

**CITY OF MILWAUKIE
CITY COUNCIL SPECIAL MEETING
JULY 1, 1998**

Mayor Tomei called the Special Meeting to order at 5:15 p.m. in the Milwaukie City Hall Council Chambers. The following Councilors were present:

Larry Lancaster	Rob Kappa
Mary King	Jeff Marshall

Also present:

Dan Bartlett, City Manager	Jim Coleman, City Attorney
Charlene Richards, Assistant City Manager	

Recommendation to Joint Policy Advisory Committee on Transportation (JAPCT) and Metro Council on the South/North Light Rail Project Locally Preferred Alternative and Land Use Final Order

Bartlett explained the Draft Environmental Impact Statement had gone through a Locally Preferred Strategy development process. In many cases, the design projects are less than 30% complete and give only a general idea of the Project's impacts.

The proposed resolution identified Council's acceptance of the Steering Committee's alignment and other issues to be dealt with as the Project goes forward. The Milwaukie City Council is the last group to act on a recommendation prior to Joint Policy Advisory Committee on Transportation (JPACT). This resolution is not the final decision or the controlling document, and the Council will be making many decisions from now until 2003 to 2005. What the City Council needs to do at this point is outline its concerns. With each new set of design drawings, Council will make its comments on those sections within Milwaukie. Some issues, particularly those regarding infrastructure, will be dealt with by engineers and will not come to Council's attention.

There will be multiple community livability issues that Council will consider including Scott Park mitigation. The draft resolution addresses the public's concerns about noise and vibration and parking. There will be a full set of negotiations with the Project over the six proposed alternatives and a mitigation plan by late fall to which all parties will have to agree. All parties will have to agree to that plan.

The proposed resolution is intended to provide guidance and identify those things important to the City of Milwaukie. It will give Tri-Met and the Metro Council a list of Milwaukie's concerns and issues that need to be resolved. It also serves as direction to staff as to what Council wishes to focus on during negotiations. **Bartlett** said the City Council wants to make sure at this point that the document is based on comment from the public hearings and forums in addition to the Council's work session.

Councilor Kappa was contacted by members of the Johnson Creek Watershed Council, and they wanted to be included in the planning process in order to address water quality, riparian, and flood control issues. He suggested adding language referring to "other partners to address environmental issues in the Project design."

Councilor Lancaster asked how Endangered Species Act (ESA) potentialities would be addressed in relation to this Project. He wanted the language to allow flexibility to make necessary adjustment relative to the Project.

Coleman said paragraph 4 seemed to relate to mitigation efforts and asked if the request fell within that subject matter.

Mayor Tomei suggested adding "including but not limited to concerns with Johnson Creek and the Endangered Species Act (ESA)."

Councilor Kappa suggested not limiting it to Johnson Creek so as not to exclude Minthorn and Spring Creeks.

Bartlett suggested "including but not limited to wetlands and other riparian concerns."

Councilor Kappa wanted stronger language in paragraph 16 regarding the maintenance facility.

Mayor Tomei understood the maintenance facility siting depended on the environmental studies.

Councilor Kappa was concerned about losing limited industrial land to a maintenance facility.

Councilor Lancaster recommended changing "prefer" to "require" and indicating the loss to Milwaukie would be so great as to be unacceptable. The City would be stating that it requires the facility to be sited elsewhere.

Bartlett said the City Council would probably find itself limited. The Project needs an alternative in order to continue pressure on the railroad. This site has been identified as an alternative for continued study. The Project is also doing an environmental study in the Milwaukie industrial and Holgate areas. He did not think Milwaukie should rule out that option. That type of language would reflect positional bargaining, and the City does not have the power and trade-offs as Portland does to be unilateral.

Coleman suggested “the City would strongly prefer the Operations and Maintenance Facility to be located near 17th and Holgate due to the negative impact on the City’s supply of industrial land.” This states the City’s strong siting preference along with its the reason for the recommendation based on the pool of available land.

Mayor Tomei shared Kappa’s concerns with possibly losing industrial land, but she did not feel the City could or should take a strong position.

Councilor King asked if the City could use the reasoning that the loss of industrial land could inhibit the City’s ability to meet its Functional Plan employment targets.

Bartlett said the City has only done one study, and it was not incorporated into the Functional Plan Compliance Report. He did not feel the City could definitively say that.

Councilor Kappa commented the 1996 North Industrial Land Use Study (NILUS) did identify a shortage of industrial land. Milwaukie may not have as much political power as Portland, but Portland can more easily absorb this type of use and loss of acreage. He felt it was important to make it clear Milwaukie needs the land for its tax base to support City services.

Bartlett added the land the Project has targeted is not actively utilized industrial land. It is being managed and controlled by a state agency, and that agency has agreed to leave it in the study.

Councilor Marshall suggested language “The Project recognizes that the City would recommend and prefer ... due to the City’s limited amount of industrial land.”

Councilor Lancaster recommended a reference to the unknown potentiality of hazardous waste remediation at the site.

Councilor King suggested “The Project recognize that the City strongly prefers the Operation and Maintenance Facility be located...”

Coleman suggested on the economic impact to state "...strongly prefer it to be in Portland due to the substantial negative impact on the City's industrial economic base by locating the facility in Milwaukie."

Councilor Lancaster did not see an itemization of the tax revenues lost with the Hwy. 224 route. He felt compensation for lost tax revenues should be negotiated.

Councilor Marshall understood this resolution was supposed to contain broad-based, general issues. As the Project develops there will be more details identified in the Final Environmental Impact Statement (FEIS). It was more important to create a broad umbrella of community concerns with details being addressed in the future.

Councilor Lancaster rebutted the verbiage in the resolution requests mitigation measures. He understood it was important to bring issues up early and bring them up multiple times.

Bartlett reminded the Council that Chris Eaton had prepared a list of concerns for the Draft Environmental Impact Statement (DEIS) public comment period with the information just mentioned. The Project has the ability and responsibility in the FEIS process to respond to all concerns and suggest mitigation. The proposed resolution contains language that puts the Project on notice that these are concerns, and that the City will remain involved with the FEIS reports and design options. The City could ask the Project to identify how lost revenues would be replaced. This is the beginning of multiple years of negotiations.

Councilor Kappa said this documents sets the stage of how the City of Milwaukie will live with the Project, so it needs to address all the concerns and raise all the issues. This is the beginning of asking the broad-based general questions which will become more specific.

The group agreed to remove the "lighter and less filling" clause.

Councilor Lancaster referred to paragraph 1 in which the City Council accepted the Steering Committee's Locally Preferred Strategy (LPS) and asked if the Hwy. 224 alignment was clearly identified.

Bartlett said the document states the LPS is the Hwy. 224 alignment, no Oak Street Station, and a Linwood/Harmony park-and-ride. The Steering Committee could not change this without going through a complete amendment process.

Councilor King referred to paragraph 19 and wanted it changed to "the City Council does not intend to further up-zone station areas; rezone any transit corridor areas; or otherwise increase population densities in established City neighborhoods."

Councilor Kappa asked if that included the core downtown area adopted Regional Center Plan.

Councilor King said that was already done.

Councilor Marshall said that was why the phrase “further up-zone” was included. He did not want to preclude what had already been done, but there will not be anything more done at this time.

Councilor King segued into a discussion of the McFarland and Murphy sites.

Coleman said adopting this resolution would not preclude completing the process on those sites as Council sees appropriate. The intention was clear that once this process was complete, the Council did not intend to provide for any further up-zoning for the identified areas.

Councilor Lancaster suggested adding the word “indefinitely” in case a station site was moved.

Mayor Tomei said this Council cannot bind future Councils.

Councilor Lancaster wanted stronger language. He felt paragraph 19 should read “That the Project acknowledges and agrees with the City Council’s intent to not complete any station area planning or rezoning...”

Councilor Marshall said if the Project agrees, it has already acknowledged the intent.

Coleman commented this was the Milwaukie City Council’s resolution. This type of phrasing is beyond what the Council can do. The City Council may expect agreement but not phrase it in such a way that says the Project will agree.

Councilor Lancaster wanted as much commitment through language as possible.

Councilor King added the way it is now written is that the Project agrees with the City’s thought. She accepted changing “agree” to “acknowledge.”

Councilor Marshall said it is important to raise issues now so they can be addressed as the project evolves. He believed that was the intent of this resolution. This Council may end up taking the Project to court, and by simply raising the issues, the Council can be more specific at a future date.

It was moved by Councilor Marshall and seconded by Mayor Tomei to adopt the resolution as written with the minor amendments made to this point.

Councilor Kappa wanted paragraph 12 to read “The Project and ODOT work with Milwaukie and Clackamas County to improve the Linwood/Harmony intersection and divert regional traffic to appropriate regional routes, but is not limited to this specific area.” He felt strongly about adding ODOT because of impacts to Lake Road, Railroad Avenue, and Linwood Avenue with mitigation plans in place before disrupting those neighborhoods.

Coleman said this statement would not bind ODOT, but the Council wants ODOT involved in looking for solutions to problems.

Bartlett suggested adding, “That the Project and ODOT work with Milwaukie and Clackamas County to improve the Linwood/Harmony intersection and other intersections and divert regional traffic to appropriate regional routes.” He felt this would allow a broader ability to work on traffic diversion.

Councilor King said it should read “other impacted intersections.”

Councilor Kappa wanted reference to mitigation plans being in place.

Bartlett said that issue would be addressed in the FEIS and was also indicated in the letter prepared by Chris Eaton.

Councilor Kappa was concerned about the impacts to Linwood and Railroad Avenues when Harmony Road is widened to five lanes.

Councilor Lancaster asked where reference would be made to funding the project manager.

Bartlett said the project manager would be addressed in the next phase when the intergovernmental agreements were negotiated. The City will ask for funding for a project manager for Milwaukie’s side. A funding plan has to be developed if the federal grant is awarded. He wanted it on the record the City intends to have its own project inspector involved and paid for by the Project.

Councilor Lancaster referred to paragraph 7 and asked if that was strong enough. He suggested “appropriately engineered mitigation.”

Bartlett said that will be included in the study and final design.

Councilor Lancaster referred to paragraph 2. Additional language he recommended was, “That the Project would be fully-responsive and take any and all necessary actions to respond to and affect mitigation.”

Bartlett thought that language would be fine. There may be times when Milwaukie disagrees with the Project.

Councilor Kappa felt the Project could disagree and pursue the course of a mitigation action that would not be in the best interest of the City. **Bartlett** said there may be times of either going to or threatening to go to court.

Coleman added the City will have to ability to impose mitigation conditions through the siting and permitting processes. There will also be a process to go back through the Steering Committee to resolve conflicts.

Councilor Marshall wanted Milwaukie to take a leadership role with the Project and help Tri-Met and Metro set a new standard for transit projects. He reviewed the elements of paragraph 21: (1) responding in a positive manner to community concerns/impacts; (2) fulfilling commitments favorable toward the community that will build trust; and (3) approve of outcomes that provide the community with more livability in concert with its own unique characteristics. This would include landscaping with large trees to mitigate the train's passing through a neighborhood and Hwy 224 which is currently very noisy. He wanted the community to get behind the project and make light rail a positive development.

Councilor Lancaster asked if this was really a bi-state project. **Bartlett** said it is still in negotiations, and **Mayor Tomei** added CTRAN and Vancouver's Mayor are still on the Steering Committee and making decisions.

Councilor King suggested paragraph 21-B read "Building trust in and of the community by fulfilling commitments ..."

Councilor Marshall called for the question.

Mayor Tomei recognized Councilor Marshall's call for the question and allowed Councilor King to complete her point.

Councilor King suggested "...fulfilling commitments favorable toward the community that will build trust." She also recommended this paragraph move to the second position as a strong philosophical statement.

Bartlett said there was also a suggestion for paragraph 9 to read, "That the Project work with Milwaukie to deal with potential transit center spillover parking management." This would make sure the City's rules would be enforceable.

Councilor Marshall and **Mayor Tomei** agreed with the amendments after the motion was made.

Coleman understood Marshall wanted to move off from amending the language and wordsmithing in the resolution. He asked Marshall if he would consider other comments on the resolution as a whole. **Councilor Marshall** said that would be acceptable.

Councilor Kappa wanted a “Whereas, the Project needs to work with its partners in a spirit of partnership to achieve the objectives of the project.”

Councilor King felt Kappa’s issue was implied in the new paragraph 2.

Councilor Marshall withdrew his call for the question.

Councilor Lancaster said the language refers to acceptance of a regional light rail project, and he had a prepared statement.

Councilor Kappa wanted to continue the discussion and hear Lancaster’s concerns.

Councilor Lancaster said representation of Milwaukie residents was a big issue for him, and he wanted to discuss the reason for his vote:

“I think we all agree that Regional Transportation Issues truly need to be aggressively addressed, looking at every possible option. Getting to a light rail decision for Milwaukie has been a long and arduous process, replete with acrimonious discourse.

I got a rather late start in the history and process, but I made a commitment from the beginning, to **objectively re-evaluate** this thing call light rail. A key element to my analysis has been to remove all emotion from the equation and stick to the facts.

The seemingly endless volume of information (& misinformation) is mind boggling. I have personally invested nearly 100 hours pouring through documents trying to get the facts. **So what are the facts.** By my definition, facts are information which is verifiable and provable by more than one reliable source.

So what are the sources of information? The resources I have used to obtain information include:

From Public sources	From Private sources
1. Metro	1. Portland State University
2. Trimet	2. Cascade Policy Institute
3. ODOT	3. ORTEM
4. The State of Oregon	4. Several professional transportation consultants
5. Clackamas County	5. Legal Council

A significant amount of the information I have seen is based on assumptions. When you are dealing with projections it requires the use of assumptions as a basis. As a consequence, **the veracity of the assumption is absolutely imperative.**

It is no surprise to me that most of the information I received from the public sources, was remarkably similar. However, it was a surprise to me, that most of the material from private sources was also very similar. We end up with two camps: public for, private against. Historically this is not an unfamiliar scenario.

The greatest challenge comes in determining which group has the most correct interpretation of the available information. My approach to find the truth, has been to evaluate the **credibility & reliability** of the **sources** of information.

I have learned from experience that a direct path to the truth can usually be found if you follow the money, and determine who stands to gain & who stands to lose. This leads me to ask; if we were not getting hundreds of millions of dollars from the Federal Government, would we be pursuing this project?

The vast majority of published information comes from Metro. As I analyze and test the accuracy, validity and veracity of this source, I am forced to conclude that it is dubious at best. Calculated political spin with grossly optimistic projections and a very skillful mix of fact and fantasy.

One might see the building requirements around light rail stations as a thinly veiled tool for densification of our neighborhoods. I always thought light rail was a project starting in the North and running South. When & why did it become South/North light rail running East West?

For me, another true measure of the quality of any organization is the **integrity of their leadership**. The director of Metro Mike Burton was invited by the City of Milwaukie to our light rail forum & he accepted. Then the day before the event, he cancelled. The reason as explained to me that when he learned of who the other panel members were, he didn't want to get involved in another debate. I must be confused, because I thought defending Metro & light rail was his job.

By canceling on such short notice without a good reason, is not only very unprofessional conduct, but a slap in the face to this council & all Milwaukie citizens. I must conclude, that in the presence of credible opposition, he finds Metro's position indefensible.

One might also conclude, that since we as citizens unwittingly gave Metro broad powers over all local governments, that our approval is not needed, even inconsequential.

As I analyzed the information from professional private sources, I asked myself, what do they have to gain or lose. I can find nothing for them to gain, except to stop the condemnation and taking of family homes and businesses, and prevent a huge financial burden we will pay for, for the rest of our lives and our children's lives.

One of the best measures for anticipating success or failure, is to learn from experience. If we look to those who have already attempted this kind of endeavor, and see nothing but disaster, why would we want to duplicate failure?

Although light rail is well intended in trying to address our regional transportation problems, the more you learn about light rail, the more you find not to like. We would be paying dearly for a system that will not & cannot deliver the desired outcome.

In closing, let me also say, that even if I personally was in favor of light rail, there is a significant number of well informed Milwaukie residents who oppose it. I consider it my fiduciary responsibility as a councilor, to represent this constituency.

For this reason, all the previously mentioned reasons and much more, I cannot support light rail in Milwaukie and adamantly vote **NO BUILD!!**"

Councilor King said, when she ran for City Council, she indicated her plans would be for our children in the future. For that reason and many other unmeasured and unknown things in the future, she would vote "yes" for light rail. The political agencies have worked hard to compromise with groups opposed to light rail, and the alignment has been moved. Council has tried hard to work for all parties. She felt it would be a good thing, and in twenty to thirty years people will see it as a good thing.

Mayor Tomei supported light rail. She made it clear during her campaign she would not support its going through residential neighborhoods. Based on that position, the preferred alignment is on Hwy. 224, with no Oak Street station and a downtown stop are part of the proposal. The process has been as open as possible, and public comments have been solicited at forums, Neighborhood District Association (NDA) meetings, and a telephone survey. Over 50% of Milwaukie residents felt light rail would have a favorable effect on the City. Most of the survey respondents felt someone in their household would use light rail. When she became involved in the process, she made it clear that planning for the future was very important. She did not want to see the whole community covered with concrete freeways. We know the build up will be in the east Clackamas County, and she wanted people to move through the City instead of building freeways. She felt light rail was a better use of funds, energy, and property.

Councilor Marshall had worked hard to bring about the Hwy. 224 alignment to protect Milwaukie's neighborhoods and livability. He made his preference clear in the media, and he would continue to work extremely hard and engage as many people as possible to take what could be a negative and turn it into a positive. There are opportunities to do that.

Councilor Kappa admired Councilor Lancaster's position. He has been a long-time supporter of light rail as an excellent transportation alternative. He had some serious concerns about its going to the Town Center and would continue to address residents' issues as long as he was on Council. He did disagree with those who said putting light rail on Railroad Avenue would have a tremendous effect. The County's plan to widen Harmony Road to five lanes will have a serious impact on all the streets in that area particularly Railroad Avenue. He respected all members of the Council for their commitments.

Mayor Tomei read a letter from Metro Executive Office Burton dated July 1, 1998:

"I understand that at the Light Rail meeting held in Milwaukie yesterday evening, assertions were made that following the selection of an alignment some body would force Milwaukie to increase densities at the Station Areas through some sort of overlay zoning.

With this letter, I would like to reiterate my assurance, which I have given you on numerous occasions, that Metro would not force Milwaukie to provide for densities in the Station Areas beyond what the City feels is appropriate.

Station Areas have enabled local jurisdictions to provide for increased housing and employment opportunities, depending on local circumstances and local desires. Metro's role in planning for Station Areas has always been a supportive one rather than a lead one. It is the local jurisdictions that determine the densities and mix of uses for the Station Areas. Evidence of this can be found in West Side Station Areas. The densities and mix of uses along this line vary from station to station.

As you know, Metro does not zone land uses, but we will continue to support the efforts of all of the jurisdictions as we work together toward achieving the 2040 Concept."

Mayor Tomei did not feel Burton needed her defense for not attending the Town Hall Forum. He felt it would be a debate with two Cascade Institute participants, and, as she had invited him, she also accepted his refusal. She disagreed with any fault given to him for not attending the meeting.

Councilor Lancaster assumed Burton spoke for himself and not the Metro Council. He understood only the Council had the authority to make that decision. **Mayor Tomei** said the Metro Council has no authority to make zoning decisions.

Councilor Lancaster said Metro is the enforcer of land use laws relating to the Functional Plan. Burton's comments are inconsistent with what he has seen in the Plan.

Mayor Tomei added she and Councilor Marshall met with Jim Sitzman of the Oregon Department of Land Conservation and Development (DLCD). He told them Metro has no zoning authority, and it has no authority to implement DLCD rules regarding transportation planning.

Councilor Lancaster asked for clarification of who would enforce Functional Plan provisions. **Coleman** said Metro enforces compliance, but it does not include enforcement of those things in Burton's letter.

Bartlett said the City has contracted with W&H Pacific to prepare a compliance report. The City is finding there are areas in which the Code will have to be changed such as Title 3. There will be multiple sources requiring the City to review its land use codes and Comprehensive Plan. Metro will provide certain guidelines for consistency between jurisdictions in the Portland area. The next periodic compliance date is beyond 2005.

Councilor Kappa commented on water issues that he felt were the real issues. Keeping our water clean is one of the reasons for reaching out for other forms of transportation.

Councilor Marshall called for the question.

Councilor King appreciated citizens' efforts and hoped the light rail issue would not split the community again. Council and citizens will have to work together to protect neighborhoods if and when light rail does come into Milwaukie.

Motion passed 4 - 1 with the following vote: Mayor Tomei, Councilor Kappa, Councilor King and Councilor Marshall aye; Councilor Lancaster nay.

RESOLUTION 22-1998:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, PERTAINING TO CITY ACCEPTANCE OF A REGIONAL LIGHT RAIL PROJECT AND LOCALLY PREFERRED STRATEGY AND REQUEST FOR MITIGATION MEASURES.

The meeting was adjourned at 6:43 p.m.

Pat DuVal, Recorder