

MINUTES**MILWAUKIE CITY COUNCIL WORK SESSION****June 10, 2008**

Mayor Bernard called the work session to order at 5:32 p.m. in the City Hall Conference Room.

Council Present: Mayor Jim Bernard and Councilors Deborah Barnes, Greg Chaimov, Joe Loomis, and Susan Stone.

Staff Present: City Manager Mike Swanson, Community Development and Public Works Director Kenny Asher, Police Chief Larry Kanzler, Planning Director Katie Mangle, City Attorney Bill Monahan

City of Milwaukie-TriMet Umbrella Agreement for Transit Improvements in Downtown Milwaukie

Mr. Asher said the purpose of this work session was to talk about a memorandum of understanding (MOU) between Milwaukie and TriMet regarding interests and concerns not only about a light rail project but old issues as well. All of those things because they were part of one system tended to fit together. It was hard to figure out one without figuring out the whole bunch. They began 9 months ago working on the whole bunch. They were at a point where they could share a draft agreement in the hopes of getting as much feedback as possible. As the calendar goes in wanting to address these things prior to the action on the locally preferred alternatives (LPA) and his vacation schedule, he and staff were hopeful that Council would be able to take action on this item at the regular session next week. Because he heard the Council say that they very much wanted a chance to discuss the draft agreement prior to taking action, they set this meeting. He appreciated Council agreeing to this work session. He knew that other staff that worked on this agreement appreciated it as well. Chief Kanzler was here to talk about safety and security as well as Ms. Mangle to discuss bus operations. Mr. Monahan was here sitting in for Mr. Ramis who helped draft the latest version and worked with TriMet's general counsel. When he got into the format of the agreement then Mr. Monahan could address that.

This was an agreement about agreeing to stuff in the future. There were a couple of good reasons for that. It covered far too much to be anything other than a roadmap. First, he saw no less than 11 future agreements between Milwaukie and TriMet that Milwaukie wanted to have in place before things are built, improved, or changed. One reason for the format was the breadth. The second reason why it was an agreement of future agreements was because of the point in time at which we were. We did not know enough about any of the things to begin to nail down the last detail about what we will insist on having happen. He thought that TriMet felt that way even more than the City did. All of the agreements were predicated on a light rail project going forward. There was no recommendation on an LPA from any group yet. The Steering Committee would be making a recommendation on June 24, and Council would be acting on that recommendation next month. The agreement anticipated that project, and he believed it was important. It did not mean to presume that light rail was a done

deal. It was only to say that if light rail were to come to Milwaukie this was how we wanted to cover our interests. Those agreements were a light rail funding IGA, which needed to happen later this year if the light rail project went forward. The establishment and operation agreement on a south precinct. A light rail security operations plan, which would be about the project and not about the precinct. A design and construction intergovernmental agreement (IGA). A conduct of construction agreement between TriMet and its contractor, which would cover how the construction would impact the businesses and schools and mitigation measures. A project maintenance agreement. The Final Environmental Impact Statement (FEIS) was yet to be done, and that would discuss in more detail the mitigation issues that are referred to in the agreement. A quiet zone application to the Federal Railroad Administration (FRA). A parking agreement if there was a downtown parking structure. A bus stop shelter area agreement, which would begin to dissolve the transit center and improve it. A joint development agreement which would help Milwaukie use land that TriMet bought to construct the project and turn it back to the City for redevelopment. When thinking about any of those 11 we do not know enough yet to be able to go into great detail about what the binding agreements should entail. They did know that all 11 were really important to integrating light rail into this community as comfortably as possible so that the design and operation did as little harm to businesses, schools, and neighborhoods already here and did as much for downtown as possible. He believed the project could do a lot for downtown.

The agreement had 6 main sections: local match, safety and security, design, engineering, construction and maintenance, mitigation measures, transit facilities and programs, and joint development. TriMet had come a long way in making this form of an agreement. While the MOU was a statement of intentions there was plenty of contingency language about doing things with a lot of latitude provided for TriMet, but it was a statement of what they intended to do. When they were sitting at the table with TriMet looking at versions of the agreement City staff continually said that TriMet needed to step up and indicate what it intended to do. The response that they initially heard back was that they did not do that and they did not want to be caught over promising and under delivering. They did not want to give the wrong impressions about what they were capable of doing. There were so many things they did not know. His message back to them was that was not good enough. TriMet needed to say what it intend to do. Although the agreement was non-binding it was our attorney's opinion that it ought not be binding due to the breadth and the timing issues, but that as a statement of intent it was TriMet publicly stepping up acknowledging and agreeing to certain things.

Mr. Asher walked through the agreement. Match commitment: both parties acknowledge that there was \$250 million at stake and that was the state's contribution. It was important to remind ourselves that in everything that we did we were trying to leverage other investment and this was a huge leverage opportunity for the City. The parties agree to baseline funding which was \$5 million for Milwaukie and \$30 million for TriMet. He said baseline because he would like to see TriMet put more into the project, and he did not want to see the City put in any more in the project. It said that the amounts would not be determined for a while; nevertheless, he was trying to highlight for Council and the community. It was important for everyone to understand it was a big, sizeable contribution for the City, but it was also an unheard of leveraging opportunity where \$5 million could help bring in an additional \$1.2 billion.

Safety and Security: TriMet acknowledged that they did have increasing responsibilities and that they must do more in Clackamas County. At first they did not want to acknowledge that, but they did. They acknowledged that they did not have the proper number of officers, and that the agency was planning for more officers. They agreed to better coordinate with local law enforcement by incorporating a forum, which would be set up before the green line opened and that was a precursor for what would be the South Precinct. The forum was TriMet's effort to begin to do better law enforcement coordination around Clackamas and the existing bus situation in the downtown and the future Milwaukie-Portland light rail. They agreed to establish a South Precinct, and it would be open prior to Milwaukie light rail. TriMet agreed to let Milwaukie public safety officials influence the project at every stage. TriMet agreed to security cameras and lighting at all stations and all park-and-rides. TriMet agreed to work with Milwaukie schools and neighborhood districts on safety near light rail.

Design, engineering, construction, and maintenance: TriMet acknowledged the City's concerns were unique given what a small community we were and the small downtown we had. They further acknowledge that Milwaukie did not want additional transit infrastructure in the downtown if we did not have to have it. Mr. Asher thought Milwaukie had prevailed on that point. Milwaukians always talked about how TriMet had never done a project in this kind of community before. He read in this agreement that TriMet was saying that were right. As a result they acknowledged that this community was going to have the opportunity to participate in the design of this project and that the staff would have an opportunity to influence the design of stations and park-and-rides and that would all be formalized through a design and construction IGA. In addition, they would provide staff with an FTE beginning with the FTA's approval of preliminary engineering. It would still be hard for staff to manage the project, but there was no way they would be able to do it without the project paying for a person to be here in Milwaukie to staff the project daily. He mentioned the conduct of construction plan, which was the place where our schools, business, and neighborhoods could influence when and how the project was constructed and how those construction concerns were being addressed. There would be a maintenance agreement because his staff had repeatedly asked once the project was built who took care of the platform and planting strips. That needed to be worked out, and TriMet agreed.

Mitigation: They had best efforts language that addressed the concerns that Milwaukie had raised regarding safety and security from schools, freight access north industrial, noise and vibration, and traffic. TriMet had agreed to exert its best efforts to mitigate the impacts to Milwaukie. He felt that was significant because TriMet tended to stand behind the federal government. They tended to only mitigate those that the federal government found significant. In the agreement the City was saying that was not good enough and TriMet may need to mitigate impacts here in Milwaukie that we think are significant that the federal government does not. This was one of those areas that they cannot just say yes to that. That would not happen, but they did acknowledge that they would not just stand behind the federal government, and TriMet knew what those mitigation concerns were. In addition, they would work with the City on a downtown quiet zone, and they pushed for stronger language in that section. They said it had to be a quiet zone, or they could get a waiver from the FRA and get the same effect.

Transit facilities, amenities, and Programs: There was acknowledgement that any of the park-and-rides that were built either in the City or not would have an

impact on Milwaukie. The one in the downtown would have to be special with mixed use and structure that could be shared. There was language regarding the layover and transit center history and the City's TSP update, which insisted on dissolving the transit center. That was the section that said by the end of the year we would get to a bus stop shelter agreement that committed real money to a real project to go to construction in early 2009 that would move buses off of Jackson Street and put them on 21st Avenue. Also, to design and build curb extensions and use high quality shelters, lighting, seating, and transit tracker to make the downtown transit facility what it needed to be. They still did not have an answer on the layover matter, but in the agreement TriMet committed to further reduce the number of bus lines that needed to lay over downtown. With the opening of the green line we were down to just 2 lines, which were high frequency but were making progress towards minimizing the effect.

Joint development: TriMet acknowledges that enhancing Milwaukie vitality and viability as a town center was a basic project goal. It had always been a basic project goal for him. Light rail had a land use impact that was positive for a place like Milwaukie that was trying to revitalize and trying to raise property values. Joint development ended up being really important because this was one way to get control over property, as TriMet would have to buy some sites to stage construction. Once the project was built TriMet had an option of what to do with those properties, and they were saying early on that the City would develop them and they could not do that without TriMet. TriMet had to be a partner because the FTA had to approve anything done in that situation. Some of the sites were really critical. They had named 3: The triangle site, which was one of the only vacant pieces in the downtown, Cash Spot had potential for parking and mixed use, and the Bishop site was a redevelopment opportunity just south of Tacoma. There was language about the historic ODOT site.

In summary they had a lot of issues about the Environmental Impact Statement (EIS). The question was what to do with all those issues. This was an attempt to put the issues on paper that TriMet signed off on to use as a framework for addressing Milwaukie's concerns. He felt it was useful for the community. He had worked hard on it, along with others, because they thought it was useful for the community. If it was not useful he was sure they could put the brakes on it and bring it back later. This was less comfortable for TriMet than for the City. The idea was to make it useful for the City as it entered into a new partnership with TriMet. We had all of these changes that seem to be moving toward downtown Milwaukie, and they wanted to get it right this time.

Mr. Monahan stated Mr. Asher and Mr. Swanson brought this to a great stage continuing to bring issues to the attention of TriMet. They continued to try to get TriMet to acknowledge Milwaukie as a partner and to get this level of commitment. Mr. Ramis said that in 20 years' experience with TriMet he had not seen TriMet come to this level of commitment this early in the process or at all. Historically, TriMet did not want to put great detail into agreements prior to the SDEIS. In many cases the level of detail that was in this agreement had not been reached until issues had to be raised at a stage of litigation. What the City had achieved was an MOU that may be aspirational, but it had more detail of the commitments and the issues that Milwaukie wanted addressed. TriMet had recognized Milwaukie as a partner. They were saying Milwaukie's issues were valid and they agreed they needed to be addressed to make the project successful. They had identified in detail 11 potential agreements that needed to make this project work. This was really a great achievement, and TriMet had stepped out of its comfort zone. The City stayed solid in its commitment

throughout the process, and the MOU reflected that. Mr. Ramis was confident that the work done had laid a framework, and everyone would understand what needed to be done.

Mr. Swanson added that this had been a 9-month process, and he and Mr. Asher were the first 2 people who warned TriMet that they had a security problem last year. Three drafts ago Mr. Asher had spent a lot of time working on one that consisted of 9 pages, and he thought it was well done. When they got it back from TriMet the document basically consisted of 2 pages. This was the result of staff putting up a wall and telling TriMet what was expected. There was no magic in this. The magic would come in the future. He cited the 1983 transit center agreement. It was still a temporary transit center was because TriMet had not converted it into a permanent facility, and the City did not take action. He thought that in order for this to work the City needed to be on top of things. He felt that TriMet fully expected that because over the last 9 months City staff had not stood down. TriMet did not need this agreement and would be happy to walk away. It was to the City's benefit if the City was willing to take action and continue to get things done. Mr. Asher and the general counsel did a great job of working with TriMet and not allowing them to push the City around. A lot of this was due to the fact that the last couple of meetings with Council the message was clear. That had been a big support as staff sat down with TriMet.

Chief Kanzler had been outspoken in the need for public safety. He presented the Mayor with crime stats from last year and it was down another 28% or a 56% reduction over the last 3 years. They had worked hard at that and he did not want to lose the City's position on confronting crime without a response plan. He presented Mr. Hansen with a document identifying what he believed TriMet should work toward. He had a meeting last week with members of Clackamas County who are now starting to embark on the road of what they would do for public safety and their presence with the Clackamas Town Center line that would open up in September 2009. They were starting late in the process. Milwaukie had come a long way. When they started the dialogue about public safety and the transit response plan they had 24 active sworn police officers. On July 1 they will have 36. When he came to Council with funding plans to add to the Milwaukie police department it was always robbing from Peter to pay Paul. The same problem applied to TriMet. They did not have a big bucket of money to fund new officer positions, so they had been creative by going to the legislature and had worked with their own internal budget process to create more positions. There were relying on Milwaukie to provide 2 more positions, and they would backfill our positions by paying the City. They understood the oversight of public safety response for the 600 square miles that they operated in needed to have an oversight board of the affected partners. TriMet agreed to that. TriMet was in the process of developing that governance. They had agreed to a South Precinct after just recently agreeing to an East Precinct, which would be beneficial to the Clackamas Town Center Line and Milwaukie. He had offered the Milwaukie Police Department as a staging area for that precinct, and the sheriff's office had offered its north station as a staging area. There were locations already identified to house the unit. For them to be able to look in a crystal ball and say how many people we would need was an unreasonable stretch because we did not know the impacts. The number of ridership on the transit system now was almost at capacity as gas prices increased. As we see gas prices increase we will see demand for ridership also increase. The crime rate that had been the subject of so much media criticism was not at the forefront it had been, so their response had been strategic. He meets and talks to the TriMet commander almost on a weekly basis, and they had opened the lines of communication and

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were eager to look at problems and provide service response. They recently had a problem with our transit center. It was a prelude to what they expected for the summers, and they made 1 phone call to the TriMet police department for help. Step on it before it got out of hand. The next day they had 6 TriMet officers working with Milwaukie to eradicate the problem. They were able to eliminate the problem, and it no longer existed. They have made a commitment, and they had a new TriMet commander who was committed. The lines of communication were now open with the general manager to address problems and concerns. They had made huge progress.

Councilor Stone said she remembered they had this discussion a year or 2 ago, but she asked Chief Kanzler if we needed to fund additional officers who would pay for that. She recalled his saying hopefully TriMet would. Where in this agreement did it address additional police security and TriMet footing the bill?

Chief Kanzler replied that TriMet had committed to operating a South Precinct, which was TriMet's endeavor and funded by TriMet. They had currently added 2 officers to TriMet to supplement their work force. They were paying Milwaukie for 1 supervisor and 1 patrol officer. Milwaukie had an investment in TriMet's success, and TriMet had an investment in Milwaukie's success more so than we had before.

Councilor Stone asked if it was the Chief's understanding that when they opened the South Precinct they would be committed to paying for the officers needed.

Chief Kanzler said in the Gresham area the East Precinct needed 8 officers. They now had 5-6 officers on the west side to deal with the Beaverton area. That was an increase from 24 to 36 officers.

Councilor Stone asked what that meant on any given 24-hour period. How many officers would be on duty?

Chief Kanzler replied it depended on how they staged the officers. He just received the new TriMet police shift configuration, and the majority of their personnel were on in the afternoon through midnight when most crimes were reported. It was a departure and a change to the better. It aligned the staffing to when the crimes had been reported. It would be a more proactive workforce. In discussions with the TriMet commander he anticipated overt and covert operations.

Councilor Loomis appreciated Chief Kanzler's candor early on which he felt made a huge difference.

Chief Kanzler said it took a lot of hard work on many parts, and TriMet had moved forward in a positive way to solve that problem. The new chief understood the issues and his opinion was the best tactic to use was officers to deal with the problems rather than negotiate the problems away.

Mr. Swanson said it was obvious for those at the meeting who heard the Chief read his recommendation that the TriMet's general manager was not exceedingly comfortable or happy. Chief Kanzler said he was meeting Mr. Hansen on Thursday, and that was their second meeting. He felt there was a lot to be gained.

Councilor Barnes said part of the MOU said Milwaukie also sought to enhance security measures on TriMet's transit system and the project. What should be done to enhance security measures that Milwaukie?

Chief Kanzler replied if the South Precinct ended up at Milwaukie police department, the officers would have day-to-day contact with those assigned to TriMet. The lateral communication between the two workforces would be ongoing. If the precinct ended up being in the north station of the Sheriff's office then there would have to be some coordination with the representative. The shift supervisor from Milwaukie and the shift supervisor from the transit police would have to develop some level of communication where they could contact each other on a day-to-day basis. They shared the same radio frequencies, and they would have patrol officers working in the same area. Cops worked best when there is one on one communication.

Councilor Barnes said she had been concerned about security cameras, but the MOU just said TriMet would install security cameras. What happened with the feed and how was it monitored How to we keep an active eye on things that are going on?

Chief Kanzler said the cameras were never designed to keep an active eye that was present all the time. TriMet's system did not do that now, and the only system he was aware of that had that capability was in London. It used some profiling data, but the US was not there. TriMet recorded CCTV lines and currently that was the only thing available to go back. It was post-event. If they used global viewing of different CCTV locations it took 1 hour to make the complete loop through all of the cameras. It was not designed to be an active monitoring system; it was designed to capture, record, and if event took place at a station it captured data and became a law enforcement process. It was all that we have available. He made the recommendation for TriMet to look at the biographic equipment used in London, but it was just not here yet. There was nobody installing or using it here in the US. Our Homeland Security Response Plan was using it and running it in London.

Councilor Barnes suggested using something like the ODOT system that focused on key areas so they could pull up what was going on at that site.

Chief Kanzler said they had limited staff to watch the cameras and monitors. In general they capture and record everything. It worked on a global basis unless they had something specific that they targeted.

Mayor Bernard discussed reality TV in brewpubs.

Mr. Asher said he thought the interest Councilor Barnes expressed was deterrence. TriMet said the deterrent was not the cameras but the station design and law enforcement presence.

Chief Kanzler added with cameras being monitored you needed a response plan and someone ready to go when something was triggered. The respondents had to be within a reasonable proximity to the occurrence. The best deterrent was plainclothes police officers. When they pick someone up the word spreads fast. People would go somewhere where they would not be observed; they would see out a soft spot and hide and stay there. If the TriMet police unit continued the same strategy as they had described to him we would see both plainclothes and uniformed officers on and off of the transit system. In Gresham there would be officers assigned to the different rail lines as they came in and out. They would be in plainclothes one day and uniforms the next. People would not know who they are. As crimes were perpetrated they would be apprehended at the time the crime is committed. It would make everyone who uses the system feel a lot safer and it would make the bad guys less comfortable because the chance of someone being there was very high.

Mayor Bernard asked if a structure could be built at the end of the line for officers, and if that could be the precinct station.

Chief Kanzler replied it was called a community policing office. It was just a contact location where officers could go and make phone calls or write reports and notes. Hillsboro currently had a community policing contact office at the end of their line where police officers write reports, made contacts, or where people turn in lost items. It was a presence where you could usually find someone, and he would think we would have something like that here as part of the design process.

Mayor Bernard said that was something he would like to see that in the agreement and asked if it would have bathrooms.

Chief Kanzler replied one would want to have that facility near the bathrooms to dissuade bad behavior.

Mr. Asher added bathrooms would depend on Milwaukie's being the terminus.

Councilor Stone commented she did not think it was a bad idea to use as an adjunct to having police officers. If there were a web cam set up it would be more eyes. Everyone had a cell phone maybe we needed to add that to the enforcement.

Chief Kanzler agreed and thought that would be very innovative.

Councilor Chaimov asked some clarifying questions about what was coming up. What event was happening on June 24?

Mr. Asher replied the June 24 action was the South Corridor Policy Steering Committee recommendation for the LPA. Mayor Bernard was on that Committee, and the Milwaukie City Council would hold hearings on July 14 and 15.

Councilor Chaimov hoped Mr. Asher would not take his reservations about the agreement as reflecting anything less than admiration for the excellent work done by Mr. Asher, Mr. Swanson, Mr. Ramis and Mr. Monahan in bringing TriMet this far. His main issue was whether it was possible to bring TriMet far enough after being stiffed on Southgate. He had been looking for actions by TriMet that established that the residents of Milwaukie could trust TriMet to manage the light rail project in a way that operated in the City's best interest. He was hoping the MOU would be that action, and in his eyes it was not. He heard from TriMet that the Southgate project was a commitment and he understood TriMet was providing its best effort to make that transit facility something the City could use and use promptly. When he read the MOU, saw best efforts, and heard a discussion of this being a level of commitment by TriMet he had a hard time appreciating that this MOU would get the City anything more than what it got with Southgate.

Mr. Asher appreciated Councilor Chaimov's comment because many people shared it. It went to the heart of the issue, which was trust. Some could look at the agreement through both lenses. One could look at all of the positive statements and say that TriMet was affirming a commitment to do right by Milwaukie. They had discussed the mitigation issue. TriMet really did not want to offer up any additional mitigation than they would have to. He saw them having moved to acknowledging to offer assurances to the community that they would design and build the project in a way that did right by the community. He could see that positive language in the mitigation section because it was not in the mitigation section before. He saw movement. He could also read that

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agreement to see all of the caveats because those were in there to protect TriMet interests. TriMet understood that no matter what Milwaukie wanted out of this agreement it was a municipal corporation that had interests to protect. The agreement did not get to the trust issue because it could be read both ways. He was personally willing to forgive TriMet for its sins because he had come before Council. To him and they had admitted their performance on the transit center downtown and Southgate was not acceptable. He saw this as an effort to right that wrong and to take a positive step forward. That was his opinion and he thought if we were going to accept light rail into the community we needed to have a certain level of trust because there was nothing else that could replace it. There was no way to do a project like this with a regional agency like TriMet and have it drawn up in blood and that every concern that Milwaukie had now would be addressed to Milwaukie's satisfaction at this stage. He empathized with the concern but having the front row seat he saw movement and earnestness. He heard a tone of humility that we had not heard from TriMet before.

Mr. Swanson said after many years of dealing with TriMet and Metro he thought we would make a mistake if we did not look at the fact that we stood in a different position than they did. TriMet's interests were going to always go to the regional side of things. Milwaukie had local interests. Our job was to defend local interests. Chief Kanzler's letter was the only law enforcement official at the meeting that offered any suggestions to represent local interests. He was always reminded in dealing with our regional partners of President Regan and his comment on dealing with the Russians, "Trust but verify." He thought that was exactly the way Milwaukie had to deal with it. They were good people to work with, but their interests were not necessarily always the same as ours. If we wanted our interests pursued we had to pursue them with a great deal more vigor. That had been the difference, and a great deal of it was Milwaukie's responsibility.

Mr. Asher added if there were specific shortcomings in any of the sections he would like then pointed out tonight or soon.

Councilor Chaimov said the term non-binding came to mind.

Mr. Asher had a conversation with Mr. Ramis about that very point. He was not a lawyer and originally drafted the document as an IGA and the difference was the binding nature of it. Mr. Ramis's counsel was that we could call it an IGA, but it was really an MOU. It had to do with the breadth of things and the level of specificity.

Mr. Monahan said it was non-binding in the sense that was the level of agreement and a memorandum of understanding of things to come. What had been achieved in the MOU was to identify in greater detail than TriMet at an earlier stage was willing to agree to of what those other agreements were going to be. TriMet did not have enough information at this time to commit to the details of any one of those agreements. He did not think the agreement by being non-binding in any way removed the obligation that TriMet in good faith had to follow through and work with Milwaukie to develop those 11 agreements. It was incumbent upon the City to hold TriMet's feet to the fire as Chief Kanzler had by developing the 7-page letter detailing the security measures. It was up to the City to be proactive and bring the information that it wanted in those agreements. It would be more difficult for TriMet to react, object, and divert attention if the City was working in a very positive way to force them to the table on the 11 agreements.

Mr. Asher referred to section 5 because he thought it was a good model. It was the section titled transit facilities, amenities, and programs. It was a section that always had a lot more detail in it than any of the other sections because it dealt with a current situation. This was the one that stuck out because all of the other sections were looking years ahead, but this one was current. One of the things they asked for in this section was a definitive date by which they would have a binding agreement on the transit center issues, and they got that. That was the model he saw as milestones were passed and set up future binding agreements.

Mayor Bernard commented that we have \$325 million riding on this project. We were in a better position than we have ever been.

Councilor Chaimov was operating under the assumption that the South Corridor Steering Committee would offer the Council for its consideration an alignment that was the Tillamook alignment going to Park Avenue. Assuming that was the case, did the Council's approving the Mayor's execution of this MOU before our vote limit them in any way in the position that they could take on that recommendation.

Mr. Asher replied that he did not believe so, and he had been cautious. Similar to the station decision it was critically important not to be. You would see language in this agreement for example in the section on design of the facility on page 3. In the background section there as a sentence that said parties understood that the presence of light rail in downtown Milwaukie caused unique concerns in that Milwaukie desired to maximize downtown real estate for transit-oriented development and desires to locate light rail support infrastructure such as sub stations, operator break rooms, surplus storage track for trains in such a way that these facilities are integrated into the surrounding environment to the extent practicable in light of other project goals and funding limitations. That language was in there in event that we had to contend with the Lake Road terminus. There was no language in the agreement leaning one way or the other toward what must happen. Another example was the parking structure. There was language that talked about what kind of parking structure, and in one of the meetings with TriMet they said they did not know if they would be able to or need to build that parking structure. They said couch it then in language that said if the parking structure got built then it had to be done a certain way. He thought the Council was leaving itself open to make any determination on the alignment. This agreement like the station discussion tried to anticipate either alignment.

Councilor Chaimov asked if the same was true for the \$5 million.

Mr. Asher replied it was. There had not been any discussion at the Steering Committee or anywhere else that would say that Milwaukie would be able to proportionately reduce its contribution to the project if the project was shorter and less expensive.

Councilor Chaimov asked assuming the Council voted to have the Mayor enter into MOU could it then later say it did not want to pay the \$5 million?

Mr. Asher replied as he wrote in the staff report under the fiscal impact he believed that this did begin to take Milwaukie down that road. He thought it was a statement of intent like every other section that said the City intended to make a contribution to the project itself. All of the sections and commitments were made all along the way including the financial commitment with presumption light rail would occur. There was comfort for him was the whole thing was premised on light rail happening. He acknowledged that he did think it was an action that

moved the community and City Council closer to a more proactive stance toward light rail and more accepting of the light rail project.

Mr. Monahan said it came under the tile of understandings regarding the \$5 million and said Milwaukie expected to contribute \$5 million and TriMet expected to contribute. It was a commitment in sense that the City was saying if this goes forward in a successful manner and if the other elements of the agreement were dealt with properly by both sides, it was a commitment. Milwaukie had the ability if TriMet did not follow through on its representations. The \$5 million was an expectation. The City was making a commitment and expectation that TriMet would meet at the same level of trust and follow-through.

Mr. Asher said this language was helpful for TriMet. He had not talked about the language where they had pushed. Of course, nobody worked on an agreement unilaterally. In actually getting to an agreement you get pushed back because it was a 2-way street, and he thought this language was important for TriMet to know that they had a partner in this that was looking forward to a future with light rail and was willing to step out and make some commitments that were useful to the regional agency.

Councilor Stone heard from Mr. Swanson that TriMet did not need this agreement. It was unusual for them to have this type of agreement, and she agreed. They did not need this agreement, but what they needed was the City's cooperation so that they could use our town for light rail. She would love to see the City move forward united, but for that to happen for her and many constituents it needed to go to a vote of the people. She had been saying that and would continue to say that over and over again until it happened. In the MOU we were being asked to commit \$5 million of our meager budget, which was a large slice of our budget comparatively speaking. She thought it would be better for everyone to go forward in united manner through a vote of the people. Milwaukie was in the driver's seat, and we needed to realize that it was because TriMet needed Milwaukie for its vision. They needed the real estate and needed the taxes. She was concerned in the MOU looking at the language regarding the transit center not really moving it out of the heart of the downtown. They still own Southgate, and she did not want to commit to something that displaced what we already had just a few blocks away. It did not do a whole lot by having the bus layovers in downtown Milwaukie. When Mr. Asher was talking about the 11 future agreements at some point it would be helpful for her and the rest of Council to have what they were and related timelines. Bus layovers were a big thing because it did not appear by language that it would move from the heart of downtown. She was also very concerned about what was on the board in terms of alignment. They had talked about and there had email going back and forth about having the terminus at Park, but that was more expensive. She thought that would never happen and would end up in Milwaukie. She did not think we could really feel what it would mean for light rail to come through our town. The enormity of that train even with a quiet zone was a huge disproportionate structure coming through and interrupting the livelihood of people of downtown and in Historic Milwaukie and Lake Road Neighborhoods. She was passionate about the Neighborhood Associations and believed in strengths that they bring forth. We had 2 Neighborhood Associations that would be more impacted than the rest of them, and she thought we all needed to band together and help support them. There had been a lot of concern and discontent about the fact that light rail may come. She felt like they were not being listened to. They were not listened to when they brought forth the request to look at another alignment and

put it in the SDEIS. It just did not happen. She felt they needed to put it to the voters before going one step further.

Councilor Loomis said as he sat and listened he had become more uncomfortable. He felt pretty good about it. The only issue for him was the \$5 million, and he would not support that. We did not have the money and would have to borrow it. He could think of 2 projects that had regional benefit and were a greater benefit to Milwaukie. If he were to support borrowing, it would be for Riverfront Park and removal of Kellogg Treatment Plant. He had always believed that there were a couple of groups in town: one that was really passionate about light rail and thought it will turn the town around and be a godsend. The other group thought it would turn Milwaukie into a slum ridden with crime and would ruin the City. He thought the answer was in between. If done right with security, it could benefit the town. He felt the majority of the people in town would say as long as you take care of that and I do not have to write a check they were fine. They would have to write a check with the \$5 million. Unless there was some imaginative way this came about, he could not see himself voting in favor of it. The parts that are making him really uncomfortable tonight was that he heard things like "hold their feet to the fire" and "defending local interests." That was an uncomfortable partnership. It was a regional benefit to everyone, and we were part of the region. A regional partner to him was one that would take local interests into consideration seriously. We should not have to defend anything and should be working together to make this the best project for the region and for Milwaukie. He was really disappointed in himself for not advocating stronger for McLoughlin Boulevard, which would have been the alignment of the best benefit to Milwaukie and Riverfront Park. He was not as worried until he heard those words tonight about mitigation. He wanted more commitment from a partner.

Mr. Asher asked if there was a financial contribution Councilor Loomis would support, or was he saying the right contribution from Milwaukie would be \$0.

Councilor Loomis asked how much cities had contributed in the past?

Mr. Asher replied a lot more than \$5 million. Those cities were much larger and the contribution was proportionate. The total project cost was \$1.2 billion, and \$5 million was a fraction of the cost. He understood Councilor Stone was not comparing it to the size of the project but to the size of the City's budget.

Councilor Loomis said his answer was a \$0 contribution.

Mr. Asher felt bad if Councilor Loomis had the impression that we brought TriMet along kicking and screaming and that it was not a good partner. He heard Mr. Swanson say that TriMet was a regional entity whose business was transportation, and as a result they were going through communities either on roads in buses or on rails. They were probably the best transit agency in the country for going through communities sensitively and progressively with an eye toward going through effectively. Effectiveness meant looking for positive advantages, and this light rail system was the envy of most cities in the country. More and more cities were turning to light rail as an alternative; it was popular. He thought TriMet was a good partner and felt that showed in the agreement. People paid taxes all over the region so that TriMet could provide transportation. Perhaps there needed to be some kind of uneasy coexistence, as we knew better than anyone here in Milwaukie. He was confident the TriMet staff had enough experience and good will despite their missteps in Milwaukie that would by virtue of the agreement form a partnership to do this right. When we said look at McLoughlin and Main Street last year they were right there and spent a ton of

time and hired consultants and stopped what they were doing for 8 weeks to look at those options. Milwaukie came in with a last minute request to study something that had not been studied enough before. TriMet had a checkered past with us for sure and even in this agreement you could look at it as something that was non-binding and therefore not worth the paper it was written. Or you could look at it as a huge step forward as Chief Kanzler indicated they made on safety and security. He was looking at it that way, and it was not because he was a diehard fan of light rail. He was not hired to bring light rail. He was hired to do community development in Milwaukie, and he thought it was a great investment for Milwaukie not just for the downtown but also for how it repositions the City to be a partner with other regional entities and investors. All of those things needed to be factored in, and he hoped the rhetoric was not too tough on TriMet. He did not want to apologize for them, but at the same time he did not want to give the wrong impression.

Mr. Swanson was concerned because he was the one who left the impression. He was trying to say that the City and TriMet stood in different places, and if we want our interests served we must pursue and protect. Milwaukie was good at it. We cannot expect those who served on a regional basis to also take into consideration all the issues and nuances important in Milwaukie. This was the beginning, and Milwaukie had its work cut out for it to protect community interests. They had learned over the last few months that TriMet would listen, and we had gotten good at getting them to do so.

Councilor Loomis he said that we need to choose our words carefully when talking about these subjects because that was definitely the impression he got and it was not how he felt about them before tonight. He had always understood that their job was regional transportation not community development. Their job was to move people. His issue was as we make our partner aware of a situation that they would address it, but that was not the language he heard. He believed government didn't make mistakes to screw people, but made mistakes out of ignorance, and it was our job to educate them. The language should say that they would mitigate it because it was a big concern in Milwaukie and they would take care of it.

Mr. Asher added TriMet cannot just hand Milwaukie a blank check.

Councilor Loomis understood that and that all of the details were not worked out, but Mr. Asher was saying that was where the level of trust. He was getting the impression the City would have to battle, and he did not want to go into an agreement with a partner like that.

Mr. Asher said it would be better if he were not the intermediary. Mr. McFarlane would be at the meeting next week. Even before then he was sure TriMet would be willing to sit down for an hour and chose their words. Council would form a much better impression. Trust was really important because we know we do not have it. Now we have to decide whether or not this agreement combined with what Council hears from City and TriMet was enough to get to a place where we can move forward with a sizable opportunity and challenge. It was a big decision, and he did not want to have to stand in for TriMet to convince Council that they were trustworthy. He would be more than happy to arrange a meeting to help Council form its opinion.

Mayor Bernard disagreed that the community was against this project. He interacted with the community on a daily basis including hundreds of people at the Farmers' Market. He would say without question, as the price of gas rose, there were more and more people in support of light rail on a daily basis.

Ridership was up 3%. He thought you could see it last night when people were testifying at the Steering Committee public hearing. There were 6 people that attended the Steering Committee hearing. Some were positive. Some indicated they preferred the Tillamook Branch alignment. He wanted some facts on this, but his understanding was that every dollar spent would return \$2.50 to the economy. He would like to be able to explain that. A \$5 million dollar commitment by the City of Milwaukie would return \$2.50 for every \$1 invested. What was being said was political. When he said he would have more community support if the line went to Park Avenue people listened. He sat down with numerous people, the Board of County Commissioners, Metro and all supported moving it out of downtown to Park Avenue, but we needed to figure out how to get it there. There was no guarantee if Milwaukie agreed to pay \$50 million that this project would ever happen if the ridership were not correct and it did not meet the standards of the federal government. His opinion was they have them because we had a commitment from State and JPACT and the project went away if not satisfied. Nobody could believe we got away with \$5 million. If it did go to Park Avenue Clackamas County would commit a substantial amount of money. That did benefit the region. He was working on Portland to contribute more money. They were going to work on the federal government to pay a higher percentage of the entire project. He was very satisfied that we were moving in the right direction and there is work to do. He agreed with Councilor Stone that he would like to see the timeline and what the exact agreements were.

Mr. Asher discussed the MOU timeline. The City Council would be asked to vote on light rail and needed to determine its position on the light rail project in the next couple of meetings. This was just a preview. This MOU did not have to be acted on at all. It was not his intention to confuse the issues. Was voting on the MOU the same thing as voting on light rail? In a sense it was a statement of support for the project, and the reason you would vote on it now was because he did not think the MOU would be in this form after the project was approved. We had more leverage with our partner going into the LPA decision than we would afterward. That was why it was before Council now. It did not mean the Council had to act on it. We could put it aside and try to execute it at a later date. The rest of the project did not care about the MOU very much. A light rail decision was about to get made, and that would be brought before Council in a July work session. That was a process that would come regardless of what was decided about this MOU. The region was heading toward a recommendation on Portland – Milwaukie light rail, and he was sure there was going to be a recommendation to build it. That did not mean that Milwaukie had to approve the recommendation, but he did not see another jurisdiction that would go for the no build option. That was a decision that Council could put off until mid-July. At a certain point you would effectively be sending a message to the project and partners that the City of Milwaukie did not want it. It would signal the rest of the region where Milwaukie was on light rail. It was getting down to the end of the line, and it was time to decide on not just if want light rail but on what terms were you willing to accept light rail. If there were terms under which the Council was willing or not willing to accept, then he needed to know if we were moving forward with an advance agreement.

Councilor Barnes said that we need something in writing to build on. She did not believe this was a final action, but if we went into this process with something as a foundation that was a better bargaining position. If we made the main issues very clear, then there was a focus. She recommended going forward on this MOU with specifics from each Councilor that would make sense to best represent the possibility of us going through with light rail. For Councilor Loomis

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it could be the financial aspect, and for her it was the live feed cameras. The City needed a foundation and a way to move forward in a position that we knew had some bargaining power.

Mayor Bernard agreed.

Councilor Stone wanted to put it to a vote of the people to spend this money. She liked language on the final page about the parties agreeing to work jointly with ODOT to develop an appropriate end use plan for the historic ODOT building. She always thought that would be a really cool transportation museum, hub area down there if we would want to connect Amtrak one day, light rail and bus service of all kinds. That was one thing that she would really like to see also. The City used to have an Amtrak stop in Milwaukie and if this was really all about transportation it needed to be inclusive of all transportation options.

Mr. Asher heard Councilor Stone clearly that her support for the project was contingent on a popular vote.

Councilor Stone it was because it had been voted down twice, and they had heard testimony from people that they did not want light rail. Our constituents said no twice, and we are going forward because that was what government did. She did not feel comfortable in representing the constituency when they had said they did not want to spend their money this way. If they did, she would support it.

Mr. Asher appreciated how clear and consistent she had been on that. He wanted to know if there was any objection to having this on the agenda next week. He had heard Councilor Barnes say this would be a helpful instrument. He did not wish to discredit or disrespect Councilor Stone's point a view on light rail. To him that point of view on light rail made this MOU irrelevant for Councilor Stone. He was hoping she would allow those to vote for whom this had relevance.

Councilor Chaimov would be more comfortable approving the MOU after the Steering Committee recommendation. If the majority would like to see the MOU move on next week, he would make that step happen.

Mayor Bernard said he would like to see it, as it was a foundation on which to build. He would like to vote on it next Tuesday.

Mr. Asher said the theory was of maximum leverage. He was not sure that was an inalienable argument. He did not think that TriMet would begin to back off all of the agreements because the LPA agreement had come and gone. He asked why Councilor Chaimov thought it was better to wait.

Councilor Chaimov replied he saw the agreement as a step in carrying out bringing light rail to Milwaukie when he did not believe the decision had been made. As a matter of process he saw the MOU agreement as being an agreement that would be approved after a decision to bring light rail. However, if there were 3 people on Council that felt it was the appropriate time to bring it forward and it would give the City maximum leverage then he would be the fourth vote.

Mayor Bernard was confused. He thought they were talking about light rail coming to Milwaukie. He said that he would prefer the Tillamook branch ending on Park Avenue. We had been working for years. He heard from Councilor Chaimov that we had not made that decision.

Councilor Barnes said she didn't need a decision but she wanted to know where Councilor Chaimov was. She believed she heard him say he supported light rail through Milwaukie up until tonight, but she was not getting that feeling.

Councilor Chaimov he was not saying he did not support. From his perspective it was out of sequence to enter into an agreement saying assuming light rail came we would like to do it this way. He had heard from people that this was a step toward committing the City to having light rail come, and he was uncomfortable taking that step before the formal vote on bringing it here. If others on Council felt this was a good thing he would set aside his feeling that the sequence was out of order.

Mr. Asher said when we talked about the LPA decision that was an opportunity for any councilor from any city to vote up or down on light rail like a station vote. His premise was based on this Council's prior actions in 2003 and 2004 in support of the South Corridor Phase 2 project and the money that the City had poured into the SDEIS and staff time that we were proceeding down a path to bring light rail to Milwaukie notwithstanding what he thought were minority views. While it was true that there was an LPA decision coming and that was a point at which Milwaukie could send a different signal to the region it had been a premise that the City was a participant in the project and this was a continuation of prior City actions and existing policy to achieve the project.

Mr. Swanson thought he saw where Councilor Chaimov was coming from. On the first page of the MOU first paragraph A. Recitals in section B last sentence "should it be approved" should be added.

Councilor Chaimov said he would be fine if "should it be approved" was added.

Mr. Asher said his issue about the point raised earlier about getting ourselves ahead of the action being requested of Council specific to the MOU was a concern Councilor Chaimov had and would like to see addressed.

Councilor Chaimov replied yes, please.

Mr. Swanson said the project elements of this did not come into play until the jurisdictions have approved it through the LPA. He thought that was the discomfort.

Mr. Asher asked if that addressed his concern about when action is taken on this. He asked how Mayor Bernard would like to proceed. The plan was to use input from this discussion to try to get you a final draft agreement for the Council meeting next week along with an updated resolution.

Consensus was to vote on the MOU next week.

Councilor Stone asked where her issue on the vote came in? If the funding from the federal government did not come through, the project would not happen.

Mr. Swanson referred to work session page 6 C.1.B. that said, "Milwaukie expects to contribute \$5 million and TriMet expects to contribute \$30 million toward the local match. The parties will make these commitments through a funding agreement which is expected to be finalized by December 31, 2008." That said that between now and December 31 we were going to come up with and identify \$5 million. He thought at that time how that was done was very much an open question. The MOU didn't say that it was done by a vote or not it said that we expect to contribute \$5 million, but the decision on how to do that had not been made and would not be made until probably July and November. If we identify \$5 million but the Council wanted to submit it to a vote then our

agreement with TriMet would read that we would contribute if approved a vote of the people on whatever the election date would be.

Councilor Stone asked why we did not look to doing that. She would prefer to have people that were opposing and for the project to come together and that was a way to do it. Cast the net and let people vote on it and act on what they said. She read in the paragraph that Mr. Swanson pointed out and it was bothersome to her was the language that said, "The Project staff or partners may request approval of additional funding by the Milwaukie City Council." That sounded like it was committing them to more money.

Mr. Swanson said that was only if the parties mutually agreed to that.

Mr. Asher said the City might be able to do a CIP project through this project cheaper and may want to tie something in to the project. It was that kind of thing. It cannot change unilaterally. Council would have to agree with it. He had a question about Councilor Stone's desire for vote. Was it a wish that would happen to raise the funds or get the approval for Milwaukie match portion or for the entire project?

Councilor Stone replied it was for the entire project. Federal money was everyone's money, but especially for the people of Milwaukie. It was not just looking at the \$5 million; it was looking at the overall project. When we were first talking about this in 1990's we were not talking about trolleys, and now we know what that looks like in Portland. The extension of the trolley system that was underway. That was another option that was not on the table. Milwaukie did not have any options. It was light rail or nothing, which was in the SDEIS. It was sad because there were so many other things that could benefit Milwaukie and tie business districts together and not be so intrusive. She was interested in looking at trolley line.

Mr. Asher said that he had asked TriMet to be prepared to discuss the no-build option and other modes.

Councilor Stone said for people that are working day to day downtown it was great, but not everyone worked downtown. People spend money in business districts, and if we had a trolley that linked Sellwood that would be a great thing for this end of the region.

Mayor Bernard said the federal government did not fund trolleys.

Councilor Stone said business did because they benefited business.

Mayor Bernard adjourned the work session at 7:34 p.m.

Pat DuVal

Pat DuVal, City Recorder