

AGENDA

MILWAUKIE CITY COUNCIL MARCH 21, 2006

MILWAUKIE CITY HALL
10722 SE Main Street

1978th MEETING

REGULAR SESSION – 7:00 p.m.

I. CALL TO ORDER
Pledge of Allegiance

2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Milwaukie High School Student of the Month

3. CONSENT AGENDA *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the "Consent" portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)*

- A. Appoint Donald Hammang to the Planning Commission -- Resolution**
- B. Appoint Lisa Batey to the Planning Commission -- Resolution**
- C. Contract Amendment for Engineering Services for North Main Village Utility and Streetscape Improvements with Harper Houf Peterson Rigellis (HHPR)**
- D. Appoint Scott Churchill to the Design and Landmarks Committee -- Resolution**

4. AUDIENCE PARTICIPATION *(The Presiding Officer will call for statements from citizens regarding issues relating to the City. Pursuant to Section 2.04.140, Milwaukie Municipal Code, only issues that are "not on the agenda" may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and return it to the City Recorder. Pursuant to Section 2.04.360, Milwaukie Municipal Code, "all remarks shall be directed to the whole Council, and the Presiding Officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous." The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.)*

5. PUBLIC HEARING *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*

None scheduled

6. **OTHER BUSINESS** *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

- A. **City Manager Performance Review (Mayor Bernard)**
- B. **Proposed Agreement Canceling Clearwater (Mike Swanson)**
- C. **Council Reports**

7. **INFORMATION**

8. **ADJOURNMENT**

Public Information

- Executive Session: The Milwaukie City Council may meet in Executive Session immediately following adjournment pursuant to ORS 192.660(2).

All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503.786.7555
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
APPOINTING DONALD HAMMANG TO THE MILWAUKIE PLANNING COMMISSION.**

WHEREAS, a vacancy exists on the Milwaukie Planning Commission; and

WHEREAS, Milwaukie Municipal Code Section 2.16.020(A) provides for appointment of members of the Milwaukie Planning Commission “by the council;” and

WHEREAS, Donald Hammang has served on the said Commission, possesses the necessary qualifications to continue for an additional term, and has indicated his desire to serve for an additional term.

Now, therefore, the City of Milwaukie, Oregon resolves as follows:

SECTION 1: That Donald Hammang is appointed to the Milwaukie Planning Commission.

SECTION 2: That his term of appointment shall commence upon adoption of this resolution and shall expire on March 31, 2010.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on March 21, 2006.

James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Ramis, Crew, Corrigan, LLP

Pat DuVal, City Recorder

City Attorney

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
APPOINTING LISA BATEY TO THE MILWAUKIE PLANNING COMMISSION.**

WHEREAS, a vacancy exists on the Milwaukie Planning Commission; and

WHEREAS, Milwaukie Municipal Code Section 2.16.020(A) provides for appointment of members of the Milwaukie Planning Commission “by the council;” and

WHEREAS, Lisa Batey has served on the said Commission, possesses the necessary qualifications to continue for an additional term, and has indicated her desire to serve for an additional term.

Now, therefore, the City of Milwaukie, Oregon resolves as follows:

SECTION 1: That Lisa Batey is appointed to the Milwaukie Planning Commission.

SECTION 2: That her term of appointment shall commence upon adoption of this resolution and shall expire on March 31, 2010.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on March 21, 2006.

James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Ramis, Crew, Corrigan, LLP

Pat DuVal, City Recorder

City Attorney



To: Mayor and City Council

Through: Mike Swanson, City Manager
Kenneth Asher, Dir. of Community Development & Public Works

From: Paul Shirey, Engineering Director

Subject: Contract Amendment for Engineering Services for North Main Village utility and streetscape improvements

Date: March 6 for March 21, 2006 Regular Session

Action Requested

The action requested is to approve an amendment to a contract between the City and Harper Houf Peterson Rigellis (HHPR). The amendment increases the contract for design engineering and construction management services for North Main Village (NMV) utility and streetscape improvements, phase-two by \$38,500 (includes a 10% contingency), and extends the term of the contract to December 31, 2006.

The original contract was awarded on January 14, 2005 in the amount of \$89,890 for engineering design and construction management services, NMV infrastructure and streetscape. A first amendment was approved on July 7, 2005 in the amount of \$4,200 for the purpose of adding construction survey and staking services. These funds, totaling \$94,090 have been spent and the work completed for the first phase of the project.

Background

The City and developer of N. Main Village agreed to share certain costs for design and development of the project. The City agreed to assume the cost of design and construction of the underground utilities serving the project (wastewater, stormwater, water) along with streetscape improvements (sidewalks, curbs, drainage street lights, etc.).

The City obtained a loan from the state and a small grant totaling \$763,000. This covers 90% of the construction costs. City funds are required to pay for design and construction engineering. The City has paid HHRP \$94,090 through phase one of the utility and streetscape work.

The underground utility and streetscape work was divided into two construction phases. This was done to accommodate the needs of the developer. Phase one (wastewater, storm, water) was completed in fall of 2005. At the City's request, HHRP prepared two separate bid packages for the second phase of the work and have not been compensated for this additional expense. The separate bid packages were necessary to meet the City's budget and cash flow needs by dividing the work between two fiscal years.

Phase two work includes electrical under-grounding and street, sidewalk surface improvements and requires construction-engineering services.

HHRP designed all the utility and streetscape improvements for NMV and are in the best position to continue to provide the least cost construction engineering and surveying services to the City.

Concurrence

Operations and Engineering Departments endorse the proposed contract amendment between the city and this consultant.

Fiscal Impact

\$38,500 includes a \$3,500, 10% contingency. This amount is included in the 2005/06 Streets budget.

Work Load Impacts

Consultant management by Staff: 0.15 Engineer

Project Duration:

- 02/28/06 - 04/01/06 – Electrical under-grounding
- 08/01/06 – 10/31/06 – Streetscape improvements

Alternatives

Do Not Approve. This would jeopardize the terms of the City's verbal agreement to make permanent power available to NMV no later than May 1, 2006.

Defer Action. This alternative may delay construction of the NMV.

Attachment

Contract amendment #2 between City of Milwaukie and HHRP, as proposed.

CONTRACT AMENDMENT

No. 2

March 2, 2006

BETWEEN

City of Milwaukie

And

Harper Houf Peterson Righellis, Inc.
For Design and Engineering Services

RECITALS

- A. The City of Milwaukie (City) and Harper Houf Peterson Righellis, Inc. (Contractor) entered into an agreement for design and engineering services for the Downtown Milwaukie offsite public right-of-way infrastructure improvements on Milwaukie on January 14, 2005.
- B. The City and Contractor amended the contract in the amount of \$4,200 on July 7, 2005.
- C. The City desires to have the Contractor continue to provide design and engineering services for the Downtown Milwaukie offsite public right-of-way infrastructure improvements project under the terms of the contract.

AGREEMENT

1. The first sentence of Section II of the Agreement is amended to read: "this agreement shall become effective upon the date of execution and shall expire, unless otherwise terminated or extended, on December 31, 2006." Amended project schedule is attached and made part of this contract Amendment #2.
2. The first sentence of Section III of the Agreement is increased by \$38,500 and amended to read: "City agrees to pay CONTRACTOR UP TO A TOTAL NOT TO EXCEED \$136,590 for performance of services described in Exhibit A."
3. Exhibit A of the Agreement "Scope of Work" is amended by adding a new Section "G Additional Work", which Section shall include the following:
 - Phase 2 – Street Improvements and Remaining Utility Installation Plan Revisions

HHPR and sub-consultants prepared two bid packages and made revisions to the construction documents to eliminate the street improvement work in front of City Hall. The work included the following elements:
 - DKS Traffic Analysis and Parking Summary Letter
 - DKS Library Parking Lot Lighting Analysis
 - Exhibits and Estimates for developer agreements

- Plans, specifications and estimate for two bid packages and final revisions to exclude City Hall Frontage Improvements
- Printing Costs associated with Phase 2 bid package.

Cost Summary:

Harper Houf Peterson Righellis Inc	\$12,500 (includes expenses)
DKS Associates	\$ 3,800
<u>McDonald Environmental</u>	<u>\$ 800</u>
Sub-Total Cost	\$17,100

- Phase 2 – Construction Management Services

Construction Staking:

HHPR shall stake curb, sidewalk, utility vaults, light poles, and other street improvement features for construction.

HHPR shall stake remaining catch basins, fire hydrants, and all pipe (including PGE) for Phase 2. The manholes, catch basins, and fire hydrants will be staked with a 10-foot offset. Vaults will be staked as required (all at one time), and the joint trench alignment will be laid out with a walk-through between inspector and contractor.

Curb stakes will be placed one time, and it is assumed that scoring patterns and brick accents will be laid out in the field by the contractor and/or inspector.

All construction stakes shall be placed one-time.

Cost: \$10,000

Construction Management Assistance:

It is assumed that Paul Roeger or other City staff will be providing the inspection services for the project. HHPR will provide an assumed 8-hours per month of construction management assistance over a period of six months, for a total of 48 hours. It is assumed that DKS Associates and MacDonald Environmental will each have onsite visit during construction.

Cost: \$6,700

As-Built Drawings:

Draft final as-built drawings (limited to minor redlines on the plans). Prepare final as-built drawings for Phase 1 and Phase 2 construction, based upon complete

redline copies of the plans. It is assumed that 2 days of drafting will be all that is required, and plans will not be combined into one set.

Cost: \$1,200

Total Costs: \$35,000

4. All provisions of the original contract not expressly amended by this amendment remain in effect.

CITY

CONTRACTOR

By: Mike Swanson, City Manager

By: Dan Houf, Vice-President

Date: _____

Date: _____

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
APPOINTING SCOTT CHURCHILL TO THE MILWAUKIE DESIGN AND
LANDMARKS COMMITTEE.**

WHEREAS, a vacancy exists on the Milwaukie Design and Landmarks Committee; and

WHEREAS, Milwaukie Municipal Code Section 19.323.4(A) provides for appointment of members of the Milwaukie Design and Landmarks Committee "by the council;" and

WHEREAS, Scott Churchill possesses the necessary qualifications to serve on the Committee and has indicated his desire to serve.

Now, therefore, the City of Milwaukie, Oregon resolves as follows:

SECTION 1: That Scott Churchill is appointed to the Milwaukie Design and Landmarks Committee.

SECTION 2: That his term of appointment shall commence upon adoption of this resolution and shall expire on March 31, 2008.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on March 21, 2006.

James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Ramis, Crew & Corrigan, LLP

Pat DuVal, City Recorder

City Attorney



To: Mayor and City Council

From: Mary Rowe, HR Director

Subject: City Manager Performance Review and Compensation

Date: March 7, 2006

Action Requested

Provide the City Manager, Mike Swanson, an adjustment to base pay which incorporates the previous annual bonus amount and provides a 1.4% increase.

Background

In 2004 the Council agreed to provide Mike with an annual bonus of \$4,500 that is renewable on February 1 of each year that both the Council and the City Manager mutually agree to renew the employment contract. In 2005 the Council deemed it appropriate to provide Mike a bonus of \$6,500. This was done in lieu of adjusting the base range to more accurately match the market wages for City Manager positions in comparable agencies. During the spring of 2005, a city wide classification and compensation study was completed. At that time the salary range for City Manager was adjusted upward to more closely match the market for City manager salary ranges in comparable sized cities in the Portland Metro area.

The Mayor and Council have completed a performance review for the City Manager, Mike Swanson. There was consensus that Mike is doing an excellent job as City Manager and Council feels that his performance exceeds expectations. Council recognizes that this past year presented some tough issues. Through this Mike has been instrumental in moving the City forward with some notable accomplishments such as the start of the start of construction on the N. Main site and the improvements to McLoughlin Blvd. Mike has excellent knowledge of regional issues and establishes positive relationships with other government agencies. In light of this and in recognition of the work that Mike performs, the Council has decided to adjust Mike's base annual salary to \$113,933 effective March 1, 2006. Given Mike's outstanding performance, his knowledge and abilities and in order to bring Mike's salary to the average of other

City Managers in similar sized agencies the Council deems this increase appropriate and warranted.

The Council has also set goals for the upcoming year which include the following:

- Downtown parking management plan
- Work towards solution of regional wastewater issues
- Planning the next development project for downtown Milwaukie in the block across from City Hall.
- Seek solutions to Milwaukie's challenge of siting a transit center by continuing to encourage input from all interested parties.
- Plan and execute a proposal to secure funding needed for Milwaukie streets and roads.
- Complete the Riverfront Park plan and work with Council to begin a fund raising strategy.

Concurrence

The City Attorney agrees with the above stated terms. Mr. Swanson has agreed that the proposed terms are acceptable to him.

Fiscal Impact

There is an increase cost of \$1,632/year.

Work Load Impacts

None

Alternatives

Not recognizing the excellent performance of the City Manager, which would run the risk of losing his talents and recruiting for a new City Manager.

**Employment Agreement
Extension**

This agreement is made and entered in this ____ day of March 2006, by and between the City of Milwaukie, Oregon, a municipal corporation (“CITY”) and Michael F. Swanson. (“Employee.”)

By mutual agreement the City and Employee agree to extend the Employment agreement they entered into on March 17, 2004. The AGREEMENT will be extended for a period of one year until March 1, 2007.

All terms of the AGREEMENT dated March 17, 2004 will remain intact in their entirety except for section 4 which will be amended as follows:

Section 4. Salary

CITY agrees to pay EMPLOYEE for his services rendered pursuant hereto an initial annual base salary of \$99,720, commencing February 3, 2004, payable in installments at the same time as other CITY employees are paid. Based on performance the City Manager will receive a base salary increase to \$113,933 annually effective March 1, 2006. This salary may be adjusted annually as part of EMPLOYEE’s performance review.

CITY OF MILWAUKIE

EMPLOYEE

Mayor James Bernard

City Manager Michael F. Swanson

ATTEST:

City Recorder Pat Duval

APPROVED AS TO FORM:

City Attorney Gary Firestone



TO: MAYOR AND CITY COUNCIL
FROM: MIKE SWANSON, CITY MANAGER
DATE: MARCH 13, 2006
RE: PROPOSED AGREEMENT CANCELING CLEARWATER AGREEMENT

ACTION REQUESTED

The action requested is a Council Resolution approving the proposed Intergovernmental Agreement Between Clackamas County Service District #1, Tri-City Service District and City of Milwaukie Terminating the Regionalized Wastewater Treatment Services Intergovernmental Agreement adopted by the City Council on August 2, 2005 and authorizing the City Manager to sign the proposed agreement.

BACKGROUND

On August 2, 2005 the City Council approved an Intergovernmental Agreement between the City and Clackamas County Service District No. 1 (Clearwater Agreement) authorizing the Clearwater Project Implementation Plan. The Board of County Commissioners (Board), acting in its capacity as the governing body of Clackamas County Service District No. 1 (CCSD1), approved the Clearwater Agreement on September 1, 2005. The other city stakeholders (Tri-City Service District, Oregon City, and Gladstone) also approved agreements authorizing the Clearwater Project Implementation Plan.

The Clearwater Agreement provided for termination as follows:

- Except as otherwise provided in this Section, this agreement may be terminated only by the inability of Districts to procure the necessary permits and authorizations essential to siting, constructing, operating, and maintaining the Clearwater Facility and appurtenant facilities.
- In the event other jurisdictions on whose participation the Clearwater Project is dependent elect not to participate, this agreement shall be terminated without cost or obligation to either party.
- By mutual consent of the parties.

Subsequent to approval of the various intergovernmental agreements by the parties, a group of citizens filed a referendum petition that placed before the voters within CCSD1 the Board's approval of the Clearwater Project Implementation Plan. The Board determined that the filing of a petition indicated that greater public discussion of regional wastewater issues was warranted, and on January 12, 2006 it adopted Board Order No. 2006-05 "Rescinding the Clearwater Project Implementation Plan for Clackamas County Service District No. 1." The Order directed CCSD1 staff "to undertake necessary steps to terminate the Clearwater Project Intergovernmental Agreements with Tri-City Service District and the partner Cities of Gladstone, Milwaukie, and Oregon City, and that Jonathan Mantay, District Administrator is authorized to execute all documents to effect such termination." The Board also adopted Board Order No. 2006-06 "Creating a Citizen Advisory Council (CAC) for Clackamas County Service District No. 1" and establishing a scope of work for that Council. In summary, the scope requires the CAC to "review, advise, and make recommendations to the District Board regarding the development of a strategic plan for the location and financing of new wastewater treatment facilities of the District by September 30, 2006." The scope also requires that the CAC "coordinate with and seek input from any advisory group appointed by the Board of County Commissioners, by Tri-City Service District and/or representatives who are customers of the District." At its January 12, 2006 hearing, the Board members stated that they expected an "inclusive" and a "collaborative" process.

The CAC has begun its process, and we have adopted the approach that we will participate in a process that is truly "inclusive" and "collaborative."¹ We will work with the Citizens' Council toward the goal of participating in a collaborative, inclusive process. District staff has approached each party to a Clearwater Agreement and requested that it concur with the Board's action to terminate the agreements. I believe that they will secure the necessary agreements to terminate, and, therefore, I am recommending that we execute the proposed agreement to terminate. I do this solely for the purpose of enhancing the possibility that the process undertaken by the Citizens' Council will be inclusive and collaborative.

My recommendation should not be taken as an endorsement of the Board's action unilaterally canceling the Clearwater Project Implementation Plan. I believe that Clearwater is an appropriate and cost effective strategy to deal with the future of wastewater treatment in Clackamas County.² However, I am also a realist. The Board has vested a great deal of power in the Citizens' Council to

¹ At its last meeting the CAC formally requested that the Board rename it the Citizens' Council. I am not aware that this change has been approved, but out of respect for their wishes, I will use their desired name from this point forward.

² One argument against the Clearwater Project was aimed at the City of Milwaukie and suggested that it was pursuing a narrow interest regarding the elimination of the Kellogg Plant. The fact is that the City has always looked to two goals in reviewing wastewater treatment issues. One is indeed the recapture of the whole Riverfront, which includes the decommissioning of the Kellogg Plant. This goal is an important economic development strategy for revitalizing the City's downtown and a gateway to Clackamas County. Another goal is to provide an effective, cost efficient, environmentally sound plan for the treatment of wastewater for the present and for future generations.

make recommendations on matters that directly impact the future of both this City as well as wastewater treatment in north Clackamas County, and I believe that we need to seek full participation if the process is truly “collaborative.”³ The recommendation to terminate the Clearwater Agreement is simply a recommendation to remove one potential obstacle to that process.

³ A good definition of a collaborative process can be found on the Internet at <http://www.csus.edu/ccp/collaborativepolicy-printer.htm>. “Collaborative policy making” is defined as “a process whereby one or more public agencies craft a solution to a policy issue using consensus-driven dialogue with diverse parties who will be affected by the solution or who can help to implement it.” The site includes a link to an interesting article entitled “Reaching Consensus on Consensus” by Sandor P. Schuman.

INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY SERVICE DISTRICT #1, TRI CITY SERVICE DISTRICT
AND
CITY OF MILWAUKIE
TERMINATING THE REGIONALIZED WASTEWATER TREATMENT SERVICES
INTERGOVERNMENTAL AGREEMENT

This agreement is entered in this _____ day of _____, 2006, between Clackamas County Service District #1 (CCSD#1) and Tri City Service District (hereinafter "Districts"), county service districts organized under ORS Chapter 451, and the City of Milwaukie, (hereinafter "City"), a municipal corporation of the State of Oregon, all being political subdivisions of the State of Oregon.

WHEREAS, the parties entered into an agreement dated 1 September 2005 concerning the Clearwater Project Implementation Plan for regionalization of wastewater treatment services; and

WHEREAS, the Board of County Commissioners acting in its capacity as the CCSD1 Board found that the filing of a referendum petition placing before the voters of CCSD #1 the question of the approval of the Clearwater Implementation Plan establishes that greater public discussion of regional wastewater issues is necessary; and

WHEREAS, the CCSD#1 Board created a citizens council to undertake that discussion and adopted Board Order 2006-05 to rescind the adoption of the Clearwater Project Implementation Plan and initiate termination of the 1 September 2005 agreement; and

WHEREAS, the City believes that a regionalized wastewater system will produce benefits for all, including long-term cost savings; and

WHEREAS, the parties find that due to the changed circumstances it is unlikely that they can fulfill the obligations imposed by the 1 September 2005 agreement and that termination of that agreement is in the public interest in order to better facilitate the public discussion; and

WHEREAS, pursuant to Board Order No. 2006-05, Jonathan Mantay, District Administrator, is authorized to execute all documents necessary to effect such termination on behalf of the Districts, and

WHEREAS, the Milwaukie City Council has authorized the City Manager to execute this agreement terminating the previous IGA;

NOW, THEREFORE, the premises being in general as stated above, it is agreed by and between the parties hereto as follows:

1. The intergovernmental agreement entered into by the parties on September 1, 2005 is hereby terminated.

IN WITNESS THEREOF, the respective parties hereby mutually agree to terminate the intergovernmental agreement entered into on September 1, 2005 and have caused this termination agreement to be signed.

CITY OF MILWAUKIE

TRI CITY SERVICE DISTRICT

By: Mike Swanson, City Manager

By: Jonathan Mantay, District Administrator

CLACKAMAS COUNTY SERVICE
DISTRICT #1

By: Jonathan Mantay, District Administrator