional pages as needed.

Why are you interested in helping the City of Milwaukie develop a community vision for the year 2040? Are there specific topic areas that you are especially interested in? _____

Describe your participation and affiliation with community, civic, and professional organizations, and how that experience would aid you in contributing to a community visioning process. _____

The City Council is interested in creating a committee that is representative of the entire Milwaukie community, and is seeking a mix of homeowners, renters, business owners, employees, youth/students, and other stakeholders that cover a broad range of age groups, incomes, and cultural and educational backgrounds. Please describe how your background would help fulfill this City Council objective. _____

How did you hear about the committee?

Facebook/Twitter/Instagram: ☐ City Website: ☐ Friend/Neighbor: ☐

Newspaper/Pilot: ☐ Employer: ☐ Other (please list): _____

Please complete this form fully **by June 17** for your application to be considered. Applications can be returned to Project Manager David Levitan via email (levitand@milwaukieoregon.gov) or mail (6101 SE Johnson Creek Blvd, Milwaukie, OR 97206), or submitted online via the link above. For additional information, please call 503-786-7627.

 CITY OF MILWAUKIE
COUNCIL STAFF REPORT

To: Mayor and City Council
 Through: Ann Ober, City Manager
 Reviewed: Ann Ober, City Manager and Amy Koski, Economic Development Resource Coordinator
 From: Alma Flores, Community Development Director
 Subject: **Study Session to Establish of a Construction Excise Tax to Fund Affordable Housing Initiatives**

ACTION REQUESTED

Approve the development of a Milwaukie Construction Excise Tax (CET) Program to fund affordable housing initiatives.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

April 19, 2016: City Council adopted a resolution granting the legislative authority to declare a housing emergency and adopted an ordinance requiring a 90-day no cause eviction notification for tenants.

July 28, 2016: City Council heard a presentation by the Community Development Director and Mary Kyle McCurdy of 1,000 Friends of Oregon on the new legislation that allows cities to create an affordable housing fund using a construction excise on new commercial and residential development and the inclusionary zoning laws. At the meeting there was relative support for pursuance of a Construction Excise Tax for the City of Milwaukie and that the inclusionary zoning aspect would be a secondary phase potentially pursued in the future after the CET program has been in place for some time.

March 7, 2017: The City Council held a work session to discuss whether to extend the housing emergency for an additional six months from the scheduled expiration date of April 19, 2017 and to maintain the 90-day no cause eviction provisions in MMC 5.60.

April 18, 2017: The City Council adopted resolutions to extend the declared housing emergency for a period of six months, and to maintain the 90-day no cause eviction provisions in MMC 5.60.

April 23, 2017: The City Council held a goal setting session and voted unanimously to bring forth actions toward achieving a housing affordability goal for the residents of Milwaukie.

June 13, 2017 At the City Council study session while discussing the Vertical Housing Tax Credit program council inquired into the CET program and its development. The Community Development Director indicated that she would bring forth program details for the council to discuss at the July 11, 2017 study session.

ANALYSIS

The City Council has been working toward addressing housing affordability in the city for over a year and has made several decisions to lessen the impact to renters and increase the number of tools that would allow additional development investment in the city. However, additional tools and resources are still needed to mitigate the impacts of increasing rents and home prices. The Community Development Director has been bringing forth considerations to increase the tools in our housing and economic development toolbox, such as the expansion of the Enterprise Zone, the Vertical Housing Tax Zone, and now the Construction Excise Tax. The

council heard a presentation on the 2016 Senate Bill 1533 to learn more about inclusionary zoning and the ability of cities to enact a local Construction Excise Tax on the construction of new structures or construction that adds square footage to an existing structure. Under this legislation, cities are given the authority to impose a tax on residential construction at a rate of 1 percent of the permit value of the construction; there was no cap on the rate that could be applied to new commercial and Industrial construction. Back in July of last year, the council indicated strong support for a city CET program. Here are the details of the program and staff's suggested program parameters.

Per Senate Bill 1533B CET funds must be spent in the following way:

- Fifty percent (50%) to fund developer incentives allowed or offered pursuant to ORS 197.309 (5)(c) and (d) and (7), which states that:
 - [ORS 197.309; section 5c and 5d and 7] Must provide developers the option to pay an in-lieu fee, in an amount determined by the city or county, in exchange for providing the requisite number of housing units within the multifamily structure to be sold or rented at below-market rates; and
 - Must require the city or county to offer a developer of multifamily structures, other than a developer that elects to pay an in-lieu fee pursuant to paragraph (c) of this sub- section, at least one of the following incentives:
 - Whole or partial fee waivers or reductions.
 - Whole or partial waivers of system development charges (SDC) or impact fees set by the city or county.
 - Finance-based incentives.
 - Full or partial exemption from ad valorem property taxes on the terms described in this subparagraph. For purposes of any statute granting a full or partial exemption from ad valorem property taxes that uses a definition of "low income" to mean income at or below 60 percent of the area median income and for which the multifamily structure is otherwise eligible, the city or county shall allow the multifamily structure of the developer to qualify using a definition of "low income" to mean income at or below 80 percent of the area median income.
- Fifteen percent (15%) distributed to the Housing and Community Services Department to fund home ownership programs; and
- Thirty five percent (35%) for programs and incentives of the city or county related to affordable housing.
- A 4 percent administrative fee may be charged for compliance with the above requirements and is allowed to be deducted before the distribution of the funds described above.

Staff proposes that a Milwaukie CET program be established in the following manner:

Keep with what the state proposes as the maximum tax allowed for residential and add a tax to commercial development, in the following way:

- 1 percent of permit valuation for new and additional square footage of residential construction.
- 1 percent of permit valuation on new commercial or industrial development.

The collected Residential Tax revenue will be distributed as follows:

- 15 percent to the State Housing and Community Services Department.

- 50 percent for developer incentives for building affordable housing at 80 percent or below of median family income (MFI) and should include SDC and Permit Waivers and discounts on the public area requirements, when applicable.
- 35 percent for programs and incentives of the city toward affordable housing 60 percent and should include SDC and Permit Waivers and discounts on the public area requirements, when applicable.

The collected Commercial Tax Revenue would be distributed as follows:

- 25 percent for affordable housing incentive for housing projects at or below 80 percent of MFI and should include SDC and Permit Waivers and discounts on the public area requirements, when applicable.
- 50 percent for economic development programming citywide with emphasis placed on areas that the city has adopted plans in place (e.g. North Milwaukie Industrial Area Plan, Moving Forward Milwaukie Plan, and South Downtown Plan)
- 25 percent for part-time affordable housing staffing

There are exemptions under this legislation which include the development of affordable housing at or below 80 percent of MFI; public improvements under public contracting code; and schools, hospitals, places of worship, agriculture, and non-profit care. The city could impose additional exemptions such as accessory dwelling units (ADUs) for 5 years or improvements when a value is less than a particular amount. Staff recommends placing additional exemptions around ADUs and values under \$100,000.

BUDGET IMPACTS

The city's budget could be impacted in a positive way by adding resources to develop tools for addressing affordable housing in our community. These funds from the CET would provide the funds necessary to address requests for SDC and Permit Waivers, and others.

WORKLOAD IMPACTS

The Community Development Director will prioritize her work plan to accommodate the need to pull this programming together and work with the finance department to establish the revenue accounts.

COORDINATION, CONCURRENCE, OR DISSENT

The City Manager concurs with the establishment of this program and process.

STAFF RECOMMENDATION

Staff recommends establishing a CET on residential and commercial development at 1 percent each with additional exemptions on ADUs for a period of time and on valuations under \$100,000. If the council recommends the parameters around the development of the CET then a resolution will be brought forth at the next council session for a vote.

ALTERNATIVES

The council could elect to not pursue this tool for the support and development of affordable housing.



CD UPDATE AND CONSTRUCTION EXCISE TAX DISCUSSION

July 11, 2017 Study Session

COMMUNITY DEVELOPMENT UPDATE

- Land Use applications update
- Comprehensive Plan update
 - Work Plan under development
 - Advisory committee formation

QUESTION? Should we follow the open model that was used to create the Vision Advisory Committee (VAC) or should we target key areas where we need representation and recruit for those positions?

CD UPDATE

- Coho Point at Kellogg Creek RFQ Process
- North Milwaukie Industrial Area Plan—City Council Public Hearing July 18, 2017
- Harrison and Main Street site discussions
- Milwaukie Farmer's Market—meeting to discuss specifics of the south downtown location
- Housing Affordability Group—2nd HAWG mtg scheduled for end of July
- Milwaukie Station Food Cart Pod—OPEN with 4 carts; Grand Opening August 4, 2017
- Vertical Housing Development Zone—Application to the state in Process
- Development Project Manager hired! Start date is July 31, 2017
- Parking and Construction Projects-- Community Outreach
- Construction Excise Tax discussions
- Downtown Milwaukie Business District partnerships: Flower Basket contract
- Haggen's Grocery store recruitment
- Master Plan for Hillside Manor proposal w/ Metro CPDG Grant—County applicant; City partner

CD UPDATE

BUILDING DIVISION ACTIVITY as of June 2017:

	<u>Valuation of permits issued</u>
New Single Family – 0 issued	\$0
Residential Alterations/Additions – 9 issued	\$95,500
Commercial new - 0 issued	\$0
Commercial Alterations – 5 issued	\$462,317
Total number of permits issued (Structural, Mechanical, Plumbing, Electrical): 141	
Total number of Inspections performed (Structural, Mechanical, Plumbing, Electrical): 287	



CONSTRUCTION EXCISE TAX DISCUSSION

July 11, 2017 Study Session

CONSTRUCTION EXCISE TAX

- [SB 1533B](#) allows cities and counties to enact a Construction Excise Tax.

The following is a CET summary of the key provisions of this bill.

Establishes a new authority for cities and counties (not Metro) to impose a Construction Excise Tax on construction of new structures or construction adding square footage to an existing structure. Cities and Counties may impose a CET on:

- Residential construction, at a rate of 1% of the value of the permit value of the construction
- New commercial and industrial construction, with no cap on the rate of the CET

CET—REVENUE ALLOCATION

The local government imposing the CET may retain 4% of the CET revenues as a fee for administering the tax. After this fee, the residential CET revenues are to be distributed as follows:

- 50% to developer incentives as set out in Section 1 of the bill
- 15% to Housing and Community Services Department to fund homeownership programs that provide down payment assistance
- 35% for affordable housing programs and incentives as defined by the local jurisdiction

For a CET imposed on commercial or industrial development, 50% of revenues after the administrative fee must be expended on programs related to housing

STAFF RECOMMENDATION--RESIDENTIAL

Staff proposes that a Milwaukie CET program be established in the following manner:

- 1 percent of permit valuation for new and additional square footage of residential construction.
- 1 percent of permit valuation on new commercial or industrial development.

The collected Residential Tax revenue will be distributed as follows:

- 15 percent to the State Housing and Community Services Department.
- 50 percent for developer incentives for building affordable housing at 80 percent or below of median family income (MFI) and should include SDC and Permit Waivers and discounts on the public area requirements, when applicable.
- 35 percent for programs and incentives of the city toward affordable housing 60 percent and should include SDC and Permit Waivers and discounts on the public area requirements, when applicable.



CITY OF MILWAUKIE

STAFF RECOMMENDATION--COMMERCIAL

The collected Commercial Tax Revenue would be distributed as follows:

- 50 percent for affordable housing incentive for housing projects at or below 80 percent of MFI and should include SDC and Permit Waivers and discounts on the public area requirements, when applicable.
- 25 percent for economic development programming citywide with emphasis placed on areas that the city has adopted plans in place (e.g. North Milwaukie Industrial Area Plan, Moving Forward Milwaukie Plan, and South Downtown Plan)
- 25 percent for part-time affordable housing staffing



CITY OF MILWAUKIE

STAFF RECOMMENDATION--EXEMPTIONS

Required State Exemptions:

- Affordable Housing at or Below 80% MFI
- Public Improvements Under Public Contracting Code
- Schools, Hospitals, Worship, Agriculture, Non-Profit Care

Recommended Additional Exemptions:

- Affordable For-sale Housing—at or below 80 percent MFI
- Accessory Dwelling Units for 5 years
- Improvements when value is less than \$100,000





Questions?

**Do you agree with the program parameters
and the exemptions proposed?**

**Are there additional exemptions you would
like to see?**