

**MILWAUKIE CITY COUNCIL
WORK SESSION
SEPTEMBER 20, 1999**

The meeting came to order at 5:30 p.m. in the Milwaukie City Hall second floor conference room.

Council present: Council President Marshall and Councilors Kappa, King, and Lancaster.

Staff Present: City Manager Dan Bartlett; Assistant City Managers Richards and Bennett; Planning Director Rouyer; Neighborhood Services Manager Gregory; City Attorney Ramis; Brenda Bernards, Metro; and Cathy Corliss, Angelo Eaton & Associates.

Information Sharing

1. **Councilor Lancaster** received information on the Transportation Management Association (TMA) Grant, and staff indicated it was not an appropriate endeavor for the City at this time.
2. **Councilor Lancaster** discussed a letter from Metro regarding use of carryover of solid waste funds, and **Councilor Kappa** suggested Milwaukie relay its recommendation through Metro Councilor Bragdon.
3. **Councilor Lancaster** referred to an August 3, 1999, letter regarding cars parked at the vacant lot at Stanley Avenue and Willow Street. He asked if all the issues had been resolved. **Bartlett** said the City responded to the letter and informed the person that the property was outside the City limits. The majority of the cars and debris have been removed.
4. **Councilor Kappa** said the Regional Water Purveyors Consortium Board met last week and endorsed the Consortium being listed as an advisory group on Endangered Species Act (ESA) issues relating to water transmission. He said he would provide minutes of that meeting to the City Council.
5. **Bartlett** said Mayor Tomei received a letter regarding Clackamas County's Complete Communities Committee, and she asked that she be named as Milwaukie's representative. The group concurred, and Bartlett said he would convey that to the County.
6. **Councilor King** submitted two Ardenwald teachers' names to the League of Oregon Cities for its Educator in Civic Excellence Award.

7. **Councilor Lancaster** thanked Barb Kwapich in the Records and Information Management office for her exceptional customer service in helping him with a scanning project.
8. **Bartlett** provided general ESA and land use information from Donna Cameron's advisory newsletter.
9. **Bartlett** pointed out a response prepared by Rob Shelton to Ron Silverman and Debby Patten regarding 34th Avenue traffic issues. Primarily, the City has agreed to change the lens on the traffic light to shorten the visibility distance, but the other requests are not consistent with general engineering practices.
10. **Councilor King** discussed additional speed bumps on 32nd Avenue during this construction season. **Bartlett** responded that the City is studying the effects of the existing raised crosswalks, if additional improvements are appropriate, and how these might be coordinated with the Roswell Street project. If a contractor were brought in to do two additional speed bumps, the City would pay a premium price. Traffic officers indicate they believe the traffic is slowing as a result of the three raised crosswalks. Staff will observe and study the 85th percentile speed and diversion impacts.
11. **Councilor King** announced the October 6 *Walk a Child to School Day* for Ardenwald School.

Open Community Forum

None.

Neighborhood Grant Program Refinements

Gregory reported on past year's grant program. Staff prepared some recommendations based on input from the neighborhood applicants and the Grant Committee. These were: considering a different membership composition on the Grant Committee for more flexibility; approving grants administratively for requests under a certain dollar amount such as \$500; and giving grant review responsibility to the Citizen Involvement Board.

Among the seven neighborhoods, only three or four were active in the grant program, so **Gregory** looked to developing a more targeted outreach to increase citizen awareness of this program. The City receives about ten to twelve applications each quarter, but she hoped to see other neighborhoods make better use of the program.

Councilor King felt it was important to find additional people to review the grant applications because of the timelines. She had some concerns about the perceptions if staff granted funds and recommended it continue being done by a board of peers.

Councilor Lancaster supported King's comments and suggested the staff's granting the funds might defeat the purpose of the program. The concept is for neighbors and neighborhoods to generate the activity. He suggested a beautification program and a cross over private property maintenance plan to help the elderly, for example, who do not have the physical energy or the monetary resources.

Gregory said this concept has been exercised through the program to a limited extent. The Lake Road Neighborhood District Association (NDA) has a fund set aside to help citizens maintain their property. The challenge for the neighborhood is to develop criteria for use of these funds.

Councilor Lancaster said this issue arose in his neighborhood, and he felt it would be very valuable to give people a fresh start.

Councilor King noted that the City of Portland has an established "Helping Hand" program that could be used as a model.

Councilor Kappa supported the staff recommendations but wanted information on how the grant group would act as either a board or commission under the current code definitions. He asked if the current Grant Committee would stay active.

Gregory said that would be contingent upon the members' budget responsibilities. The next quarterly review has been set, so there is ninety day window in which to implement a solution to the current problems.

Councilor Kappa felt training was very important and expanding the program to other organizations in the community.

Gregory discussed NDA access to a computer work station to prepare a more readable and better-looking application. This would be considered in the next annual budget. Neighborhood services is in the process of moving its offices and considering a location to accommodate the neighborhood leadership.

Councilor Lancaster suggested a macro program that would allow for a "fill-in-the-blank" type of application.

Councilor Kappa suggested that the NDAs could use the Council office.

Councilor Marshall advocated strongly for the creation of the Citizen Involvement Commission in order to have decision-making authority. He agreed with Councilor Kappa that the Council office could be used. He also suggested that each NDA have a file cabinet to store its materials which, in turn, would facilitate continuity as leadership changes. The computer and/or copier time could be charged back to the NDA. He suggested changing the modus operandi on the grants and carrying the unused funds over to the next fiscal year. The purpose of the grants is to leverage the funds and make significant impacts in their neighborhoods.

Councilor King added that the NDAs needed to be accountable in their reporting. The NDAs might consider having a Grant Coordinator in the structure responsible for oversight of the funds.

Gregory felt it was an issue of time and difficulty in collecting the information to submit the reports.

Councilor Marshall added that the NDAs should also take responsibility for using the system in place and planning ahead.

Councilor Kappa felt the number of applications that were submitted and approved showed the program was successful.

Councilor Lancaster suggested 30 or 60-day grant application cycles because quarterly was fairly infrequent.

Councilor Marshall asked if there was concurrence that the Citizen Involvement Commission should be moved forward. He understood that being designated as a commission allowed the group to make binding decisions, which in this case would be granting funds.

The group agreed that formation of the Citizen Involvement Commission should move forward.

Councilor Kappa suggested the Commission take on some of the same issues addressed by the Community Solutions Team.

Councilor Lancaster liked the recommendation that grant applications under \$500 could be approved administratively.

Councilor King was concerned about public perception if staff denied grants and suggested an appeal process before the Citizen Involvement Commission.

Gregory summarized the comments:

1. stay with the existing process through this current 90-day cycle; and
2. develop a work space that can be used by the NDA leadership and include the Council office as a space option.

Councilor Kappa asked the status of the two industrial NDAs.

Bartlett responded that Omark has its own association and does not have an affinity with the Lincoln and PS Business Parks. They have not seen a need to work together at this point. The north industrial area lost momentum when light rail failed, but it will probably become more interested as the North Industrial Land Study continues.

Title 3 Update

Rouyer introduced the Planning Commissioners present: Judith Borden, Tracy Cook, Donald Hammang, and Doug Ouderkirk. Cathy Corliss, Angelo Eaton & Associates, and Brenda Bernards, Metro, were also present.

Bernards presented a slide show explaining the rationale for Title 3. The state legislature passed land use regulations requiring Metro, cities, and counties in Oregon to address water quality and flooding issues in order to meet State Goal #6 -- *to maintain and improve state air, water, and land resources*, and Goal #7 -- *to protect life and property from natural disasters and hazards*.

Issues included: development in floodplains; water quality degradation; removal of plant life near streams and waterways that protects the banks from erosion; and loss of existing streams to development. Sixty percent of 11,000 respondents to a survey indicated they were in favor of protecting streams and waterways even if it meant limiting development.

Title 3 requirements are designed to limit or mitigate the impacts of development and will be administered locally by cities and counties. Title 3 involves three tools for protecting the environment: performance standards; maps identifying rivers, streams, wetlands, and floodplains; and a model ordinance. Performance standards are natural resource protection goals that local governments are being asked to meet. The performance standards apply to new development and major redevelopment. The Metro Council adopted the maps and model ordinance in June 1998, and Title 3 went into effect in September 1998.

It is important to protect floodplains because they reduce the risk of flooding by storing water during rainy periods. Floodplain performance standards include: no new development in floodplains or development allowed with balanced cut and fill. If fill is added to one part of the floodplain, an equal amount must be removed from another area of the floodplain so storage capacity is not lost.

Title 3 also addresses water quality protection. One way to accomplish this is to preserve plants around streams, rivers, and wetlands. These plants shade the water keeping the temperatures cool, and stabilize banks and capture top soil and other pollutants before they enter the stream. The water quality standards include maintaining a vegetative buffer around streams, rivers, and wetland. The width of this corridor varies with the type of water body and the steepness of the adjacent slope. No vegetative buffers are required for intermittent streams or seasonal streams that drain less than fifty acres.

Erosion control is necessary to protect water from the nutrients and other soil pollutants. Soil can also clog fish gills and cover spawning areas. If soil is allowed to build up in streams, the storage capacity is diminished and flooding occurs. Erosion performance standards include: all new development in the region must prevent and control erosion during and after construction as well as developing a plan for effective erosion control.

Bernards summarized the performance standards that cities and counties must meet: in floodplains no development without approved cut and fill; vegetative buffers in water resource areas; and prevention and control of erosion.

The map is used to indicate which areas must meet these performance standards. Cities and counties can adopt the map and model ordinance or other code language that meets the performance standards.

Rouyer said City staff is working with Angelo Eaton & Associates the review the current codes and bring the City's regulations into conformance. The process will include an extensive public outreach program. State laws also require that notices be sent to all affected parties.

Staff requested direction on:

1. The first question was whether to adopt the model ordinance or amend the existing City ordinances. Staff believed with the tools already in place that it would be simpler to amend the existing codes. There was Council consensus to direct staff to amend the existing codes.
2. The second question had to do with mapping of flood management areas and water quality resources areas. One option is to adopt field-verified maps that delineate all the areas regulated by new Title 3 provisions. The second option is to adopt maps as a reference, highlighting those areas likely to be

regulated by Title 3. Staff recommended a hybrid approach: Option #1 for implementing the Floodplain Management Area and Option #2 to implement the Water Quality Resource Area protection measures. **Rouyer** discussed the pros and cons of each option including the expense and staff time involved with Option #1.

Councilor Lancaster asked what would drive the need for map updates in Option #1. **Rouyer** responded the need would be driven by seasonal or environmental conditions that would alter boundaries over time. **Corliss** said that the field-verified maps would have to be updated constantly to ensure the City was regulating areas within the boundaries. She suggested that a biologist could recommend the frequencies of updates. **Councilor Marshall** understood that by using the definition approach, even those areas not specifically listed on the reference maps are protected. **Corliss** said that was correct. Even if the boundary is unclear, the area is protected by virtue of the definition. **Bernards** added that the maps could be amended over time.

Councilor Lancaster understood under Option #2 it was the property owner's responsibility to incur the cost of delineating the resources. **Rouyer** said that was correct and would assure also that the City did not arbitrarily map the area.

Councilor Kappa asked if the Water Quality Resource portion led the City into establishing criteria for storm water and runoff issues. **Rouyer** said one of the goals of the project is to address erosion control and storm water runoff. Some of the performance standards outlined in Title 3 really address that issue.

Councilor Marshall asked what type of Title 3 expectations would be placed on the City since it is already developed. **Bernards** said Title 3 applies to new development and major redevelopment.

Councilor Lancaster understood under Option #1 that the City would be responsible for the continued verification of the delineations and asked if any of this had been done already. **Rouyer** responded that there has been some mapping, but it was not field-verified. There are also wetland delineations but no water quality area mapping. **Bernards** added that the FEMA Floodplain was already in place including the records and aerial photos from the 1996 flood.

Councilor Lancaster asked if staff had a sense of the fiscal impact of maintaining the verified field maps and if Metro would have a role. **Rouyer** did not have that information. **Bernards** said Metro's role was being discussed and suggested there might be grant funds available using solid waste carryover funds.

It was consensus that staff should implement the hybrid mapping approach.

Councilor Kappa wanted to ensure this was meshed with the Subdivision Ordinance and any other regulations that would justify the protection of trees and streams.

Rouyer said staff would work toward coordinating these regulations.

Councilor King urged making language as strong as possible and working toward the highest and best protection of the streams and environment.

Councilor Lancaster asked about compensation to property owners in the case of extreme restrictions.

Corliss responded that the City could adopt language relating to hardship variance or buildable lot variance that states in no case would someone be left with no economically viable use of the land. Title 3 speaks to this issue. There are allowances for density transfer and for working with the developer on opportunities.

Bernards understood there were not that many lots in the region that are 100% within the Water Quality Resource Area.

Rouyer added that the Natural Resource Overly Zone already has some provisions in place for density transfers. This is included in the administrative review.

Councilor Lancaster asked if there were a clearly defined formula to determine property valuation.

Corliss had not seen a dollar valuation, but she believed there was a 5,000 square foot impervious surface allowance. The model ordinance has examples of how exceptions can be created that are only arrived at after demonstrating the only viable way to develop the site. This issue would come back to the City Council in the proposed code. The regulations must be stringent enough to protect the resource without eliminating all viable uses of the land.

Hammang was concerned about loopholes. Under this rule, if he had property that was entirely delineated as wetland, does that mean he does not have to do mitigation and can develop the parcel.

Bernards said the Division of State Lands and Corps of Engineers standards are still in place and are not superceded by Title 3.

3. The second question had to do with Administrative Review of Applications. At this time, all Natural Resource Overlay decisions go to the Commission. Staff and the Planning Commission have discussed under what circumstances and following what process could some of the more routine applications be reviewed at the administrative level. Those more discretionary requests would continue to go before the Planning Commission.

Hammang added that the community would always have the ability to bring an application forward for public review.

It was consensus that staff develop these standards for Council review.

The fourth item was staff approach to public outreach. It plans to use existing groups including the Neighborhood District Associations, Land Use Committee, Chamber of Commerce, other business organizations, direct mailings to affected property owners, and an effective Ballot Measure 56 notification. It is also staff's intent to take the personal approach over Town Hall meetings.

Councilor King approved of staff's positive approach because environmental constraints do not have to be frightening or threatening to the public.

Councilor Lancaster suggested that NDAs could approach affected property owners.

Councilor Marshall asked if the City could adopt standards greater than what Metro is requiring considering the number of streams, including Johnson Creek, that flow through Milwaukie. Would there be an advantage in doing this and is there any criteria for doing so?

Bennett said Milwaukie is talking to Clackamas County and the City of Portland about the Johnson Creek issue. There may be other areas on the map that need to be protected to reduce flooding.

Councilor Marshall asked if there were funds to help local jurisdictions purchase property and eliminate some of the buildings in the delineated areas.

Bernards said she did not believe Metro had money for this type of program, but she understood FEMA was looking at a program to purchase property that has flooded more than one time.

Councilor Kappa thought the City might be able to apply for some funds in the future relating to the ESA and storm water runoff.

Bennett said Congressman Blumenauer offered to take a funding package for property acquisition through. There are, for example, four residential properties near Precision Castparts on septic. There may be some FEMA funding.

Richards explained the City abandoned the acquisition of those four properties with Metro Greenspaces funds in lieu of the Minthorn project.

Parks Open Spaces and Trails Project

Richards reviewed the acquisition process and the Park and Recreation Board's neighborhood outreach program to identify under-served areas and potential acquisitions. She discussed the flowchart and the activities that would be taken in order to acquire properties and noted that the City has made progress on several pieces of property over the past several months. Staff requested direction on preparing for an October 19, 1999, public hearing in which the City Council would be asked to adopt a target and a confidential tax lot map.

The map showed the buffer zones in which there were park and open space needs. Specific tax lot maps would come before the Council in executive session.

Councilor Kappa noted that the City Council had talked to the Clackamas County Board of Commissions about identifying and helping acquire properties just outside the City limits.

Richards explained that all of this work had been coordinated with the North Clackamas Parks and Recreation District. There is an awareness of the under-served areas of the City and potential properties in the unincorporated area that might serve the City.

Councilor Kappa believed that the County should help purchase these properties.

Councilor Marshall agreed it was time for a paradigm shift. He believed the District was focussing too much on regional park property when it should be looking more to the neighborhoods.

Councilor King referred to Commissioner Jordan's comments related to parks master planning and funding methodology. Milwaukie needs to give input into that process.

The work session recessed at 7:25 p.m. The Council met in executive session pursuant to ORS 192.660 to discuss property acquisition.

The work session reconvened 7:55.

It was Council consensus to move forward with the proposed map.

Councilor Kappa discussed funding issues relating to roads projects and acquisition of the Jr. High School site. He suggested an ad hoc committee be formed to analyze street improvement needs and identify possible funding mechanisms.

Bartlett added that a revised Capital Improvement Plan (CIP) would be ready for Council review in the fall.

Bennett suggested this might be a good time to use the Kezziah Watkins interest model.

Councilor King suggested using the term "action teams" instead of ad hoc committees.

Meeting ended at 8:05 p.m.

Pat DuVal, Recorder