



Regular Session

RS

Milwaukie City Council

COUNCIL REGULAR SESSION

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

2280th Meeting**AGENDA**

NOVEMBER 20, 2018

Note: times are estimates and are provided to help those attending meetings know when an agenda item will be discussed. Times are subject to change based on Council discussion. **Page #**

1. CALL TO ORDER (6:00 p.m.)

A. Pledge of Allegiance

2. PROCLAMATIONS AND SPECIAL REPORTS

A. None Scheduled.

3. CONSENT AGENDA (6:01 p.m.)

Consent items are routine matters that are not discussed during the meeting; they may be approved in one blanket motion and any Councilor may remove an item from the Consent Agenda for separate consideration.

A. Approval of Council Meeting Minutes of: 2

1. October 2, 2018, Regular Session;
2. October 16, 2018, Regular Session; and
3. November 6, 2018, Work Session.

B. Authorization of Amendment #2 to the Clackamas Broadband Express for Fiber Optics Intergovernmental Agreement (IGA) – Resolution 17**C. Authorization to Renew an IGA with the United States Geological Survey (USGS) – Resolution 21****4. AUDIENCE PARTICIPATION (6:04 p.m.)**

To address Council, complete a comment card and submit it to staff. The Mayor will call for comments regarding City business. Per the Milwaukie Municipal Code (MMC) only issues that are “not on the agenda” may be raised; issues that await a Council decision and for which the record is closed may not be discussed; “all remarks shall be directed to the whole Council, and the presiding officer may limit comments or refuse recognition.” The presiding officer may limit the time permitted for comments and may request that a spokesperson be selected for a group of persons wishing to speak. **The public is also invited to make comments in writing and may submit comments before the meeting, by mail, e-mail, or in person to City staff.**

5. PUBLIC HEARING

Public Comment will be allowed on items under this part of the agenda following a brief staff report presenting the item and action requested. The presiding officer may limit testimony.

A. Approval of Construction Manager/General Contractor (CM/CG) Contracting for the South Downtown Plaza – Resolution (6:09 p.m.) 29

Staff: Jennifer Garbely, Assistant City Engineer

B. Consideration of Housekeeping Amendments to the Milwaukie Zoning Ordinance (ZA-2018-005) – Ordinance (6:39 p.m.) 36

Staff: Vera Kolias, Associate Engineer

6. OTHER BUSINESS

These items will be presented by staff or other individuals. A synopsis of each item together with a brief statement of the action requested shall be made by those appearing on behalf of an agenda item.

A. None Scheduled.

7. INFORMATION (7:09 p.m.)

The Council and City Manager will provide reports on City events, projects, and programs.

8. ADJOURNMENT (7:14 p.m.)

Americans with Disabilities Act (ADA) Notice

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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.



COUNCIL REGULAR SESSION

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

2280th Meeting

MINUTES

NOVEMBER 20, 2018

Mayor Mark Gamba called the Council meeting to order at 6:00 p.m.

Present: Council President Lisa Batey (via phone); Councilors Angel Falconer and Shane Abma

Absent: Councilor Wilda Parks

Staff: Assistant City Manager Kelly Brooks
City Attorney Justin Gericke
City Recorder Scott Stauffer

Information Technology Manager Brandon Gill
Planning Director Denny Egnor

1. CALL TO ORDER

Pledge of Allegiance.

Mayor Gamba noted that Council President Batey was joining the meeting by phone and that Councilor Parks was absent due to illness.

2. PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. None Scheduled.

3. CONSENT AGENDA

It was moved by Councilor Falconer and seconded by Councilor Abma to approve the consent agenda as presented.

A. City Council Meeting Minutes:

1. October 2, 2018, Regular Session;
2. October 16, 2018, Regular Session; and
3. November 6, 2018, Work Session.

B. Resolution 95-2018: A Resolution of the City Council of the City of Milwaukie, Oregon, to authorize the City Manager to sign a second amendment to the intergovernmental agreement with Clackamas Broadband Express for fiber optics connection services.

C. Resolution 96-2018: A Resolution of the City Council of the City of Milwaukie, Oregon, to enter into an intergovernmental agreement (IGA) with the U. S. Geological Survey to collaboratively maintain the operation of the Johnson Creek Hydrological Monitoring program.

Motion passed with the following vote: Councilors Abma, Falconer, and Batey, and Mayor Gamba voting "aye." [4:0]

4. AUDIENCE PARTICIPATION

Mayor Gamba reviewed the Audience Participation procedures. **Ms. Brooks** reported that there was no follow-up report from the November 6, 2018, Audience Participation.

Bernie Stout, Milwaukie resident, asked that updates including the recent traffic study report on the Monroe Street Neighborhood Greenway be posted online. He suggested the Railroad Avenue pathway be completed before the Monroe Greenway project.

5. PUBLIC HEARING

A. Approval of Construction Manager/General Contractor (CM/CG) Contracting for the South Downtown Plaza – Resolution

Opening: Mayor Gamba called the hearing on the staff request to use CM/CG alternative contracting for the South Downtown Plaza Project to order at 6:05 p.m.

Purpose, Conflict of Interest and Jurisdiction: Mayor Gamba explained that the purpose of the hearing was to consider the staff's request to use the CM/CG contracting method.

It was noted that no Council member declared any conflict of interest and no audience member challenged Council's ability to participate in the hearing.

Staff Report: Ms. Garbely noted previous Council discussions about the project and reviewed the benefits of using the CM/CG contracting method. She explained that the CM/CG method would give the City more flexibility to select a contractor who could work with the design team throughout the project to find alternatives and cost savings. Mayor Gamba noted that the City had used the CM/CG method with other projects.

Correspondence: Councilor Abma and Ms. Garbely noted that no correspondence had been received. Councilor Abma expressed support for using the CM/CG method.

Audience Testimony: It was noted that no audience member wished to address Council.

Staff Comments: It was noted that staff had no further comments.

Questions of Clarification: It was noted that Council had no further questions.

Close Public Testimony: It was moved by Councilor Falconer and seconded by Councilor Abma to close the public hearing. Motion passed with the following vote: Councilors Abma, Falconer, and Batey, and Mayor Gamba voting "aye." [4:0]

Mayor Gamba closed the public hearing at 6:09 p.m.

Council Discussion: The group noted that the resolution in the meeting packet had the wrong approval date and would be corrected by staff. Council expressed support for using the CM/CG method for the South Downtown Plaza.

Council Decision: It was moved by Councilor Falconer and seconded by Councilor Abma to approve the Resolution, acting as the Local Contract Review Board, adopting findings to allow alternative contracting for the South Downtown Plaza project. Motion passed with the following vote: Councilors Abma, Falconer, and Batey, and Mayor Gamba voting "aye." [4:0]

Resolution 97-2018:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, ADOPTING FINDINGS TO ALLOW ALTERNATIVE CONTRACTING FOR THE SOUTH DOWNTOWN PLAZA PROJECT.

B. Consideration of Housekeeping Amendments to the Milwaukie Zoning Ordinance (ZA-2018-005) – Ordinance

Call to Order: Mayor Gamba called the hearing on the proposed Code Amendments, File #ZA-2018-005, to order at 6:12 p.m.

Purpose and Conflicts: **Mayor Gamba** explained that the purpose of the hearing was to receive public comment on the proposed amendments to the City's Zoning Code.

It was noted that no Council member wished to declare any conflicts of interest.

Staff Report: **Ms. Kolias** provided an overview of the proposed code amendments and noted that the changes would affect the required reviews for recreational trails built in natural resource (NR) and Willamette Greenway (WG) zones. She reported that the amendments would also change the definition of a low impact path.

The group noted that part of the Kronberg Park path would be an elevated structure and part would be built at grade-level. They discussed the possibility of removing the "at grade" reference in the "Low-Impact Pathways" definition.

Ms. Kolias presented a map showing the WG zone around Kronberg Park. **Mayor Gamba** suggested that Kellogg Lake and Creek had been included in the WG because the river's high-water level covered the lake part of the year. He asked if there was concern that the path would be closed to the river's high-water mark. The group discussed the impact of the river's water levels on the path. **Ms. Kolias** reported that the riverway was determined by the low water mark.

Council President Batey expressed concern that amendments meant to address issues with a path on public land could also impact the development of trails on private property. **Mr. Egner** noted that the amendments would affect the public path around the Kellogg Creek Treatment Plant. He and **Council President Batey** agreed that the park area near the plant should be marked as a park on City maps.

The group discussed whether the park path would be made of permeable materials. They noted that the proposed changes to the "Low-Impact Pathways" definition referenced "permeable materials." It was the group consensus to revise the definition language to include "constructed of permeable material if at-grade."

Ms. Kolias explained that the amendments would remove the park path area from the WG zone but the path would remain in the NR overlay and would be subject to NR review. She reported that the only comments received on the amendments had been from the State Department of Land Conservation and Development (DLCD). She noted that staff had incorporated the DLCD's recommended changes into the amendments. She explained that the Planning Commission and staff recommended Council adopt the amendments.

The group noted that staff would read the changes to the amendments into the record.

Audience Testimony: It was noted that no audience member wished to address Council regarding the hearing topic.

Close Public Testimony: It was moved by **Councilor Abma** and seconded by **Councilor Falconer** to close the public hearing. Motion passed with the following vote: **Councilors Abma, Falconer, and Batey, and Mayor Gamba** voting "aye." [4:0]

Mayor Gamba closed the public hearing at 6:33 p.m.

Council Discussion: **Mayor Gamba** asked **Ms. Kolias** to read the changes to the amendments into the record. **Ms. Kolias** read the revised definition "Low-Impact Pathways" within the WG into the record:

"Low-Impact Pathways" means public recreational trails or public walkways located a minimum of 150 feet from the top of Willamette riverbank and constructed of permeable materials when at-grade, up to 12-feet in width.

Council Decision: It was moved by Councilor Falconer and seconded by Councilor Abma to approve the Ordinance amending Title 19 Zoning to make minor changes to select sections for the purpose of clarification and improved effectiveness (File #ZA-2018-005) as amended. Motion passed with the following vote: Councilors Abma, Falconer, and Batey, and Mayor Gamba voting "aye." [4:0]

Ms. Ober read the ordinance two times by title only.

Mr. Stauffer polled the Council with Councilors Abma, Falconer, and Batey, and Mayor Gamba voting "aye." [4:0]

Ordinance 2166:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING TITLE 19 ZONING TO MAKE MINOR CHANGES TO SELECT SECTIONS FOR THE PURPOSE OF CLARIFICATION AND IMPROVED EFFECTIVENESS (FILE #ZA-2018-005).

Ms. Brooks and Councilor Falconer thanked Ms. Kolas and Mr. Egner for their work to address the pathway issues in Kronberg Park.

6. OTHER BUSINESS

A. None Scheduled.

7. INFORMATION

Mayor Gamba asked that Council discuss the selection of a bank that aligns with the City's values. Ms. Brooks noted the topic would be added to a future agenda.

Mayor Gamba announced upcoming events, including the Ledding Library's matching fines program, the Umbrella Parade and Tree Lighting, a Housing Forum, holiday parties at the Milwaukie Center and Milwaukie Museum, and the Winter Solstice event.

Councilor Falconer and Ms. Brooks noted staff would send Council an update on the number of registrations for the Housing Forum. Councilor Falconer noted that the first 50 people to register would get a free copy of "The Color of Law" book by Richard Rothstein, who would be speaking at the forum. The group remarked on the disturbing outcomes of housing policies adopted by all levels of government.

Council President Batey noted an upcoming Kronberg Park work party and a Celebrate Milwaukie, Inc. (CMI) sponsored downtown businesses decoration contest.

8. ADJOURNMENT

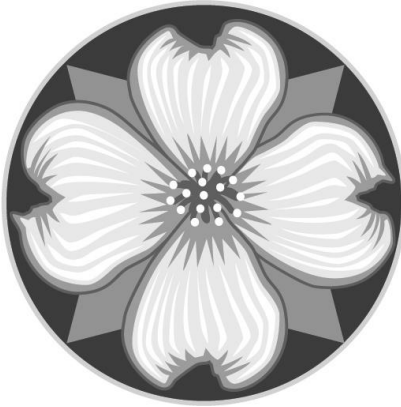
It was moved by Councilor Falconer and seconded by Councilor Abma to adjourn the Regular Session. Motion passed with the following vote: Councilors Abma, Falconer, and Batey, and Mayor Gamba voting "aye." [4:0]

Mayor Gamba moved to adjourn the regular session at 6:44 p.m.

Respectfully submitted,



Scott Stauffer, City Recorder



RS Agenda Item

3

Consent Agenda



COUNCIL REGULAR SESSION

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

2277th Meeting

MINUTES

OCTOBER 2, 2018

Mayor Mark Gamba called the Council meeting to order at 6:01 p.m.

Present: Councilors Angel Falconer (by phone), Wilda Parks, Shane Abma

Absent: Council President Lisa Batey

Staff: Assistant City Manager Kelly Brooks
City Attorney Tim Ramis
City Manager Ann Ober
City Recorder Scott Stauffer

Community Development Director Alma Flores
Library Director Katie Newell
Planning Director Denny Egner
Public Works Director Peter Passarelli

1. CALL TO ORDER

The group recited the Pledge of Allegiance. **Mayor Gamba** announced that Council President Batey had been excused and Councilor Falconer was participating by phone.

2. PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. National Archives Month – Proclamation

Mr. Stauffer and **Greg Hemer**, Milwaukie Historical Society Vice President, introduced the proclamation. **Mayor Gamba** proclaimed October 2018 to be Archives Month.

B. National Planning Month – Proclamation

Mr. Egner introduced the proclamation. **Mayor Gamba** proclaimed October 2018 to be Planning Month. He announced that the City had received the League of Oregon Cities' (LOC) Good Governance award for the Milwaukie All Aboard visioning process.

C. Clackamas County Library District Intergovernmental Agreement (IGA) Amendment – Resolution

Ms. Newell introduced Laura Zentner, Director of Clackamas County Business and Community Services. She noted that the Ledding Library would be closed for several weeks while it moved to make way for the reconstruction project.

Ms. Zentner provided an overview of the Library District IGA and the county's work to transition library services to city governments. She explained that the proposed IGA amendments would affirm funding and boundary changes that the county and the City of Gladstone had agreed to in a legal settlement. The group remarked on how branch funds had been used or set aside, and how the amendments would impact the Oak Lodge and Gladstone libraries. **Ms. Zentner** explained that the proposed boundary changes would have a minimal impact on other branches.

Mayor Gamba and **Ms. Zentner** noted the population size of the Oak Lodge and Gladstone service areas. **Ms. Zentner** explained that most library districts included city and unincorporated areas. The group discussed how the county distributed library funds based on assessed property values and service area population. It was noted that the Oak Lodge Library did not serve any city populations and was run by the county.

Councilor Abma and **Ms. Zentner** discussed why library funding was partly based on property values and whether that was a fair way to distribute resources. **Ms. Zentner**

reported that a County task force would be reviewing the funding formula and service area boundaries. The group noted how many cities and libraries were in the district.

Mayor Gamba and **Councilor Abma** suggested that the district and county had paid to move and build the new library in the City of Happy Valley. **Ms. Zentner** confirmed that district and county capital funds had been used to relocate and upgrade the building that houses the Happy Valley Library. **Mayor Gamba** and **Ms. Zentner** commented on how capital and operating funds were designated in areas not serviced by a library.

Councilor Parks noted that the library now in Happy Valley had previously been in Milwaukie's urban growth management area (UGMA). She asked why funds for that library had gone to Happy Valley and not Milwaukie. **Ms. Zentner** replied that the library now located in and operated by the City of Happy Valley had always served the Happy Valley and Damascus area. She explained that it had been moved as part of the county's effort to transfer library services to city management.

Ms. Zentner presented Library District funding data for each service area. The group discussed the amount of funding each library service area received.

Mayor Gamba, **Ms. Newell**, and **Ms. Zentner** discussed how the county would issue revenue bonds for the new Oak Lodge and Gladstone library buildings. **Mayor Gamba** noted that Milwaukie had asked the County to issue the same type of bonds for the Ledding Library but the county had made the process too complicated so the City had chosen to pursue funding on its own.

Councilor Abma expressed concern that library funds were distributed based on property values. **Mayor Gamba** noted that Milwaukie received more funding based on assessed property values than cities with similar populations because of the amount of industrial land located in the Ledding Library's service area. **Ms. Zentner** offered to meet with councilors individually to discuss the funding formula. **Ms. Ober** noted that Council would have future opportunities to discuss library funding.

The group agreed that the Ledding Library was run very well for the funding it received. It was noted that the proposed amendments needed to be approved by two-thirds of the library cities by the end of October 2018 for the Oak Lodge and Gladstone libraries to be built as agreed to in the legal settlement. **Ms. Zentner** reported that several cities had approved the amendments and others would be considering the changes soon.

Councilor Falconer and **Ms. Zentner** noted that the membership of the county's task force on library funding and boundaries had not yet been determined.

It was noted that that Council would continue consideration of the amendments at the October 16, 2018, Regular Session.

3. CONSENT AGENDA

It was moved by Councilor Parks and seconded by Councilor Abma to approve the consent agenda as presented.

A. City Council Meeting Minutes:

1. August 21, 2018, Regular Session;
2. September 4, 2018, Work Session; and
3. September 4, 2018, Regular Session.

B. Resolution 83-2018: A Resolution of the City Council of the City of Milwaukie, Oregon, authorizing the Planning Director to sign an intergovernmental agreement (IGA) with the Oregon Department of Land Conservation and

Commented [SS1]: This section was reviewed by staff per Mayor Gamba's request. This section has been revised from the originally submitted minutes.

Development to fund the City's Equitable Housing Policy and Implementation Project.

Motion passed with the following vote: Councilors Abma, Falconer, and Parks, and Mayor Gamba voting "aye." [4:0]

4. AUDIENCE PARTICIPATION

Mayor Gamba reviewed the Audience Participation procedures and **Ms. Ober** reported that there was no follow-up report from the September 18, 2018, Audience Participation.

Greg Hemer, Linwood Neighborhood District Association (NDA) representative, requested Linwood Avenue traffic accident data on behalf of the NDA.

Alice Vetter, unincorporated Clackamas County resident, expressed concern about pedestrian and traffic safety along Linwood Avenue and asked the City and county to improve the area as soon as possible. **Mayor Gamba** and **Ms. Ober** noted pending projects that would improve traffic, bicycle, and pedestrian safety on Linwood Avenue. They agreed that the Linwood and Monroe intersection needed to be fixed. **Ms. Ober** added that the Milwaukie Police Department (MPD) had increased patrols in the area and that staff had prepared a flyer about the City's safety efforts. **Ms. Vetter** asked the City to consider the concerns of unincorporated county residents and **Mayor Gamba** noted that unincorporated county residents could attend NDA meetings.

5. PUBLIC HEARING

A. None Scheduled.

6. OTHER BUSINESS

A. Climate Action Plan (CAP) Adoption – Resolution

Mr. Passarelli reviewed how the CAP had been developed. He noted the involvement of consultants, community members, and regional partners. He explained that the CAP set carbon neutral goals and provided strategies for the City to pursue.

Andy Macklin, with Portland General Electric (PGE) Smart Cities Strategy, thanked the City for partnering with PGE and noted projects that they were working on together. **Mayor Gamba** thanked PGE for participating in the City's CAP process.

Mr. Passarelli noted the Climate Action Plan Committee (CAPC) and community engagement work done as part of the CAP development process. He asked Council to adopt the CAP with the revisions noted during the October 2, 2018, Work Session.

It was moved by Councilor Parks and seconded by Councilor Abma to approve the Resolution adopting the Milwaukie Community Climate Action Plan, with the revisions noted by staff. Motion passed with the following vote: Councilors Abma, Falconer, and Parks, and Mayor Gamba voting "aye." [4:0]

Resolution 84-2018:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING THE MILWAUKIE COMMUNITY CLIMATE ACTION PLAN.

Council remarked on the success of the CAP development process and the significance of the City addressing climate issues. **Mayor Gamba** read the list of CAPC members and the group thanked the CAPC and PGE for their work.

Mayor Gamba read the text of Resolution 84-2018 into the record:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING THE MILWAUKIE COMMUNITY CLIMATE ACTION PLAN.

WHEREAS, on April 23, 2017, the City Council held a goal setting session and voted to bring forth actions towards becoming a net zero energy community by 2040; and

WHEREAS, on April 17, 2018, the City Council resolved that it will take aggressive steps to minimize climate change and increase climate related resilience by implementing specific actions identified in the City's Climate Action Plan that provide the greatest impact possible given the City's financial resources; and

WHEREAS, that in its actions and planning, the City of Milwaukie will strive to be a model for climate change reduction for both its residents and other cities; and

WHEREAS, the Milwaukie Community Climate Action Plan identifies actions to achieve City climate goals while also substantially contributing to many other City goals, including transportation choices, building energy efficiency, urban forest protection, and sustainable economic development.

Now, Therefore, be it Resolved, that the Milwaukie Community Climate Action Plan be adopted by City Council for implementation by staff.

Mayor Gamba thanked Mr. Passarelli and Ms. Ober for their work on the CAP. **Mr. Passarelli** and **Ms. Ober** thanked Council for the opportunity to work on the plan.

B. Opposition to Measure 105 – Resolution

Councilor Falconer explained that voters would be considering Measure 105 at the November 6, 2018, General Election. She noted that if approved, it would strike down Oregon's anti-racial profiling law. She noted the history of the law and local law enforcement reaction to enforcing federal immigration laws. She asked Council to adopt the resolution.

Councilors Abma and Parks expressed support for the resolution and opposition to Measure 105. They commented on the national political environment and the importance of encouraging all Americans to treat each other with respect.

It was noted that the date of adoption on the draft resolution had been corrected.

It was moved by Councilor Falconer and seconded by Councilor Abma to approve the Resolution in opposition to statewide ballot Measure 105 to repeal Oregon's decades-old anti-racial profiling law. Motion passed with the following vote: Councilors Abma, Falconer, and Parks, and Mayor Gamba voting "aye." [4:0]

Resolution 85-2018:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, IN OPPOSITION TO STATEWIDE BALLOT MEASURE 105 TO REPEAL OREGON'S DECADES-OLD ANTI-RACIAL PROFILING LAW.

Mayor Gamba read the text of Resolution 85-2018 into the record:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, IN OPPOSITION TO STATEWIDE BALLOT MEASURE 105 TO REPEAL OREGON'S DECADES OLD ANTI-RACIAL PROFILING LAW.

WHEREAS, Oregon's anti-racial profiling law was passed in 1987 with broad bipartisan support, just one "no" vote each in the House and Senate; and

WHEREAS, all Milwaukie residents should be able to trust that they can call the police to report a crime or go to school or work without fear of being unfairly targeted because of the color of their skin or the language they speak; and

WHEREAS, current law does not protect those who commit crimes, rather it has provided clear guidance for over 30 years to local law enforcement on complicated immigration issues, including when it is appropriate to coordinate with federal immigration authorities; and

WHEREAS, current law prevents limited local resources from being diverted away from community safety, and if this measure passes, local police could be asked to use Milwaukie tax-payer funds to target people suspected only of violating non-criminal, civil infractions; and

WHEREAS, at a time when white nationalists are emboldened to promote their anti-American agenda, ending Oregon's anti-racial profiling law sends the wrong message, and it's not who we should aspire to be: a beacon of hope and opportunity, where shared values of freedom, liberty, and justice for all bind us as Americans; and

WHEREAS, immigrants are a core part of Milwaukie's culture and economy, and ending Oregon's anti-racial profiling law could hurt our reputation as a welcoming city where all our residents can thrive, and diverse and talented entrepreneurs are encouraged to start new businesses.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that we strongly oppose the effort to repeal Oregon's decades-old anti-racial profiling law and strongly encourage all voters in Milwaukie and across the state to vote NO on Measure 105.

7. INFORMATION

Mayor Gamba thanked consultants Josh Proudfoot, with Good Company, and Emma Sagor, with Enviroissues, for their work on the CAP. He announced upcoming events, including the Oregon Drive Less Challenge, the last First Friday event of 2018, the Milwaukie Bay Park bridge dedication, the Great Willamette Clean-Up, the Resilience Ostomy relay, the Davis Graveyard, a Comprehensive Plan Town Hall event, and the Ledding Library groundbreaking ceremony.

Ms. Ober reported that in response to Council requests staff had included time estimates for items on the Council agenda and would be creating a PowerPoint slide listing the upcoming events.

8. ADJOURNMENT

It was moved by Councilor Parks and seconded by Councilor Abma to adjourn the Regular Session. Motion passed with the following vote: Councilors Abma, Falconer, and Parks, and Mayor Gamba voting "aye." [4:0]

Mayor Gamba moved to adjourn the regular session at 7:36 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

COUNCIL REGULAR SESSION

City Hall Council Chambers
10722 SE Main Street
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2278th Meeting

MINUTES

OCTOBER 16, 2018

Mayor Mark Gamba called the Council meeting to order at 6:02 p.m.

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

Staff: Assistant City Engineer Jennifer Garbely
Assistant City Manager Kelly Brooks
City Attorney Justin Gericke
City Manager Ann Ober

City Recorder Scott Stauffer
Development Manager Leila Aman
Engineering Director Charles Eaton
Library Director Katie Newell

1. CALL TO ORDER

Pledge of Allegiance.

2. PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS**A. Milwaukie High School (MHS) Outstanding Student Achievement Award for October 2018**

Carmen Gelman, MHS Principal, introduced Ulises Martinez-Rodriguez. Council remarked on his academic and extra-curricular accomplishments.

Ms. Gelman provided an update on the MHS reconstruction project and presented photos of student art that had been installed on the temporary classroom buildings.

B. Legislative Update – Discussion

Ms. Ober explained that Council had asked to meet with Milwaukie's state legislators to discuss priorities for the 2019 Oregon Legislative Assembly session.

Karin Power, State Representative, and **Kathleen Taylor**, State Senator, reviewed their legislative priorities. The group discussed shared priorities, including education funding, carbon cap-and-trade policy, public employee retirement system (PERS) reform, paid leave, housing, homelessness, right-of-way (ROW) fees, Federal Communication Commission (FCC) rules changes, and property tax reform.

Council President Batey, Senator Taylor, and Representative Power noted it was important for cities to pass resolutions and submit letters in response to proposed legislation.

Mr. Stauffer noted that YouTube.com was experiencing a worldwide outage and the Council meeting was therefore not streaming live.

C. Clackamas County Library District Intergovernmental Agreement (IGA) Amendment – Resolution

Ms. Newell thanked Council, staff, and the Library Construction Task Force (LCTF) for their work on the Ledding Library reconstruction project. She introduced Laura Zentner, Clackamas County Business and Community Services (BCS) Director, and Greg Williams, Clackamas County BCS Deputy Director.

Ms. Zentner reviewed the library district's history and guiding documents. She and **Council President Batey** noted that the district's master IGA called for each branch to receive \$1 million in capital improvement funds from the county.

Ms. Zentner provided an overview of the district's funding structure and relationship with the county. She and **Councilor Parks** noted that part of the district's funding was based on the cities' assessed property values.

The group commented on how the district's service areas had been determined. **Ms. Zentner** discussed how unincorporated communities were served by city libraries and remarked on the financial impacts of cities annexing unincorporated areas.

Ms. Zentner presented data showing the amount of funding each library had received from the district since 2009. She noted that Milwaukie had received nearly \$12 million. **Councilor Abma** noted that the City of Lake Oswego had received \$21 million for servicing a population about the same size as Milwaukie's. The group discussed the impact of property values and annexations on the district's funding.

Ms. Zentner discussed the county's commitment to provide each branch with capital improvement funds. She explained how and why the Happy Valley library had been relocated using county capital funds. **Mayor Gamba** suggested that Happy Valley had paid nothing for a new library. **Ms. Zentner** noted that the county had transferred library operations to the City of Happy Valley.

Mr. Williams reviewed the settlement agreement between the City of Gladstone and the county. He noted that two libraries would be built to serve the Gladstone and Oak Lodge areas and explained how library funds would be distributed between the two branches. The group discussed the status of Gladstone's and Oak Lodge's capital funding, noting how much county funding would be available and the populations to be served by each branch.

Mayor Gamba stated that Milwaukie was not against Gladstone and Oak Lodge getting new libraries. He suggested that Milwaukie was frustrated that the county had not provided funds or offered to float a bond for Milwaukie's library service area to help pay for the Ledding Library project while it had done so for other libraries. **Council President Batey** agreed with Mayor Gamba. She suggested that the Ledding Library served more than the people in its service area. She encouraged the county to research if allocating funds based on service areas reflected library use. The group remarked on how the service areas had come into being and how they were updated. It was noted that a county task force would be reviewing service areas and funding.

Don Krupp, Clackamas County Administrator, noted his role as Library District administrator and reviewed how the district's funding formula had been created. He and **Council President Batey** remarked on the complex process to change the formula.

Mr. Krupp explained that the county covered district administrative costs and provided capital improvement funds. He remarked on the uniqueness of the district's regional approach to supporting a library system. He commented that Happy Valley may have received a good financial deal for their library and that the county had benefited by turning over library operations to a city. The group noted that the county's approach had changed, as it would be running the Oak Lodge library. **Mr. Krupp** suggested that the county may transfer the Oak Lodge library to a city in the future. He suggested the county's goal was to provide library services to all communities and asked why Milwaukie would object to Gladstone and the county working together.

Mayor Gamba and **Mr. Krupp** discussed funding the county had provided to library cities outside of the district IGA. **Mr. Krupp** suggested that if the Gladstone and county settlement did not go into effect all libraries would be negatively impacted. **Mayor Gamba** did not disagree with Mr. Krupp but remarked that Milwaukie had had to do its own financing. The group noted that all libraries had received district funding.

Councilor Parks expressed concern that Happy Valley and other cities had received additional capital funding for libraries when Milwaukie had not. **Mr. Krupp** noted that other cities funded libraries that served unincorporated areas on their own. He suggested the funding for the Happy Valley library had been an exception.

Council President Batey suggested that the district funding formula was less fair to cities than unincorporated areas.

Mr. Krupp remarked that the county would not be able to provide additional funding for Milwaukie or any other city library projects. He suggested that the county task force process would address the City's concerns about funding and service area fairness.

Mayor Gamba suggested that the county should be required to financially help cities fund library projects. **Mr. Krupp** and **Councilor Parks** agreed there should be equitable funding for libraries and that the county's task force could address the noted concerns.

Councilor Abma, **Mr. Krupp**, and **Council President Batey** noted that the IGA had no expiration date and commented on the fairness of using assessed property values to distribute library funding. **Councilor Abma** remarked that he wanted Gladstone to have a library and expressed frustration that library funding was based partly on property values. He suggested Milwaukie's only way to voice concern with the formula may be to vote no on the proposed IGA amendments. **Mr. Krupp** discussed why the district had been formed and why the cities had agreed to the funding formula. **Mr. Williams** noted that the library directors had identified revenue as a major problem to be addressed.

Mr. Williams reported that the settlement agreement between Gladstone and the county had been signed in October 2017. The group noted that the county could provide additional funding for the new libraries and remarked on the actual costs to construct a building. It was noted that the planning for the new libraries had not started.

Mr. Williams reviewed district successes, including capital projects, facility moves, and circulation improvements. He noted that the district faced revenue insufficiencies. He presented statistics showing circulation by branch and the branches that patrons identified as their home library. The group commented on how the data was collected, where Milwaukie library items circulated, and how many patrons from outside Milwaukie's library service area considered the Ledding Library to be their home library.

Mr. Williams reported that eight cities needed to approve the settlement agreement for it to go into effect and that seven had already approved. The group discussed which cities had yet to consider the amendments and noted the City of Canby had not approved. **Mr. Williams** explained that Canby had concerns about the county's influence in the district and about how much funding other libraries had received compared to the Canby library.

Tammy Stempel, Mayor of Gladstone, commented on Gladstone's desire to resolve past legal struggles and build a new library. She agreed with the issues raised about the district and encouraged Council to approve the IGA amendments.

Jacque Betz, Gladstone City Manager, agreed with Mayor Stempel's remarks and noted that Gladstone would pay \$200,000 annually to the county for library operations. She noted the status of Gladstone's library project and encouraged Council to approve the IGA amendments. **Mayor Gamba**, **Ms. Ober**, and **Ms. Newell** noted that Milwaukie spent between \$800,000 and \$1 million annually on library operations.

Council President Batey commented on the City's long-standing concern about not being treated fairly by the county. She agreed with Mr. Krupp that renegotiating the district IGA would be hard and suggested that she was not inclined to support the IGA.

Councilor Parks commented on separating the City's issues with the district and county from the amendments. She suggested the county's task force would be the place to discuss the City's concerns. She expressed support for Gladstone and Oak Lodge building new libraries. **Council President Batey** and **Councilor Parks** remarked on how the City could best express its concerns to the county.

Councilor Abma noted his support for the Gladstone and Oak Lodge library projects and expressed concern about how Milwaukie had been treated by the county. He suggested he would probably vote in favor of the amendments. He remarked that the circulation statistics supported the City's belief that it was not compensated fairly for the services it provided to communities outside its service area.

Councilor Falconer remarked that Council should set aside resentments about how Milwaukie had been treated to support an agreement that would allow Gladstone and Oak Lodge to build new libraries.

Mayor Gamba agreed that Milwaukie had not been treated fairly by the county and remarked on what a vote against the amendments would mean for Gladstone and Oak Lodge. He noted he would vote in favor of the amendments. He commented on the funding work required to build new libraries and suggested that conversations between Milwaukie and the county were needed to resolve the identified issues.

Council President Batey commented on what the statistics suggested to her about the reliability of the library service areas in terms of funding distribution. The group compared Milwaukie's circulation statistics with other libraries.

It was moved by Councilor Parks and seconded by Councilor Abma to approve the Resolution to authorize the City Manager to sign the proposed Library District Master Intergovernmental Agreement Amendment. Motion passed with the following vote: Councilors Falconer, Parks, and Abma and Mayor Gamba voting "aye" and Council President Batey voting "no." [4:1]

Resolution 86-2018:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
TO AUTHORIZE THE CITY MANAGER TO SIGN THE PROPOSED LIBRARY
DISTRICT MASTER INTERGOVERNMENTAL AGREEMENT AMENDMENT.**

Ms. Ober recommended rescheduling the planned Executive Session planned to occur after the current meeting. It was Council consensus to reschedule to a future date.

Mayor Gamba congratulated Gladstone and Oak Lodge on their new library buildings. **Mr. Krupp** remarked that the County had heard Milwaukie's concerns.

Mayor Gamba recessed the Regular Session at 8:49 p.m. and reconvened the Regular Session at 9:01 p.m.

6. OTHER BUSINESS

A. Kronberg Park Project Update – Discussion (moved up the agenda)

Ms. Brooks noted that there were project updates to report. She also mentioned that Mr. Eaton would be leaving his position with the City soon.

Mr. Eaton provided a project update and noted Oregon Department of Transportation (ODOT) sidewalk and Americans with Disabilities Act (ADA) accessibility issues. **Council President Batey, Mr. Eaton, and Mayor Gamba** remarked on the sidewalk complications and costs. They discussed the intersection reconfiguration work that would need to be done where the crosswalk and park path would meet at McLoughlin Boulevard and 22nd Avenue.

Mr. Eaton discussed natural resource area and Willamette Greenway (WG) issues related to hazardous materials in ODOT's right-of-way (ROW) along McLoughlin Boulevard. The group remarked on what the issues meant for the project in terms of the park path meeting ODOT, regional, and City path width and connectivity requirements.

Council President Batey asked about the proposal to amend the Milwaukie Municipal Code (MMC) as it related to park paths. **Mr. Eaton** reported that the Oregon Department of Land Conservation and Development (DLCD) had indicated it would not allow the City to amend the MMC to circumvent the planning process for pathways in the WG. The group discussed building a path in a natural resource area, the processes required to get a pathway approved in the WG, and the status of Kellogg Creek in the WG. **Mr. Eaton** and **Ms. Ober** summarized that staff would work with DLCD to try to resolve the issues and that the park path would be 10-foot wide per existing rules.

Mr. Eaton reported that the project was also impacted by the federal Migratory Bird Treaty Act (MBTA) which limited the times of year work could be done. He noted planned tree cutting work that would be affected by the MBTA and ODOT timelines.

Ms. Ober, Council President Batey, and Ms. Brooks commented on the complexities and challenges of the project that had caused delays to construction timelines.

Mr. Stauffer noted that YouTube was live streaming the meeting again.

Mr. Eaton remarked on the increasing project costs given the volatile construction market and uncertainty about what was in the park soil.

Mayor Gamba expressed concern that the City would go with the lowest bidder instead of the bidder that knew how to do the project. **Mr. Eaton** recommended that the City find a bridge building contractor for the project.

Mr. Eaton thanked Council, Ms. Ober, and Ms. Brooks for the opportunity to serve Milwaukie. **Mayor Gamba** thanked Mr. Eaton for his service to the City.

B. South Downtown Plaza Design – Discussion (moved up agenda)

Ms. Garbely presented river and nature-themed designs for the Main Street plaza section of the South Downtown project. The group noted where manholes, pedestrian walkways, curbs, and vehicle ramps would be located around the plaza.

Ms. Garbely noted the benefits of installing removable bollards that would feature a different design than those currently in use in Downtown Milwaukie. She and **Mayor Gamba** commented on where the bollards would be located. The group noted that the bollards would be lockable and heavy enough to stop or slow down vehicles. It was Council consensus to install removable bollards around the plaza and on Main Street.

Ms. Garbely discussed staff's preference for using a contract manager / general contractor (CM/GC) contracting process for the project. She noted next steps and summarized that Council wanted the plaza to feature a combination of river and natural designs. The group remarked on Councilor Abma and Parks' dislike of the designs that featured logs. They discussed why staff preferred the CM/GC approach. **Mayor Gamba** summarized that it was Council consensus to proceed with the CM/GC process, to install removable bollards, and to use the Park and Recreation Board (PARB) and Arts Committee (artMOB) recommended plaza designs.

Mayor Gamba and **Ms. Ober** commented on how the South Downtown project had been reduced in scale and had evolved from the initial 2007 concepts. **Mr. Eaton**, **Mayor Gamba**, and **Ms. Ober** noted which properties would be involved in the project.

The group remarked on how removable bollards would provide flexibility for setting up the plaza for Milwaukie Sunday Farmers Markets and City events.

Mayor Gamba and **Ms. Ober** noted that the City was in negotiations with the Coho Point at Kellogg Creek developer about where the building's vehicle entrances and exits would be located.

Council President Batey and **Ms. Garbely** noted how the colored concrete in the plaza would be created and maintained.

Mayor Gamba summarized that the Council consensus was to install removable bollards, use the CM/GC process, and proceed with the recommended plaza design. The group expressed agreement with Mayor Gamba's summary.

Councilor Falconer thanked Mr. Eaton for his work on the Safe Access for Everyone (SAFE) program and as staff liaison to the Public Safety Advisory Committee (PSAC).

3. CONSENT AGENDA (moved down agenda)

It was moved by Council President Batey and seconded by Councilor Falconer to approve the Consent Agenda.

A. City Council Meeting Minutes:

1. September 11, 2018, Study Session;
2. September 11, 2018, Special Session;
3. September 18, 2018, Work Session; and
4. September 18, 2018, Regular Session.

B. Resolution 87-2018: A Resolution of the City Council of the City of Milwaukie, Oregon, authorizing the City manager to sign an intergovernmental agreement (IGA) with the City of Gladstone for Right-of-Way (ROW) Management Services.

C. Resolution 88-2018: A Resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, approving the award of a contract for the construction of the South Downtown Improvements Project (CIP-2018-T44) to Emery & Sons Construction Group, LLC.

Motion passed with the following vote: Councilors Falconer, Batey, Parks, and Abma and Mayor Gamba voting “aye.” [5:0]

4. AUDIENCE PARTICIPATION

Mayor Gamba reviewed the Audience Participation procedures. **Ms. Ober** reported that in follow-up to previous Audience Participation comments, staff had been working to install diverters at the intersection of Linwood Avenue and Monroe Street. **Mayor Gamba, Ms. Brooks, and Ms. Ober** discussed the type of diverters that would be installed as a temporary solution until City and county projects identified permanent infrastructure that would address Linwood Avenue safety concerns.

Ms. Ober noted it was 9:57 p.m. and per the MMC, Council would need to vote to extend the meeting beyond 10:00 p.m.

It was moved by Councilor Falconer and seconded by Council President Batey to extend the Regular Session for 15 minutes. Motion passed with the following vote: Councilors Falconer, Batey, Parks, and Abma and Mayor Gamba voting “aye.” [5:0]

Ms. Ober reported that, in follow-up to previous Audience Participation comments, the Milwaukie Police Department had fulfilled the records request submitted by the Linwood Neighborhood District Association (NDA) regarding traffic incidents on Linwood Avenue.

5. PUBLIC HEARING

A. None Scheduled.

6. OTHER BUSINESS

~~C. Plain Language Drafting—Discussion (removed from the agenda)~~

D. Resolution Supporting the North Clackamas School District (NCSD) Local Option Levy Ballot Measure (added to the agenda)

Mayor Gamba introduced a resolution in support of the NCSD levy that would be on the November 6, 2018, election ballot. He remarked on school funding issues and thanked Councilor Falconer for drafting the resolution.

Councilor Falconer read the resolution text into the record:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SUPPORTING BALLOT MEASURE 3-541, A LOCAL OPTION LEVY FOR OPERATIONAL FUNDING FOR THE NORTH CLACKAMAS SCHOOL DISTRICT.

WHEREAS, public schools serve as gathering places where people of all ages, regardless of income, can come together to learn and share ideas, and are vital to a vibrant and prosperous community; and

WHEREAS, quality public schools provide an educated workforce with the skills needed by our future workers, leaders, and decision makers; and

WHEREAS, state revenue from property taxes has fallen short of the levels necessary to retain small class sizes, appropriate teacher staffing levels, and a full academic calendar; and

WHEREAS, the failure to fix the shortfalls and inequities in Oregon's property tax system has made it necessary for school districts to close the gap by asking voters to pass local option levies.

Now, Therefore, be it Resolved by the City Council of Milwaukie, Oregon, that we support the local option levy for operational funding for North Clackamas School District and encourage all voters in Milwaukie to vote YES on Measure 3-541 this November 6, 2018.

It was moved by Councilor Parks and seconded by Council President Batey to adopt the resolution supporting Ballot Measure 3-541, a local option levy for operational funding for the North Clackamas School District. Motion passed with the following vote: Councilors Falconer, Batey, Parks, and Abma and Mayor Gamba voting "aye." [5:0]

RESOLUTION 89-2018:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SUPPORTING BALLOT MEASURE 3-541, A LOCAL OPTION LEVY FOR OPERATIONAL FUNDING FOR THE NORTH CLACKAMAS SCHOOL DISTRICT.

7. INFORMATION

Mayor Gamba announced upcoming events, including an Island Station Neighborhood street painting event, the opening of the Ledding Library's temporary location, a candidates' forum sponsored by the Historic Milwaukie Neighborhood, a No Ivy Day event at Elk Rock Island, and the start of the City's annual leaf drop events.

Council President Batey noted Halloween and pre-Thanksgiving activities at the Milwaukie Sunday Farmers Market.

The group noted where Clackamas County ballot drop boxes were located and when they would be open for the November 6, 2018, election.

Ms. Ober noted it was her two-year anniversary with the City. She thanked Council for their support. Council thanked Ms. Ober for her service to Milwaukie.

8. ADJOURNMENT

It was moved by Councilor Parks and seconded by Councilor Abma to adjourn the Regular Session. Motion passed with the following vote: Councilors Falconer, Batey, Parks, and Abma and Mayor Gamba voting "aye." [5:0]

Mayor Gamba moved to adjourn the regular session at 10:07 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

COUNCIL WORK SESSION

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

MINUTES

NOVEMBER 6, 2018

Mayor Mark Gamba called the Council meeting to order at 4:33 p.m.

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

Staff: Accounting and Contracts Specialist Kelli Tucker
Administrative Specialist Christina Fadenrecht
Assistant City Manager Kelly Brooks
City Attorney Justin Gericke
City Manager Ann Ober
City Recorder Scott Stauffer
Climate Action and Sustainability Coord. Natalie Rogers
Engineering Technician Jennifer Backhaus
Finance Director Bonnie Dennis
Planning Director Denny Egner
Public Works Director Peter Passarelli
Right-of-Way and Contract Coord. Reba Crocker

1. Plain Language Drafting – Discussion

Mr. Gericke explained his work with Councilor Abma on the draft “plain language” policy for Milwaukie Municipal Code (MMC) text. He noted that City departments had their own style guides that could be impacted the proposed policy.

Councilor Abma remarked that the intent of the policy was to encourage the use of clear language instead of “legalese” language. He explained the history of the plain language movement and why he wanted to start the discussion.

Council President Batey and **Councilor Abma** remarked that some sections of the MMC needed to be updated. **Mr. Gericke** noted that many city codes were outdated.

The group commented on how the MMC could be reviewed for antiquated language. They noted the need to avoid unintended consequences and broken cross-references when code language was changed. **Councilor Abma** suggested the MMC could be reviewed by an outside consultant or by Council one chapter at a time. He thought Council should look at the MMC and not put it off. **Mayor Gamba** suggested it would be a good task for law student interns. **Ms. Ober** and **Councilor Abma** noted that Councilor Abma could assist in the process.

The group discussed the use of “shall” in City documents.

Mayor Gamba noted his support for the plain language policy and a review of the MMC.

Councilor Parks and **Ms. Ober** discussed how the City compensated interns.

Mr. Egner commented on the Planning Department’s style guide. The group discussed writing styles and preferences. **Councilor Abma** and **Mr. Stauffer** discussed how the City’s code publishing company edited the MMC for print.

Ms. Brooks noted that staff used the Associated Press (AP) Stylebook for website content, press releases, and public-facing documents. **Ms. Ober** noted the importance of consistency in writing styles across City documents and publications. **Mr. Gericke** noted how a seemingly simple change would need to be implemented carefully.

Councilor Abma noted that the “plain language” policy should not impact the various City style guides. **Council President Batey** noted her agreement with the policy. The group agreed this conversation would need to be continued at a future meeting.

2. Adjourn

Mayor Gamba adjourned the Work Session at 5:03 p.m.

Respectfully submitted,

Amy Aschenbrenner, Administrative Specialist II

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Reviewed: Bonnie Dennis, Finance Director and
Kelli Tucker, Accounting & Contracts Specialist

From: Brandon Gill, IT Manager

Subject: **Amendment #2 to Intergovernmental Agreement IGA with Clackamas
Broadband Express for Fiber Optics**

Date Written: Oct. 30, 2018

ACTION REQUESTED

Authorize City Manager to approve second amendment of Intergovernmental Agreement (IGA) with Clackamas Broadband Express (CBX) for annual fiber optics use.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

February 2012 – City approves IGA with CBX for fiber optic network connectivity between city facilities.

March 2018 – City approves Amendment #1 to IGA with CBX to extend fiber optics to temporary library location.

August 2018 - City approves IGA with Clackamas Education Service District (CESD) for internet service.

ANALYSIS

The additional fiber optic connection will facilitate the new internet connection with CESD, which will provide enhanced Internet service.

BUDGET IMPACTS

Costs are approximately \$3,060 annually, which is offset by receiving lower cost internet service provided by CESD. These costs are currently budgeted.

WORKLOAD IMPACTS

None

COORDINATION, CONCURRENCE, OR DISSENT

None

STAFF RECOMMENDATION

Staff recommends approval of the amendment.

ATTACHMENTS

1. Clackamas Broadband Express Amendment #2
2. Resolution

AMENDMENT #2

TO THE CLACKAMAS COUNTY/CITY OF MILWAUKIE FIBER OPTIC SERVICE LEVEL AGREEMENT

This Amendment #2 is entered into by and between the City of Milwaukie ("Customer") and the Clackamas County ("County") and it shall become part of the Fiber Optic Service Level Agreement entered into by and between the parties on April 5, 2018 ("Contract").

The Purpose of the Amendment #2 is to make several changes to Appendix A, Service and Rate Schedule, of the Contract.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed upon that Appendix A is hereby amended as follows:

1. **Appendix A, Section 4, Annual Recurring Charges**, is amended to add the following additional service location:

From (Connecting Point A:Site Name & Address)		To (Connecting Point B:Site Name & Address)	Service	Monthly Rate (\$)
2	Milwaukie Police Department 3200 SE Harrison St Milwaukie, OR 97222	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00

2. **Appendix A, Section 5, Nonrecurring Charges**, is amended to add the following nonrecurring charge:

From (Connecting Point A:Site Name & Address)		To (Connecting Point B:Site Name & Address)	Service	Amount (\$)
2	Milwaukie Police Department 3200 SE Harrison St Milwaukie, OR 97222	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Construction	\$1,000.00

3. **Appendix A, Section 7, Annual Consumer Price Index (CPI) Adjustments**, is deleted and replaced with the following:

All fees and minimum charges are subject to Consumer Price Index (CPI) adjustments, to be applied annually. The amount of the fees and charges specified herein may increase annually by a percentage up to the change in the West Region (West City Size B/C 2.5 Million or less) Consumer Price Index of the US Dept. of Labor, Bureau of Labor Statistics (<https://www.bls.gov/regions/west/data/xg-tables/ro9xg01.htm>), based upon the rate of change as stated from the last month reported to the same month of the preceding year. In the event such Consumer Price Index (or a successor or substitute index) is not available, a reliable governmental or other nonpartisan publication evaluating the

information theretofore used in determining the Consumer Price Index shall be used in lieu of such Consumer Price Index.

Except as expressly amended above, all other terms and conditions of the Contract, and Appendix A, shall remain in full force and effect. By signature below, the parties agree to this Amendment #2, effective upon the date of the last signature below.

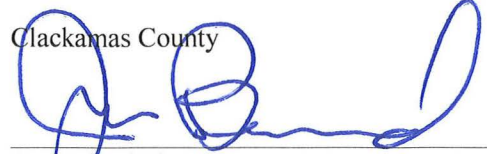
City of Milwaukie

Authorized Signature

Name / Title (Printed)

Date

Clackamas County



Authorized Signature

Jim Bernard, Chair

Name/Title (Printed)

11-8-18 F.Z

Date



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO AUTHORIZE THE CITY MANAGER TO SIGN A SECOND AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH CLACKAMAS BROADBAND EXPRESS FOR FIBER OPTIC CONNECTION SERVICES.

WHEREAS, in compliance with Oregon Revised Statutes Chapter 190, the City and Clackamas Broadband Express (a division of Clackamas County) may enter into agreements between agencies; and

WHEREAS, the City entered into an agreement with Clackamas Education Service District for internet service; and

WHEREAS, fiber optic connection is required between the City and Clackamas County Education Service District to provide internet service in its daily operations; and

WHEREAS, Clackamas Broadband Express provides this required connection.

Now, Therefore, be it Resolved the City Council of the City of Milwaukie authorizes the City Manager to sign the second amendment to the Intergovernmental Agreement with Clackamas Broadband Express for fiber optic connection services.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Oct. 30, 2018

Reviewed: Blanca Marston (as to form), Administrative Specialist, and
Jere Sonne, Environmental Services Coordinator

From: Peter Passarelli, Public Works Director

Subject: **Intergovernmental Agreement (IGA) with the U.S. Geological Survey (USGS)**

ACTION REQUESTED

Renewal of the Intergovernmental Agreement (IGA) between the City of Milwaukie and the U.S. Geological Survey (USGS) on an annual basis for continuous water quality monitoring.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

The USGS owns and operates a water quality monitoring station on Johnson Creek at SE Milport Street. The City has contracted with the USGS to provide hydrological data from this site since 1999.

ANALYSIS

Continuous water quality monitoring is a permit requirement of the National Pollutant Discharge Elimination System (NPDES) MS4 stormwater permit the Department of Environmental Quality (DEQ) issued the City of Milwaukie. Using data provided by USGS allows the City to meet this permit requirement without the expense of purchasing the equipment necessary to collect water quality data, and acquiring and developing streamside property to accommodate the equipment and monitoring activities.. The USGS provided data is quality-assured data that may be published.

BUDGET IMPACTS

The total cost of contracting with USGS for continuous monitoring for reporting year 2018/2019 is \$17,240. The USGS will provide \$7,060 of cooperative matching funds, and the City will provide \$10,180 out of budgeted stormwater funds.

WORKLOAD IMPACTS

Contracting with USGS for water quality data will not impact staff workloads.

COORDINATION, CONCURRENCE, OR DISSENT

The City of Milwaukie is joined by Multnomah County and Clackamas County, the cities of Gresham and Portland, and East Multnomah Soil and Water Conservation District in the cost and support of this project.

STAFF RECOMMENDATION

Authorize the City Manager to approve the IGA with the USGS.

ALTERNATIVES

Alternatives to contracting with USGS would involve the City purchasing streamside property on Johnson Creek and developing the property to accommodate a structure that would protect hydrological equipment from the elements, theft, vandalism, high water or flooding. Data collecting equipment would require significant staff time to install, operate, maintain, clean and calibrate on a routine basis.

ATTACHMENTS

1. Resolution
2. IGA

COUNCIL RESOLUTION No.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH THE U.S. GEOLOGICAL SURVEY TO COLLABORATIVELY MAINTAIN THE OPERATION OF THE JOHNSON CREEK HYDROLOGIC MONITORING PROGRAM.**

WHEREAS, the U.S. Geological Survey (USGS), Multnomah County, Clackamas County, City of Gresham, City of Portland, East Multnomah Soil and Water Conservation District, and the City of Milwaukie have collaboratively maintained the operation of the Johnson Creek hydrologic monitoring program in the Johnson Creek Basin since 1999; and

WHEREAS, the total cost to continue the USGS and City of Milwaukie portion of this monitoring program in Federal Fiscal Year (FFY) 2019 will be \$17,240; and

WHEREAS, the USGS will provide \$7,060 of cooperative matching funds and the City will provide \$10,180; and

WHEREAS, this IGA provides the mechanism to continue this relationship and collaboration between USGS and the City of Milwaukie in FFY 2019 (October 1, 2018, through September 30, 2019).

Now, Therefore, be it Resolved that the City Council approves an IGA between the City of Milwaukie and the USGS to collaboratively maintain the operation of the Johnson Creek hydrologic monitoring program.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney



United States Department of the Interior

U.S. GEOLOGICAL SURVEY

Oregon Water Science Center

2130 SW 5th Avenue

Portland, OR 97201

<http://or.water.usgs.gov/>

October 1, 2018

Peter Passarelli, Public Works Director
City of Milwaukie
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

Dear Mr. Passarelli,

The U.S. Geological Survey (USGS), Multnomah County, Clackamas County, City of Gresham, City of Portland, East Multnomah Soil and Water Conservation District, and City of Milwaukie collaboratively maintain the operation of the Johnson Creek hydrologic monitoring program (14211400, 14211499, 14211500, 14211550) in the Johnson Creek Basin, Oregon. This letter and subsequent joint-funding agreement (JFA) provide the mechanism to continue this relationship, and collaboration, between USGS and City of Milwaukie, in Federal fiscal year (FFY) 2019 (October 1, 2018 through September 30, 2019).

The total cost to continue the USGS and City of Milwaukie portion of this monitoring program in FFY 2019 will be \$17,240. The USGS will provide \$7,060 of Cooperative Matching Funds and the City will provide \$10,180. Enclosed is a signed original of our standard JFA for the project covering the period October 1, 2018 through September 30, 2019.

Please sign and return one fully-executed original to Andrew Kerslake at kerslake@usgs.gov. The signed agreement is not a bill and no funds are required at this time; rather, the agreement is our legal authority that permits the work to be done and authorizes USGS to accept funds. The USGS Water Resources Cooperative Program operates under the authority of statute 43 USC 50, which allows us to perform this work. The Oregon Water Science Center DUNS number is 137883463.

Federal law requires that we have a signed agreement to continue this work; therefore, please return the signed agreement as soon as possible. If, for any reason, the agreement cannot be signed and returned in the near future, please contact Adam Stonewall at (503) 251-3246 or email kovertan@usgs.gov to make alternative arrangements.

This is a fixed cost agreement to be billed annually via Down Payment Request (automated Form DI-1040). We can bill you on a specific date if that is more convenient relative to your fiscal year planning and budgeting process. Please allow 30 days from the end of the billing period for issuance of the bill. If you experience any problems with your invoice(s), please contact Andrew Kerslake at (503) 251-3253 or email at kerslake@usgs.gov.

The results of all work under this agreement will be available for publication by USGS in collaboration with the City. During the course of this jointly planned activity and partnership, USGS may provide unpublished USGS data or information to your office for scientific peer and (or) courtesy review. Guidance concerning USGS's non-disclosure policy will be provided with any review material and is further explained in USGS Fundamental Science Practices at <http://www.usgs.gov/fsp/>.

Sincerely,

James D. Crammond
Center Director

Cc: To file, available upon request

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Customer #: 6000001707
Agreement #: 19YFJFA00000005
Project #:
TIN #: 93-6002212

Fixed Cost Agreement YES[X] NO[]

THIS AGREEMENT is entered into as of October 1, 2018, by the U.S. GEOLOGICAL SURVEY, Oregon Water Science Center, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the City of Milwaukie, party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation the operation of the Johnson Creek hydrologic monitoring program (14211400, 14211499, 14211500, 14211550) in the Johnson Creek Basin, Oregon, herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50, and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) include In-Kind-Services in the amount of \$0.00

- (a) \$7,060 by the party of the first part during the period
October 1, 2018 to September 30, 2019
- (b) \$10,180 by the party of the second part during the period
October 1, 2018 to September 30, 2019
- (c) Contributions are provided by the party of the first part through other USGS regional or national programs,
in the amount of: \$0

Description of the USGS regional/national program: N/A

- (d) Additional or reduced amounts by each party during the above period or succeeding periods as may be
determined by mutual agreement and set forth in an exchange of letters between the parties.
- (e) The performance period may be changed by mutual agreement and set forth in an exchange of letters
between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program, and if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at cost, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties. The Parties acknowledge that scientific information and data developed as a result of the Scope of Work (SOW) are subject to applicable USGS review, approval, and release requirements, which are available on the USGS Fundamental Science Practices website (<https://www2.usgs.gov/fsp/>).

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR

Customer #: 6000001707
Agreement #: 19YFJFA00000005
Project #:
TIN #: 93-6002212

Water Resource Investigations

9. Billing for this agreement will be rendered annually. Invoices not paid within 60 days from the billing date will bear Interest, Penalties, and Administrative cost at the annual rate pursuant the Debt Collection Act of 1982, (codified at 31 U.S.C. § 3717) established by the U.S. Treasury.

USGS Technical Point of Contact

Name: Adam Stonewall
Hydrologist
Address: 2130 SW 5th Avenue
Portland, OR 97201
Telephone: (503) 251-3276
Fax: (503) 251-3470
Email: stonewal@usgs.gov

Customer Technical Point of Contact

Name: Jere Sonne
Environmental Services Coordinator
Address: 6101 S.E. Johnson Creek Blvd.
Milwaukie, Oregon 97206
Telephone: (503) 786-7674
Fax:
Email: sonnej@milwaukieoregon.gov

USGS Billing Point of Contact

Name: Andrew Kerslake
Financial Specialist
Address: 2130 SW 5th Avenue
Portland, OR 97201
Telephone: (503) 251-3253
Fax:
Email: kerslake@usgs.gov

Customer Billing Point of Contact

Name: Peter Passarelli
Public Works Director
Address: 6101 S.E. Johnson Creek Blvd.
Milwaukie, Oregon 97206
Telephone: (503) 786-7609
Fax:
Email: engineering@milwaukieoregon.gov

U.S. Geological Survey
United States
Department of Interior

City of Milwaukie

Signature

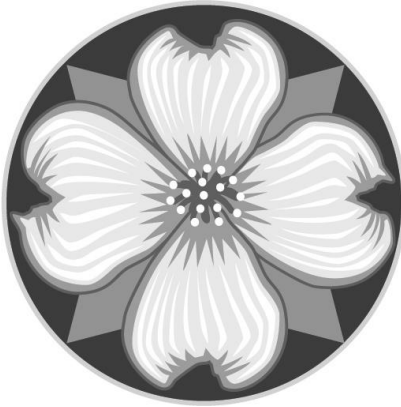
By _____ Date: _____
Name: James D. Crammond
Title: Center Director

Signatures

By _____ Date: _____
Name: Peter Passarelli
Title: Public Works Director

By _____ Date: _____
Name: Haley Fish
Title: Finance Director

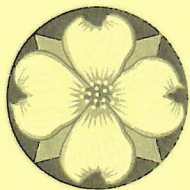
By _____ Date: _____
Name:
Title:



RS Agenda Item

4

Audience Participation



**CITY OF MILWAUKIE
CITY COUNCIL**

10722 SE Main Street
P) 503-786-7502
F) 503-653-2444
ocr@milwaukieoregon.gov

Speaker Registration

The City of Milwaukie encourages all citizens to express their views to their city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder. Note that this Speakers Registration card, once submitted to the City Recorder, becomes part of the public record.

Name: BERNIE STOUT

Organization:

TUOS.

Address: 4647 SE ADA LN.

Phone:

Email:

Meeting Date: NOV. 19

Topic:

PUBLIC EDUCATION

Agenda Item You Wish to Speak to:

☒ #4 Audience Participation

☐ #5 Public Hearing, Topic:

☐ #6 Other Business, Topic:

You are Speaking...

PROJECTS

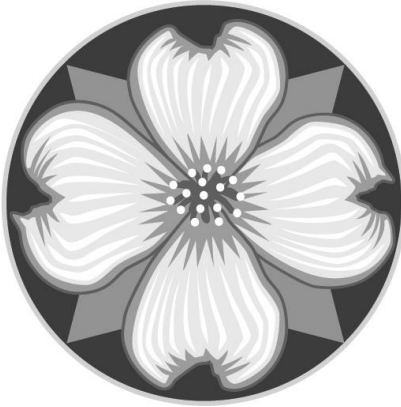
☒ in Support

☐ in Opposition

☐ from a Neutral Position

☐ to ask a Question

Comments:



RS Agenda Item

5

Public Hearing

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Oct. 23, 2018

Reviewed: Charles Eaton, Engineering Director

From: Jennifer Garbely, Assistant City Engineer

Subject: **South Downtown Plaza Adopt CM/CG**

ACTION REQUESTED

Staff is requesting the approval of the attached resolution to adopt Construction Manager/General Contractor (CM/CG) as the alternative contracting method for the South Downtown Plaza.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

The project is included in the 2019 to 2024 Capital Improvement Plan (CIP) and the 2019-2020 Biennium Budget adopted by City Council on June 5, 2018.

[October 16, 2018](#), Staff updated City Council on the plaza concepts and requested to bring a resolution to City Council for bidding the South Downtown Plaza project under a CM/CG contract.

ANALYSIS

The CM/GC process is a unique method used to accelerate project delivery. In the CM/GC process, the project owner hires a contractor to provide feedback during the design phase before the start of construction. To utilize the process, the City must conform to ORS 279C.335 (1) and (2) and Public Contracting Rule 10.105A, which permit a local contract review board to exempt certain contracts from traditional competitive bidding. To exempt a project, a local contract review board must show through findings that an alternative contracting process is unlikely to encourage favoritism or diminish competition and results in cost savings.

The CM/GC process is broken down into two contract phases. The first contract phase, the design phase, allows the contractor to work with the designer and the project owner to identify risks, provide costs projections, and refine the project schedule. Once the design phase is complete, the contractor and project owner negotiate on the price for the construction contract. If all parties agree with costs, then the second contract phase, the construction phase, is kicked off and construction begins.

There are advantages to using the CM/GC process. The contractor acts as the consultant in the design process and can offer new innovations, best practices, and reduced costs and schedule

risks as a result of the contractor's years of proven experience doing the actual work. This process also allows the project owner to employ new innovations, assist in the design process, and make informed decisions regarding cost and schedule.

BUDGET IMPACTS

The plaza is funded out of the current 2019-2020 Biennium Budget under the Downtown Public Area Requirements (PAR) project.

WORKLOAD IMPACTS

Staffing levels have already been taken into consideration and accounted for within the adopted FY19 Capital Improvement Plan. No additional impacts are anticipated.

COORDINATION, CONCURRENCE, OR DISSENT

None.

STAFF RECOMMENDATION

City staff and the City Attorney have evaluated the project and determined that the provisions of ORS 279C.335 (1) and (2) and Public Contracting Rule 10.105A can be met. In order to proceed with this process, City Council is asked to adopt the findings in support of the alternative contracting method CM/GC for the South Downtown Plaza Project.

ALTERNATIVES

1) Not adopting the findings.

ATTACHMENTS

1. Exhibit A
2. Resolution



EXHIBIT A

FINDINGS IN SUPPORT OF ALTERNATIVE CONTRACTING METHOD FOR THE SOUTH DOWNTOWN PLAZA PROJECT

Introduction

Use of Alternative Contracting methods, such as Construction Manager/General Contractor (CM/GC), is made possible under ORS Chapter 279C, which permits certain contracts or classes of contracts to be exempt from competitive public bidding under strict procedural safeguards. Like other alternative contracting methods, CM/GC has significantly different legal requirements than a typical design-bid-build project delivery method.

Pursuant to ORS 279C.335, a local contract review board may exempt specific contracts from traditional, competitive bidding by showing that an alternative contracting process is unlikely to encourage favoritism or diminish competition and will result in cost savings and other substantial benefits to the public agency. The Oregon Attorney General's Model Public Contract Rules provide for public notice and opportunity for public comment on draft findings in favor of an exemption before final adoption.

Under ORS 279C.330, "findings" means the justification for a contracting agency conclusion that includes, but is not limited to, information regarding:

- Operational, budget, and financial data;
- Public benefits;
- Value engineering;
- Specialized expertise required;
- Public safety;
- Market conditions;
- Technical complexity; and
- Funding sources.

Findings

Operational, Budget, and Financial Data

The plaza has been a concept plan for the last ten years and it is exciting to have it move forward within the Milwaukie Downtown Public Area. The funds have been bonded and are required to be spent within three years. CM/GC provides opportunities for cost saving in a

variety of ways. The inherent flexibility and openness of the process allows the City to more easily make appropriate changes as necessary to meet the project budget.

The firm Guaranteed Maximum Price (GMP) contract amount to be negotiated includes the expected cost to construct the project, the CM/GC firm's fee, and a contingency amount that the CM/GC believes should be available to cover changes to the proposed scope.

Public Benefit

The project will be built with a qualified contractor that has experience in plaza construction. During the open house for the plaza, the public voted on themes and selected a natural theme. The ability to construct natural elements in a colored concrete plaza is going to require a skilled contractor.

Value Engineering

The CM/GC process provides many benefits and opportunities for cost savings and schedule, a process that will be necessary to achieve the desired improvements within the limits imposed by available funding and timeline. Material analysis and real-time cost estimates provided by the CM/GC throughout the constructability reviews will aid the project and allow the City to make an informed cost-benefit tradeoff. The CM/GC will evaluate the plaza concepts and make design recommendations to the Project Team regarding which elements can be constructed and enhanced to provide a high-quality plaza with low maintenance.

The CM/GC also identifies whether project sequencing is viable and design elements can be built as drawn. All of these beneficial actions by the CM/GC will improve design, expedite construction, and eliminate the potential for costly change orders. The benefits of value engineering are not available with the low bid process.

Specialized Expertise Required

The plaza design requires the use of colored concrete, inlays, textures, multiple colors, and meeting Americans with Disabilities Act (ADA) requirements within a shared road concept, which is not a typical concrete project. The contractor ultimately selected as CM/GC will demonstrate experience and expertise in providing CM/GC services to public and/or private organizations under these challenging circumstances, and will be well qualified in the area of plaza construction.

The CM/GC selection process is based on qualifications, with price as a factor. The fee is, however, less important than the overall qualifications and specialized expertise of the selected CM/GC. The City will benefit by acquiring a CM/GC, that has established experience and specialized expertise to manage this project. A low bid process does not provide an opportunity to obtain the most qualified contractor with the specialized expertise needed for the project.

Public Safety

The project will provide for safe public access and compliance with ADA requirements. The plaza will create a new shared space through a Dutch method called woonerf. The CM/GC's input into work and materials sequencing, and construction methodologies can reduce issues related to road and pedestrian safety.

The CM/GC method of delivery is a team approach and provides a high level of responsibility and visible adherence to public safety. The contractor's knowledge of ADA requirements on prior projects in satisfying these safety needs can be determined as part of the City's contractor selection process. This determination is not available under the low bid process.

Market Conditions

The CM/GC contracting process is a modern construction delivery method used by both public and private organizations. The CM/GC is tasked with keeping the Project Team up-to-date on the latest construction techniques and products. The CM/GC will inform the Project Team of current market conditions, labor and materials availability, and construction methodologies that can reduce design and construction time and costs.

The CM/GC process allows "fast-track" construction and coordination with the current South Downtown Improvements Project will be critical. Timing the market and construction of elements in advance can aid the final construction of the plaza.. These fast-track benefits are not available under the low bid process.

In addition, using the CM/GC process will allow trades to become involved earlier in the process. The current market for construction services is becoming increasingly tight with substantial increases in material and labor costs for public and private construction projects. By allowing the involvement of trades earlier in the process, the CM/GC will be able to acquire and involve higher quality subcontractors, which will lead to higher quality product for the City and its residents. Regardless, the CM/GC will be required to bid the major subcontracts for the project. These benefits are not available under the low bid process.

Technical Complexity

The project has significant technical complexities that will be best addressed through a team approach, with the CM/GC working with the City and design consultant to solve specific challenges identified during the pre-construction phase. The project is technically complex due to its a shared road concept. ADA requirements, and natural themed design that can manage traffic movements through the plaza.

This project also requires technical expertise and experience in special-purpose construction involving public entities. The CM/GC process enables the City to competitively select a prime contractor who has the necessary competence to address the technical complexities of this

project and can provide quality workmanship, dependable performance, fair and reasonable pricing, and efficient management as Project Team member. Under a low bid process, the technical competence of the contractor is difficult to evaluate.

Funding Sources

Funding for this project will come from the 2019 to 2024 Capital Improvement Plan (CIP) and the 2019-2020 Biennium Budget adopted by City Council on June 5, 2018. The CM/GC process, with its negotiated contract price, will provide the necessary predictability.

The CM/GC method of contracting provides the greatest cost controls for limited budgets and therefore benefits the City. The team approach, the schedule, the value analysis, and constructability reviews provide the best and most effective cost analysis. It is critical, and also consistent with the spirit of collaboration encouraged throughout the process, that everyone on the Project Team works towards a budget of which they can take ownership.

Summary

After careful consideration, the City has found the Alternative Contracting Method CM/GC more appropriate than a traditional design-bid-build process to meet the overall project objectives for the South Downtown Plaza Project.

COUNCIL RESOLUTION No.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, ADOPTING FINDINGS TO ALLOW ALTERNATIVE CONTRACTING FOR THE SOUTH DOWNTOWN PLAZA PROJECT.**

WHEREAS, the City of Milwaukie adopted Public Contracting Rules by resolution 100-2017 on December 19, 2017; and

WHEREAS, the Construction Manager/General Contractor form of alternative contracting is allowed under Public Contracting Rule 10.105.A; and

WHEREAS, the use of Construction Manager/General Contractor for the South Downtown Plaza Project complies with Public Contracting Rule 10.105.A.

Now, Therefore, be it Resolved that the City Council, acting as the local contract review board for the City of Milwaukie, hereby adopts findings attached as Exhibit A pursuant to the authority granted by Milwaukie City Code Chapter 3.05 to allow the use of the Construction Manager/General Contractor alternative contracting method for the South Downtown Plaza Project.

Introduced and adopted by the City Council on November 6, 2018.

This resolution is effective on November 6, 2018.

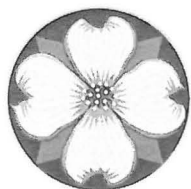
Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney



PUBLIC HEARING ATTENDANCE SIGN-UP SHEET

If you wish to have standing and/or to be on the mailing list for Council information from tonight's hearing, please sign-in below.

11/20/18

**5. A. Approval of Construction Manager /
General Contractor (CM/CG) for the
South Downtown Plaza Project**

Land Use File No. (none)

NAME	ADDRESS	PHONE	EMAIL

COUNCIL STAFF REPORT**OCR USE ONLY**

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Nov. 9, 2018

Reviewed: Alma Flores, Community Development Director, and
Denny Egner, Planning Director

From: Vera Kolias, Associate Planner

Subject: **Code Fix – Housekeeping Amendments #3**

ACTION REQUESTED

Hold a public hearing for application ZA-2018-005 and adopt the Ordinance with exhibits making housekeeping amendments to the Milwaukie Zoning Ordinance.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[October 23, 2018](#): The Planning Commission voted unanimously to recommend approval of the proposed code amendment package.

ANALYSIS

The proposed amendments relate to public recreational trails and pathways. The issue was discovered during preliminary review of the proposed improvements at Kronberg Park, which include a multi-use pathway. The current code would require both greenway review and Type III natural resources review. The proposed amendments would exempt these types of trails from Willamette Greenway conditional use review if they are located more than 150 ft from the river. The amendments would also increase the maximum width of a trail or pathway allowed under Type II review from 10 ft to 12 ft. This change would make trails and pathways consistent with current Oregon Department of Transportation standards for multi-use paths. These amendments are minor and are not intended to affect the overall intent of existing regulations. These amendments do not reflect a significant change in policy.

Key Issues

Is the proposed revision to the definitions of “change of use” and “intensification” consistent with Goal 15 – Willamette Greenway?

The proposed revision adds the construction and/or maintenance of trails and pathways in public parks to the list of activities that would not be considered a change of use or intensification. Other activities within this list as identified in Goal 15 are:

- Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and

necessary to the use and enjoyment of existing improvements shall not be considered a change of use for the purposes of this Goal.

- Landscaping, construction of driveways, modification of existing structures, or construction or placement of such subsidiary structures or facilities adjacent to the residence as are usual and necessary to such use and enjoyment shall not be considered an intensification for the purposes of this Goal. Seasonal increases in gravel operations shall not be considered an intensification of use.

The proposed amendments allow development of public recreational trails, pathways, and walkways through the greenway in a manner that protects the natural qualities of the greenway while meeting recreational objectives. The proposal includes construction and maintenance of a public recreational trail up to 12 feet in width that is set back by 150 feet from the bank of the river to the list of activities that are not considered a change of use or intensification of use. It will provide adequate width for walking and biking while having minimal impact on the riparian area along the river.

Property in the greenway includes Milwaukie Bay Park, the Kellogg Creek Waste Water Treatment Plant, Spring Park, Elk Rock Island, and Kronberg Park. Improved trails currently exist through Milwaukie Bay Park, the Kellogg Waste Water Treatment Plant site, and Spring Park. Unimproved trails exist on the Elk Rock Island property. As noted above, several activities that are currently exempt from greenway review (such as construction of paved driveways and installation of structures associated with residential development) are similar in terms of environmental impact, yet do not provide a public recreational benefit. Including public trails and paths within public parks in the Willamette Greenway is consistent with the type of recreational use that is expected to occur in parks.

BUDGET IMPACTS

The amendments are not expected to significantly alter the cost of administering the code.

WORKLOAD IMPACTS

The amendments are expected to simplify and thereby potentially reduce some of the work load of the planning department for administration of the code.

COORDINATION, CONCURRENCE, OR DISSENT

The Planning Commission held a public hearing to discuss housekeeping amendments on October 23 and voted to recommend approval of the revised code amendment package to City Council. The Engineering Department concurs with the proposed amendments.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance making amendments to the zoning code.

ALTERNATIVES

No alternatives are being presented. If there are significant issues, the Council could choose to continue the public hearing to a future date. This would delay the adoption and effective dates of the amendments.

COMMENTS

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Building, Engineering, and Community Development Departments; all seven

Neighborhood District Associations (NDAs); Parks and Recreation Board (PARB); North Clackamas Parks and Recreation District (NCPRD); Oregon Department of Land Conservation and Development (DLCD), and Metro via email. A public hearing notice was posted at City Hall, Ledding Library, the Public Safety Building, and the Johnson Creek Facility, and was posted on the City's Planning Department website home page.

To date, staff received one comment from DLCD and revised the proposed language to reflect their comments. Staff will continue to collect comments and those received prior to 3pm on the day of the hearing will be provided to the Council before the hearing.

ATTACHMENTS

1. Ordinance
2. Recommended Findings in Support of Approval
3. Proposed code amendment language (underline/strikeout)
4. Proposed code amendment language (clean)



COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING TITLE 19 ZONING TO MAKE MINOR CHANGES TO SELECT SECTIONS FOR THE PURPOSE OF CLARIFICATION AND IMPROVED EFFECTIVENESS (FILE #ZA-2018-005).

WHEREAS, the proposed amendments to Title 19 make changes and clarifications that will more effectively communicate and implement existing policy related to the Willamette Greenway and Natural Resources; and

WHEREAS, legal and public notices have been provided as required by law; and

WHEREAS, on October 23, 2018, the Milwaukie Planning Commission conducted a public hearing as required by MMC 19.1008.5, and adopted a motion in support of the amendments; and

WHEREAS, the Milwaukie City Council finds that the proposed amendments are in the public interest of the City of Milwaukie.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the amendments are adopted by the City Council and are attached as Exhibit A.

Section 2. Amendments. The Milwaukie Municipal Code is amended as described in Exhibit B (Title 19 Zoning underline/strikeout version), and Exhibit C (Title 19 Zoning clean version).

Section 3. Effective Date. The amendments shall become effective 15 days from the date of adoption.

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

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

Signed by the Mayor on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott Stauffer, City Recorder

Justin D. Gericke, City Attorney

**Recommended Findings in Support of Approval
File #ZA-2018-005, Housekeeping Round 3 Code Amendments**

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, the City of Milwaukie, proposes to amend regulations that are contained in Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC). The land use application file number is ZA-2018-005.
2. The purpose of the proposed code amendments is to amend two sections of the code to provide for the construction of public recreation paths and trails in certain areas of the Willamette Greenway and in mapped natural resource areas. The proposed amendments are not intended to be a change of the intent of current policies. The amendments are located in the following titles of the municipal code:

Zoning Ordinance

- MMC 19.401 – Willamette Greenway Overlay – revisions to the definitions of intensification and change of use to include an exemption for the construction of low-impact pathways that are not adjacent to the river and the improvement of existing paved trails.
 - MMC 19.402 – Natural Resources – increase the permitted width of a walkway or bikepath to be consistent with ODOT trail standards.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.902 Amendments to Maps and Ordinances
 - MMC Chapter 19.1000 Review Procedures
 4. Sections of the MMC or MCP not addressed in these findings are found to be not applicable to the decision on this land use application.
 5. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. A public hearing was held on December 13, 2016 and February 7, 2017 as required by law.
 6. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.
 - a. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Director, or any individual.

The amendments were initiated by the Planning Director on September 5, 2018.
 - b. MMC Section 19.1008 establishes requirements for Type V review. The procedures for Type V Review have been met as follows:
 - (1) Subsection 19.1008.3.A.1 requires opportunity for public comment.

Opportunity for public comment and review has been provided. The current version of the draft amendments has been posted on the City's web site since September 7, 2018. On September 7, 2018 staff e-mailed NDA leaders with information about the Planning Commission hearing and a link to the draft proposed amendments.

- (2) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing.

A notice of the Planning Commission's October 23, 2018, hearing was posted as required on September 21, 2018. A notice of the City Council's November 20, 2018 hearing was posted as required on October 19, 2018.

- (3) Subsection 19.1008.3.A.3 requires notice be sent to individual property owners if the proposal affects a discrete geographic area or specific properties in the City.

The Planning Director has determined that the proposal affects a large geographic area.

- (4) Subsection 19.1008.3.B requires notice of a Type V application be sent to the Department of Land Conservation and Development (DLCD) 35 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to DLCD on September 7, 2018.

- (5) Subsection 19.1008.3.C requires notice of a Type V application be sent to Metro 45 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to Metro on September 7, 2018.

- (6) Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the proposed amendments would affect the permissible uses of land for those property owners.

The proposed amendments generally do not further restrict the use of property. In general, the proposed amendments add flexibility.

- (7) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application.

The Planning Commission held a duly advertised public hearing on October 23, 2018, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on November 20, 2018, and approved the amendments.

7. MMC 19.902 Amendments to Maps and Ordinances

- a. MMC 19.902.5 establishes requirements for amendments to the text of the zoning ordinance. The City Council finds that these requirements have been met as follows.

- (1) MMC Subsection 19.902.5.A requires that changes to the text of the land use regulations of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a duly advertised public hearing on October 23, 2018. A public hearing before City Council is tentatively scheduled for November 20, 2018. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- (2) MMC Subsection 19.902.5.B establishes the approval criteria for changes to land use regulations of the Milwaukie Municipal Code.

- (a) MMC Subsection 19.905.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

The proposed amendments have been coordinated with and are consistent with other provisions of the Milwaukie Municipal Code. The amendments are not intended to affect policy.

- (b) MMC Subsection 19.902.5.B.2 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan.

Only the goals, objectives, and policies of the Comprehensive Plan that are listed below are found to be relevant to the proposed text amendment.

The Goal statement of the Open Spaces, Scenic Areas, and Natural Resources Element reads as follows:

To conserve open space and protect and enhance natural and scenic resources in order to create an aesthetically pleasing urban environment, while preserving and enhancing significant natural resources.

Objective #2 – Natural Resources states:

To preserve and maintain important natural habitats and vegetation by protecting and enhancing major drainageways, springs, existing wetlands, riparian areas, water bodies, and significant tree and vegetative cover while retaining their functions and values related to flood protection, sediment and erosion control, groundwater discharge and re-charge, aesthetics, education, recreation, vegetation, and wildlife habitat. Regulate development within designated water bodies, riparian areas, wetlands, uplands, and drainage areas.

The Goal statement of the Recreational Needs Element reads as follows:

To provide for the recreational needs of present and future City residents by maximizing the use of existing public facilities, encouraging the development of private recreational facilities, and preserving the opportunity for future public recreational use of vacant private lands.

Objective #7 – Riverfront Recreation states:

To maximize the recreational use of the Willamette River shoreland and waterways.

Policy #2, within Objective #7, states:

Existing waterfront park lands will be developed to maximize use and enjoyment of the river, while maintaining the environmental integrity of sensitive areas.

The Goal statement of the Willamette Greenway Element reads as follows:

To protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Objective #3 – Land Use states:

To encourage the cooperation of public and private ownerships to provide compatible uses within the Willamette Greenway.

Policy #3, within Objective #3, states:

Within the Willamette Greenway Boundary, a Willamette Greenway Conditional Use Permit must be obtained prior to any new construction or intensification of an existing use. This policy applies until the Greenway Design Plan is adopted.

Objective #4 – Recreation states:

To maximize the recreational use of lands within the Willamette Greenway boundaries and the related waterways.

Objective #5 – Public Access and View Protection states:

To provide, improve, and maintain public access and visual access within the Greenway and to the Willamette River and Kellogg Lake.

The proposed amendments:

- *Add new low-impact trails and improvements to existing hard surface trails to a list of minor projects that are not considered a “change of use” or “intensification” in the Willamette Greenway Zone.*
 - *Public trails and pathways within parks provide a recreational benefit. The amendments include that new trails must be low-impact, which includes that they must be constructed of permeable surface material and are located a minimum of 150 ft from the river.*
 - *Several activities that are currently exempt from greenway review (such as construction of paved driveways and installation of structures associated with residential development) are similar in*

terms of environmental impact yet do not provide a public recreational benefit. Including public trails and paths within public parks in the Willamette Greenway is consistent with the type of recreational use that is expected to occur in parks.

- *A Greenway Design Plan is unnecessary as park master plans have been completed, adopted, and have been included within the Comprehensive Plan.*
 - *Increase the permitted width of a walkway, trail, pathways, or bikepath subject to Type II review to be consistent with ODOT trail standards which provides clearer direction for applicability of the code provisions.*
- (c) MMC Subsection 19.902.5.B.3 requires that the proposed amendment be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendments were sent to Metro for comment. Metro did not identify any inconsistencies with the Metro Urban Growth Management Functional Plan or relevant regional policies.

- (d) MMC Subsection 19.902.5.B.4 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. DLCD did not identify any inconsistencies with relevant State statutes or administrative rules.

The proposed code amendments comply with the relevant portions of Statewide Planning Goal 15 as set forth in the findings included below. Those portions of Goal 15 that are not addressed are found not to be applicable to the proposed amendments.

GOAL 15: WILLAMETTE RIVER GREENWAY: To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

The proposed amendments allow development of public recreational trails, pathways, and walkways through the greenway in a manner that protects the natural qualities of the greenway while meeting recreational objectives. The proposal allows improvement of existing paved trail within the Greenway boundary and includes new construction and maintenance of a trail up to 12 feet in width that is set back by 150 feet from the bank of the river. This type of trail would be called a low-impact pathway, and a new definition is included. These trails will provide adequate width for walking and biking while having minimal impact on the riparian area along the river. These changes are addressed with a

new definition and in the list of activities that are not considered a change of use or intensification of use.

A. GENERAL

3. The Greenway Program shall include:

b. Management of uses on lands within and near the Greenway to maintain the qualities of the Greenway;

The proposed amendments include a minor change to the City's Willamette Greenway Overlay Zone (MMC 19.401). This is the code section that the City uses to manage land within the Greenway consistent with the state goal requirements. The change allows improvement of existing paved trails and construction of a new trail up to 12 feet wide to be exempt from greenway review provided it meets the required river setback.

C. CONSIDERATIONS AND REQUIREMENTS

The Oregon Department of Transportation (DOT) Greenway Plan, the portions of each city and county comprehensive plan within the Greenway, and the portions of plans and programs and implementation measures of all special districts and state and federal agencies within the Greenway shall be based on the following factors:

3. Use Management Considerations and Requirements. Plans and implementation measures shall provide for the following:

b. Recreation -- (1) Local, regional and state recreational needs shall be provided for consistent with the carrying capacity of the land; (2) Zoning provisions shall allow recreational uses on lands to the extent that such use would not substantially interfere with the long-term capacity of the land for farm use are defined in ORS 215.203; (3) The possibility that public recreation use might disturb adjacent property shall be considered and minimized to the greatest extent practicable;

MMC 19.401 implements Goal 15 in the City of Milwaukie. The provisions of the code require conditional use review for most development within the greenway.

Much of the greenway in the City is in public ownership so that the City has a high level of control over what happens in the greenway. Property in the greenway includes Milwaukie Bay Park, the Kellogg Creek Waste Water Treatment Plant, Spring Park, Elk Rock Island, and Kronberg Park. Improved trails currently exist through Milwaukie Bay Park, the Kellogg Waste Water Treatment Plant site, and Spring Park. Unimproved trails exist on the Elk Rock Island property. Key findings corresponding to the Use Management Considerations and Requirements for Recreation include:

- 1) A new trail is planned for Kronberg Park consistent with the Kronberg Park Master Plan that was adopted and incorporated into the City Comprehensive Plan in 2016. This trail was identified as a key feature to help meet the community's recreational needs by providing access to the park and a key connection between the downtown and the Island Station.*
- 2) The code change will have no impact on farm use since all land within Milwaukie's greenway are urban lands.*
- 3) The proposed trail traverses a currently unimproved City park that will have little or no impact on nearby private property. Trails currently exist through the other public property within the greenway.*

c. Access -- Adequate public access to the river shall be provided for, with emphasis on urban and urbanizable areas;

The proposed amendment enhances the opportunity to create trail access through the greenway.

d. Fish and wildlife habitat -- Significant fish and wildlife habitats shall be protected;

The proposed amendment for new low-impact trails ensures protection of fish and wildlife habitat through a substantial 150-ft setback from the bank of the river. In addition, for new trail projects that are wider than 12 feet of closer to the river, Willamette River Greenway review must occur through the conditional use process and the City's natural resource standards and review process apply (MMC 19.402). Trail improvements are allowed for existing paved trails.

e. Scenic qualities and views -- identified scenic qualities and viewpoints shall be preserved;

The proposed amendments will not have a negative impact on scenic qualities or viewpoints. It is more likely that the amendments will facilitate trail construction that enhances access to scenic qualities viewpoints.

f. Protection and safety -- The Willamette River Greenway Program shall provide for the maintenance of public safety and protection of public and private property, especially from vandalism and trespass in both rural and urban areas to the maximum extent practicable;

The proposed amendments will increase the opportunity for public access and recreation through public land. These areas have regular police patrols.

g. Vegetative fringe -- The natural vegetative fringe along the River shall be enhanced and protected to the maximum extent practicable;

The proposed amendments for new trails will protect the natural vegetative fringe through the required minimum 150-ft setback from the river bank for public recreational trails. Allowance for improvements to existing paved trails will have limited impacts.

k. Greenway setback -- A setback line will be established to keep structures separated from the river in order to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette River Greenway, as identified in the Greenway Inventories. The setback line shall not apply to water-related or water-dependent uses.

The proposed amendments create a mandatory 150-ft setback for new trails that are subject to the provisions of the amendment. The City's Willamette Greenway Overlay regulates setbacks for other types of development activity.

E. COMPREHENSIVE PLANS OF CITIES AND COUNTIES

Each city and county in which the Willamette River Greenway is located shall incorporate the portions of the approved DOT Greenway Plan in its comprehensive plan and implementing ordinances and other implementation measures.

2. Uses: Each comprehensive plan shall designate the uses to be permitted for the rural and urban areas of each jurisdiction, which uses shall be consistent with the approved DOT Greenway Plan, the Greenway Statutes, and this Goal.

MMC 19.401 includes code provisions to manage uses and development within the greenway. The proposed amendments simply set out an exemption for certain types of trails.

3. Greenway Compatibility Review: Cities and counties shall establish provisions by ordinance for the review of intensifications, changes of use or developments to insure their compatibility with the Willamette River Greenway. Such ordinances shall include the matters in a through e below:

a. The establishment of Greenway compatibility review boundaries adjacent to the river within which review of developments shall take place. Such boundaries in urban areas shall be not less than 150 feet from the ordinary low water line of the Willamette River; in rural areas such boundaries shall include all lands within the boundaries of the Willamette River Greenway;

b. The review of intensification, changes of use and developments as authorized by the Comprehensive Plan and zoning ordinance to insure their compatibility with the Greenway statutes and to insure that the best possible appearance, landscaping and public access are provided. Such review shall include the following findings, that to the greatest possible degree: (1) The intensification, change of use or development will provide the maximum possible landscaped area, open space or vegetation between the activity and the river; (2) Necessary public access will be provided to and along the river by appropriate legal means;

c. Provision is made for at least one public hearing on each application to allow any interested person an opportunity to speak;

d. Provision is made for giving notice of such hearing at least to owners of record of contiguous property and to any individual or groups requesting notice; and

e. Provision is made to allow conditioning of the permit to carry out the purpose and intent of the Willamette River Greenway Statutes.

MMC 19.401 includes code provisions to address Greenway Compatibility Review. In most cases, development is reviewed through a conditional use process. In instances where impacts have been judged to be minor (maintenance, residential

accessory uses, etc.), the use is exempt from the code provisions. The proposed amendments simply set out an additional exemption for certain trails.

Implementation of the greenway program is through MMC 19.401, and includes specific uses and applicability of greenway review. The proposed code amendment would add construction of new low-impact trails and maintenance of existing paved trails to the list of activities that do not constitute a change in use or intensification and are therefore exempt from Willamette Greenway Conditional Use review. This ensures that public recreational trails that are not adjacent to the river are not unnecessarily delayed from construction, which adheres to the purpose statement of enhancing recreational opportunities near the river. The proposed amendment of allowing very specific types of trails to be exempt from greenway review is consistent and compatible with the stated purpose of Goal 15.

The proposed amendments are found to be consistent with the Transportation Planning Rule for the following reasons. The proposed text amendment does not impact the transportation system given that the amendments are clarifying in nature and do not create the opportunity for any more vehicle trips than are currently allowed by other similar uses in each respective zone. The proposed amendment helps to carry out a planned improvement in the City's Transportation System Plan: the Kronberg Park Trail.

- (a) MMC Subsection 19.902.5.B.5 requires that the proposed amendment be consistent with relevant federal regulations.

Relevant federal regulations are those that address land use, the environment, or development in the context of local government planning. Typically, regulations such as those set forth under the following acts may be relevant to a local government land use process: The Americans with Disabilities Act, the Clean Air Act, the Clean Water Act, the Endangered Species Act, the Fair Housing Act, the National Environmental Policy Act, the Religious Land Use and Institutionalized Persons Act, and the Resource Conservation and Recovery Act. None of these acts include regulations that impact the subject proposal or that cannot be met through normal permitting procedures. Therefore, the proposal is found to be consistent with federal regulations that are relevant to local government planning.

Underline/Strikeout Amendments

TITLE 19 ZONING ORDINANCE

CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.401 WILLAMETTE GREENWAY ZONE WG

19.401.4 Definitions

“Change of use” means making a different use of the land or water which requires construction; alterations of the land, river bed, bank, water, or other areas outside of existing buildings or structures; and which substantially alters or affects the land or water. It does not include a change of use of a building or other structure that does not substantially alter or affect the land or water upon which it is situated. Landscaping, construction of driveways, modifications of existing structures, ~~or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements (such as swing sets and patios), the improvement of existing paved recreational trails, or the construction of new low-impact pathways within parks~~ shall not be considered a change of use.

“Intensification” means any change of use; or action which increases or expands the area or amount of an existing use or the level of activity, including remodeling the exterior of a structure if the remodeling substantially alters the appearance of the structure. Maintenance and repair usual and necessary for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or the protection of property are not an intensification of use. Residential use of lands within the WG Zone includes the practices and activities customarily related to the use and enjoyment of one’s home. Landscaping, construction of driveways, modifications of existing structures, ~~or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements (such as swing sets and patios), the improvement of existing paved recreational trails, or the construction of new low-impact pathways within parks~~ shall not be considered an intensification of use.

“Low-Impact Pathways” means at-grade, public recreational trails or public walkways located a minimum of 150 ft from the top of Willamette riverbank and constructed of permeable material, up to 12 ft in width.

19.402 NATURAL RESOURCES NR

19.402.11 Development Standards

E. Standards for Special Uses

Unless they are exempt per Subsection 19.402.4, or do not meet the nondiscretionary standards for HCAs provided in 19.402.11.D, the special uses listed in Subsection 19.402.7.A are subject to Type II review if they comply with the applicable standards in Subsection 19.402.11.E. Otherwise, the special uses listed in Subsection 19.402.7.A are

subject to Type III review and the general discretionary review criteria provided in Subsection 19.402.12.

4. Walkways and Bike Paths

In addition to the requirements of Subsection 19.402.11.E.1; walkways and bike paths that are not exempted by Subsection 19.402.4, or that do not meet the nondiscretionary standards for HCAs provided in Subsection 19.402.11.D, and that are proposed to be constructed or improved with gravel, permeable pavement, pavers, wood, or other materials, shall comply with the following standards:

- a. Walkways and bike paths within WQRs or HCAs shall not exceed a ~~10~~12-ft width.

Underline/Strikeout Amendments

TITLE 19 ZONING ORDINANCE

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- a. Walkways and bike paths within WQRs or HCAs shall not exceed a 12-ft width.



ZA-2016-005 Code Fix Amendments #3

Presentation to the
Milwaukie City Council
Vera Kolas, Associate Planner
November 20, 2018

Proposed Amendments

- Related to public recreational trails and pathways
 - Kronberg Park trail

	Current Code	Proposed Code
NR review	Type III	Type II
WG review	Type III	Exempt



Key Issues

1. Is the proposed revision to the definitions of “change of use” and “intensification”, consistent with Goal 15?

“To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”





Kronberg Park Trail



Comments Received

- DLCD provided comments on an earlier proposal. The revised proposed language reflects their comments.
- Planning Commission recommended approval on 10/23.



Staff Recommendation

- Approve the application and recommended Findings of Approval. Adopt the code amendments.



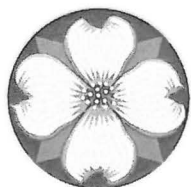
Decision-Making Options

- A. Approve the application subject to the recommended Findings of Approval
- B. Approve the application with modified Findings of Approval
- C. Deny the application upon finding that it does not meet approval criteria
- D. Continue the hearing



Questions?





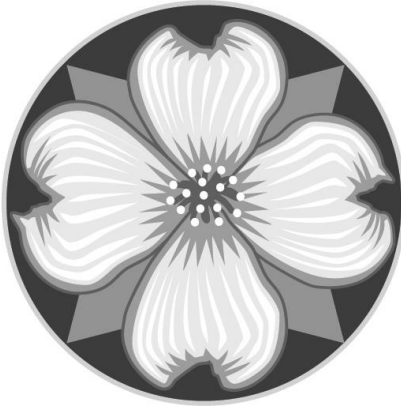
PUBLIC HEARING ATTENDANCE SIGN-UP SHEET

If you wish to have standing and/or to be on the mailing list for Council information from tonight's hearing, please sign-in below.

11/20/18 | **5. B. Consideration of Amendments to the
Milwaukie Zoning Ordinance**

Land Use File No. ZA-2018-005

NAME	ADDRESS	PHONE	EMAIL



RS Agenda Item

7

Information



Mayor's Announcements – Nov. 20, 2018

- **Leading Library matching fines dollar for dollar through Nov. 25**
- **Leading Library closing at 6 p.m. on Wed., Nov. 21**
- **Thanksgiving Holiday (City Offices and Library Closed) – Thu., Nov. 22 & Fri., Nov. 23**
- **Free Leaf Drops – Dec. 1, 8, & 15 (7 AM – 2 PM)**
- **Umbrella Parade & Tree Lighting – Sat., Dec. 1 (3:45 – 6:30 PM)**
- **Housing Forum – Thu., Dec. 6 (6 – 8 PM)**
- **Winter Celebrations Event – Sat., Dec. 8 (9:30 AM – 12 PM)**
- **Christmas at the Museum – Sat., Dec. 8 (11 AM – 3 PM)**
- **Winter Solstice and Christmas Ships – Sat., Dec. 15 (4:30 – 7:30 PM)**
- **LEARN MORE AT WWW.MILWAUKIEOREGON.GOV**