

AGENDA

MILWAUKIE CITY COUNCIL APRIL 18, 2006

MILWAUKIE CITY HALL
10722 SE Main Street

1980th 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. City Council Minutes

- 1. March 7, 2006 Work Session**
- 2. March 7, 2006 Regular Session**
- 3. March 21, 2006 Work Session**
- 4. March 21, 2006 Regular Session**

B. Appropriating 2005 Homeland Security Grant -- 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.)*

A. Measure 37 Claim -- submitted by LeRoy and Chelsea Hummel (“applicant”) for the properties located at 4791 King Road and 4813 King Road (Katie Mangle)

5. PUBLIC HEARING, continued

B. System Development Charge (SDC) amendments for water and stormwater utilities and initiation of inflation indexing for SDC rates -- Resolutions

C. TriMet Park-and Ride Appeal

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.)*

Council Reports

7. INFORMATION

A. Park and Recreation Board Minutes

1. January 24, 2006

2. February 28, 2006

B. Citizens Utility Advisory Board Minutes

1. February 1, 2006

2. March 15, 2006

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.

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION

March 7, 2006

Mayor Bernard called the work session to order at 5:30 p.m. in the City Hall Conference Room.

Council Present: Councilors Barnes, Collette, Loomis, and Stone.

Staff Present: City Manager Mike Swanson, City Attorney Gary Firestone, Community Development/Public Works Director Kenny Asher, Interim Planning Director Alice Rouyer, Associate Planner Lindsey Nesbitt, Associate Planner Susan Shanks, Assistant Planner Brett Kelder, Resource and Economic Development Specialist Alex Campbell.

Board and Commission Interviews

The Council interviewed Donald Hammang and Lisa Batey for reappointment to their positions on the Planning Commission.

Planning Commission Work Plan

Planning Commission members present: Chair Donald Hammang, Lisa Batey, Teresa Bresaw, Catherine Brinkman, Brent Carter, Jeff Klein, and Dick Newman.

Mayor Bernard discussed redevelopment in the community and expressed his appreciation to the Planning Commission for its leadership. He felt the City needed to address downtown parking and traffic management as soon as possible. He commented on the park-and-ride and the need to get commuters' cars off the streets to open up the downtown for customer parking. The Texaco site would soon be ready for development, and the McLoughlin Boulevard Enhancement project was well under way. The Riverfront Park was one big beautiful piece of land now, and it was a pleasure to walk on the waterfront. He commented on rezoning the area near the current Gramor project, and he understood property owners were looking forward to that action. Reinvestment was occurring, and he felt the City should do what it could to make things happen.

Ms. Rouyer announced that Ms. Nesbitt had accepted a position in Happy Valley and introduced Susan Shanks and Brett Kelder. The Planning Commission met in a special work session to have an open discussion about the work plan, and those ideas were articulated in the staff report. She noted the Code "Fix" Top 10 list and commented on the importance of that ongoing project.

Mr. Hammang reviewed the goals that began with working with the new planning staff members. The second was the downtown parking management plan and appropriate street parking to support future development. Goal 3 was the Hwy 224 triangle that Mayor Bernard mentioned that represented a good commercial opportunity. Goal 3.b addressed North Industrial area transportation, transit, and planning. The Planning Commission also determined that the downtown requirements needed updating and refinement.

Mayor Bernard commented there were related transit center issues, and he wanted the City to be looking into the future as far as possible.

Ms. Rouyer explained the focus would be on the public area requirements.

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Mayor Bernard said at some point there needed to be serious consideration of how to finance construction of a parking structure.

Mr. Hammang had always believed a parking structure downtown was needed because money still came in cars, and the City needed to face that.

Ms. Rouyer commented on Goal 4 and “the look” at the downtown plan. Many things had changed including the riverfront, so the plan needed to constantly be refined as blocks redeveloped.

Councilor Stone asked if the Hwy 224 area was the one behind Mike’s Drive-In.

Councilor Collette said it was next to the Gramor development on Myrtle Street.

Mr. Hammang added there were large parcels east of Mike’s Drive-In and behind the Milwaukie MarketPlace. Many of those were not appropriate for single-family homes, but they did represent a lot of potential commercial property. He continued with the list of goals. Number 6 had to do with Metro Functional Plan compliance, and 7 was staff support for regional projects. Goal 5 had to do with maintaining an ongoing “Paramedic Code Fix List” that would guide staff in how to prevent future disasters.

Mayor Bernard asked if it was legal to regulate the color on the back of a commercial building such as that Panattoni project to make it more pleasant for the neighborhood.

Ms. Rouyer replied it had been a pet project of one of the Commissioners to have design standards for commercial and multi-family develop, and it was on the list.

Mr. Carter said before going on the Planning Commission, he was the Design and Landmarks Committee (DLC) Chair and worked on developing the Downtown Design Guidelines. His goal was to create City guidelines. The King Road Safeway could have been subject to those standards if it had it been Citywide. As the code was fine-tuned, both ends of the candle would be covered. He added that the Planning Commission had not had a lot of meetings with the DLC because of other priority projects.

Councilor Collette agreed it was important to have something to turn to beyond the code for the aesthetics of the community as it developed.

Councilor Barnes said one of the issues that came before Council was the large house built on Lake Road at Guilford that was being used as an adult care facility. The concern was that the City did not have the right kind of codes to prevent such a huge house being built.

Mr. Hammang explained the applicant built to the maximum allowable, and the house was large for the site.

Mayor Bernard thought the City might look at the Lake Oswego code.

Councilor Barnes recommended putting that on the Top 10 list because it brought a lot of folks out. It seemed like Milwaukie was becoming quite a hotbed for building adult care facilities.

Mr. Hammang suggested putting it on the paramedic list but cautioned there were all sorts of implications.

Councilor Collette noted there was interest in residential design standards, and the code was very minimal.

Ms. Batey said one of the issues that came up during the Planning Commission brainstorming was residential guidelines and limitations on certain types of materials. There was a perception that the Council might not want to take on those types of issues because that might be contentious for some of the neighborhoods. She referred to Mr. Hammang's comments during his interview about raising the quality of the housing stock and the importance of having those types of tools in the code. However, she noted there would be dissenters.

Mayor Bernard said there were some standards established for manufactured homes. He did not think anyone on Council would be concerned about taking on those kinds of issues.

Councilor Barnes was not comfortable with the City's telling the homeowners too much of what was expected. She did not believe she had or wanted the authority to do that. There were the guidelines that said a property owner needed to keep his/her home neat and clean, but beyond that it was none of her business. Those people worked hard for their homes, and it was not her business to walk in and tell them how to style their home.

Councilor Collette thought it had more to do with setbacks and quality of materials in neighborhoods. Context was some of it.

Councilor Barnes noted there were substantial differences between Milwaukie's neighborhoods.

Mayor Bernard said some cities did not allow those tent-like structures to be used for temporary garages or fiberglass awnings. He thought the group was discussing new homes and not existing.

Mr. Carter said in 1997 there was a community visioning session. All of the residents through their Neighborhood District Association (NDA) Chair addressed their needs and wants. From that, the sidewalk program started. People did not want them at first, but now they found there was less erosion, people's yards were looking better, and the longevity of the street was improved. He suggested it might be time for the NDAs to go through the process again. That might save a lot of time by finding out what the concerns were upfront. There were new residents moving into the City, so it might be time to take a poll.

Ms. Bresaw was concerned about the amount of staff time that would take.

Mr. Carter thought the NDA chairs could put something together. The relationships between the planning staff, Planning Commission, and NDAs have improved immensely over the past several years. It was very efficient and effective, and he suggested the chairs come back together and develop another Top 10 to present to the planning staff.

Mr. Klein noted the differences between the neighborhoods and their expectations and desires. He thought the City needed to have a vision outside of the downtown district. He would like to see some focus on the residential areas and perhaps reinvesting some the money coming into the downtown area.

Councilor Stone agreed. The downtown was small, and the City needed to make sure the neighborhoods were upgraded. Residential properties were the biggest part of the tax base. Anything that would strengthen the codes in terms of neighborhood development would support livability and property values. She thought there needed to be enough teeth in the code to say that a towering house like the one on Lake Road could not happen.

Mr. Hammang noted that some cities had restricted monster houses which could potentially be a problem in the future. He agreed that matter should be on the paramedic list.

Mayor Bernard responded for every dollar of investment in the downtown returned \$38 to the community and was the most successful development strategy in the country. The North Main project was a downtown investment that would bring in money for the rest of the City. Most of the downtown development was not City money. It was federal money and Metro funding. He estimated a 10% change in demographics. Younger people were buying homes and reinvesting in them, and the Waldorf School, he understood, brought 83 families to Milwaukie. Those alone are changing the community and bringing new investment into the community.

Ms. Brinkman agreed and said she had a vested interest because she lived close to downtown. A lot of younger professionals from Portland come down Hwy 99E and are interested in the changes that are going on in Milwaukie. However, that did not change the fact that they turn right at the pawnshop, right at Foxy's, and under the railroad tracks to get to her house. Beautifying the downtown would have a ripple effect.

Mr. Klein said the 42nd Avenue and King Road was another area that needed a revisioning. It had the greatest percentage of population in Milwaukie and served Ardenwald, Lewelling, Hector Campbell, and Linwood neighborhoods. Now, if people do not shop at Albertson's, then they went to unincorporated Clackamas County. There was a car dealership at that intersection and adjacent buildings that could use some economic increase.

Mr. Hammang observed that good money would drive out bad.

Ms. Rouyer reported the building permits were in for the new Safeway and were being reviewed. With regard to residential design standards or anything the Council cared about, it should ensure it had the political will to make it happen. One of her pet peeves when she came on as the new planning director was the tree ordinance. Council said it really wanted it, but there was no support. She was not disappointed in the outcome, but she felt like she had wasted nine months and could have been spending that time on doing other good things for the City such as working on the residential design standards.

Ms. Bresaw recommended getting neighborhood feedback before beginning the process to determine the level of support.

Mayor Bernard felt Council had made the commitment and understood the planning staff was new. He thought the goal was to commit to supporting the efforts at least until it heard from the citizens.

Councilor Collette thought Ms. Bresaw had a point about talking with the neighborhoods to determine their support.

Mr. Firestone wanted to make sure that the City Attorney's office was involved to ensure compliance with statutes that restricted regulation on residential properties.

Mr. Carter commented one of the golden rules of a good shepherd was never to lose the smell of the sheep.

Councilor Loomis thought it was important for the City Council and Planning Commission to remember the tree ordinance failed because it was brought forward for personal reasons. The Council role was not to promote what it

wanted but to promote what the citizens and the City wanted for the best interest of the City. He thought there would be fewer problems in the end if it had been something the citizens wanted. Council needed to keep in mind when it asked staff to do something and to make sure it was for the right reasons.

Councilor Stone thought there was a lot of citizen angst about the tree ordinance and Ms. Bresaw's suggestion was a good one.

Ms. Rouyer noted there were countless work sessions on the tree ordinance, but it was water under the bridge. She discussed the TriMet park-and-ride appeal scheduled for April 18, 2006. The Planning Commission held two hearings. The first was to hear public testimony, and the second was for deliberation.

Mr. Firestone explained that the hearing would be de novo. Anyone could present evidence, but it had to be limited to the issues listed in the notice of appeal. Anyone can testify and provide new testimony, information, and evidence. The Council would make its decision based on the evidence and the record prepared for the Planning Commission. Everything would be in front of the Council. The limitations were that the issues had to be in the notice of appeal or raised before the Planning Commission.

Ms. Rouyer added the appeal was coming from an attorney, so the arguments were solid and professional. The Council had to stick with the criteria, and the community service overlay was about a public benefits test. Did the adverse impacts of the proposal outweigh the benefits? This was a park-and-ride matter and nothing more than that at this time.

Mayor Bernard said one of the goals Mr. Asher brought to the Council was to solve the transportation issues in that area, and he supported the effort. He would focus on the City's efforts to solve those problems through partnerships with the business community, ODOT, and TriMet after this process was finished.

Mr. Firestone discussed ex parte contacts. It was likely members of Council would be contacted on this matter. Under the ex parte rules each member was required to disclose any contacts. Although it would be simpler not to listen to comments, the Council may do so as long as those conversations were declared.

Update on the Texaco Site Request for Proposals

Mr. Asher introduced Phil Whitmore and Meagan Steele with Metro's Transit Oriented Development (TOD) program and Kim Knox with Shiels Obletz Johnsen. Metro and the City were 50/50 partners in ownership of the block. Staff would prepare a request for proposals (RFP), solicit development proposals, and ultimately convey the property for development to the agreed upon standards.

Mr. Whitmore said it was to Brad Olson's credit that Metro was able to acquire this key site. Mr. Olson wanted it to be a nice development for the community and held onto that vision even though others pressured him. The family could have cashed it out and left it as a gas station. Mr. Whitmore discussed TOD projects and the Centers program. Metro saw a project in Milwaukie over which the City already had site control and wanted to help. He noted that the entire Centers program budget was spent on this Milwaukie project. The site made a major announcement on a major arterial that said this was a gateway and that something lay beyond. It would be more than a sign – it would be a really cool building. Metro considered the site to be crucial. The site also linked to the North Main project and provided the transition piece that would help revitalize the rest of the area. There would be some fantastic views of the River and could

change forever how people perceived Milwaukie and how it positioned itself in the overall market place.

The TOD program invested in mixed-use, higher density projects that actually cost more than conventional projects. The “urban look” required additional firewall separations, elevators, and other elements that were not part of traditional suburban projects. For the interim, the market was the same, so Metro would help absorb some of that impact. The main interest was in making the best development possible and helping offset some of the costs until there was a chance to create a sense of place. When TOD considered a project, it looked at availability of transit options, site control, public partners, reduction in vehicle miles traveled, and a floor area ratio (FAR) of 1:1 or higher. To attain that ratio once the setbacks and parking were taken out, one was looking at 3-, 4-, or 5-story buildings. He appreciated the receptivity and agility of the Council and felt Milwaukie would be a good partner on this project.

Ms. Knox added the anticipation for this project that it would be all the good things that happened for North Main. The shift in this project was that the City now had a development partner, and Metro and the City of Milwaukie had similar priorities. The intent was to have a public process with local support for a community process.

Mr. Asher will work on the management process and decision-making structure.

Mayor Bernard said North Main was difficult and some risks were taken, and he hoped the City would not have to give away a lot on this project. It was an exciting and very important project for Milwaukie.

Councilor Loomis did not disagree with the Mayor. The Council felt that if it was not willing to invest and make sacrifices, then why would developers. That was a valuable piece of property, and the developer would be a very lucky person.

Councilor Barnes felt North Main gave the City some credibility, and with Metro’s support it would not be expected to give anything away.

Councilor Collette noted this was a highly visible riverfront property across the street from a waterfront park. She commented on the North Main project citizen involvement process and the sense of community buy-in with the DLC following up as the design evolved.

Mr. Asher saw three stages. The first was to design the RFP followed by developer selection and public involvement to ensure it was a development everyone wanted. He thought the offering should be on the street by mid-summer, and they would likely be working with a developer by August. This was a competitive offering to the market that would benefit the community beyond this project.

Councilor Stone asked if having two public entities would eliminate a public/private partnership if someone wanted to develop more than one block.

Mr. Asher said if someone could assemble more than one block and meet Metro’s and the City’s goals all the better.

Ms. Knox commented that in theory the larger the project, the better it might be because of added possibilities. A public process would actually demonstrate what was feasible.

Councilor Stone understood the new development would be at least three stories.

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Mr. Whitmore would ask the City to consider up to 5 stories as the City had a process to do that. There might be a different height and scaling on the Main Street than on the river side because it was for different purposes.

Mr. Asher commented as one turned up the density, it was easier for a developer and required less subsidy. As the density was notched down, the developer would ask for more help. The Council's job was to balance that.

Ms. Rouyer said the building height for that block in the Downtown Plan was 45- to 55-feet.

Councilor Collette noted much of the McLoughlin Boulevard-fronting properties were designated for parking in the Downtown Plan, so that was another reason to revisit the Plan.

Mayor Bernard commented on how long Brad Olson had held out on this project. He hoped the building would be demolished soon in order to expand the Farmers' Market to that site.

Mr. Asher added this was a first for him. He had never heard of a gas station going away for a public-oriented development. This was a very special opportunity.

Mr. Swanson observed that North Main was at times a challenge, and he enjoyed working Mr. Whitmore, Ms. Knox, and the developer Mr. Kemper. They were critical to making it happen, and it was a good team to have back together.

"Open Channels" Proposal

Mayor Bernard thought people did not feel they were being heard, so the Neighborhood Leadership voted on the proposal that asked the Council to communicate better. He suggested that each Council member submit his or her weekly activities for publication with *Mike's Friday Memo*. He suggested Council consider adding this language to its Communication Agreement and noted the code and charter addressed many of the issues.

Mayor Bernard adjourned the work session at 7:00 p.m.

Pat DuVal, City Recorder

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
MARCH 7, 2006**

CALL TO ORDER

Mayor Bernard called the 1977th meeting of the Milwaukie City Council to order at 7:06 p.m. in the City Hall Council Chambers. The following Councilors were present:

Council President Deborah Barnes	Joe Loomis
Susan Stone	Carlotta Collette

Staff present:

Mike Swanson, City Manager	Susan Shanks, Assistant Planner
Gary Firestone, City Attorney	Alice Rouyer, Interim Planning Director

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

None.

CONSENT AGENDA

Item C, Appoint Scott Churchill to Design and Landmarks Committee (DLC) – Resolution, was pulled for discussion.

It was moved by Councilor Barnes and seconded by Councilor Collette to approve consent agenda items A and B. Motion passed unanimously. [5:0]

- A. OLCC Application for Salon Acapulco Tropical, 6128 SE King Road, New Outlet; and**
- B. Resolution 8-2006: A Resolution of the City Council of the City of Milwaukie, Oregon, determining the first regular Council session in July 2006 will be called to order at 7:00 p.m. in the City Hall Council Chambers on July 6; the work session will be called to order at 5:30 p.m. in the City Hall conference room on July 6.**

AUDIENCE PARTICIPATION

- **Steve Gerkin, 12114 SE 19th Avenue.**

Mr. Gerkin read a letter into the record urging the Council to adopt a symbolic resolution urging the Oregon Delegation to initiate impeachment proceedings against President Bush because of the wire tapping matter.

OTHER BUSINESS

It was consensus of the Council to reappoint Donald Hammang and Lisa Batey to the Planning Commission.

Mayor Bernard noted that Scott Churchill originally applied for the Planning Commission, but at the time, there was no position available. He assumed he would still be interested in appointment to the Planning Commission.

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Councilor Stone thought the City Council should determine if there were others interested in the Planning Commission position and was concerned about robbing one committee for another. She did like that he had a background in architecture. The group concurred.

Councilor Collette thought the architecture skills were also useful on the Planning Commission, but she agreed others should have the opportunity to apply.

Councilor Stone commented on the makeup of the current DLC members and asked if anyone else had a background in architecture since Mr. Carter was leaving.

Mayor Bernard suggesting asking Mr. Carter if he was interested in being on the DLC.

The group agreed vacancies should be advertised for both the DLC and Planning Commission.

COUNCIL REPORTS

Councilor Collette attended the Clackamas County Coordinating Committee (C4) where the Metro natural space bond measure and library network. The Ledding Library was considered a survivor because of the local support. The balance of funding would be discussed more at the city and county levels.

Councilor Barnes wanted to make it clear to the community that the Ledding Library could not be sustained without County funding.

Councilor Collette said Milwaukie's was one of four libraries in the network that had strong community support.

Mr. Swanson added one of the consultant's recommendations was that county funding be conditioned upon 20% match by the city. Milwaukie currently contributed in excess of \$800,000 annually toward the Library. Milwaukie was one of the stronger local supporters, and there were a number of libraries that relied solely on county funding. One of the points was that the community had shown a real willingness to support the library and recognized funding was a problem. The consultant recommended a dedicated levy in 2010.

Councilor Collette added that the Milwaukie Ledding Library had a very wide user group.

Councilor Barnes and **Councilor Loomis** attended the Citizens Advisory Committee (Clearwater) meeting.

Mayor Bernard spoke at the Sunrise Rotary and would speak at the Clackamas Rotary next week about all the activities in Milwaukie. He attended meetings of the metals group considering a training center at Sabin, the Clackamas Business Alliance, and the Public Safety Advisory Committee officers of the year dinner.

Councilor Loomis attended the Clackamas Rotary and the Milwaukie High School Advisory Committee.

Councilor Stone attended Clackamas Cities Dinner with Councilors Collette and Loomis and the monthly Legacy Emmanuel Hospital series on meth usage.

The group discussed regional committee assignments, and Mayor Bernard would request further information from Ms. Herrigel.

Mayor Bernard commented that Neighborhood District Association (NDA) meetings were places where citizens felt they could speak freely and perhaps criticize Council. Staff did attend those meetings.

Mr. Swanson discussed his compilation of organizations outside of the City that requested a City representative of some sort to sit on the board or committee. Some positions were not technically City positions. He would work on completing the list by the next meeting.

Councilor Barnes announced she would attend the Public Safety Advisory Committee (PSAC) and Library Board meetings to listen. She urged other Council members to consider doing likewise. Council did not receive the minutes in a timely manner, so she felt it was important to improve communications.

Mayor Bernard asked that staff continue to schedule work sessions with the boards and commissions.

Councilor Stone thought the Council's getting together with the advisory boards would help them become more focused and provide an opportunity to communicate. She did not believe the Council had made it a priority. She did not want to give any board or commission members the feeling Council was breathing down their necks. She felt it was Council's job to improve communications regarding focus.

Mayor Bernard felt if Councilors wanted to attend meetings like C4 that they should simply go.

Councilor Collette understood the County would provide C4 with part time staffing and perhaps ask the cities for a contribution of a couple thousand dollars.

Mayor Bernard was concerned about making a contribution. The idea behind C4 was to get people together to communicate. He noted how much time and money the City put into a study on the County transportation funding, and then they decided not to it. The County Commissioners did not like the results, so it did not happen. He felt C4 members needed to talk about how to coordinate the partnership, but that had not occurred.

Councilor Collette thought the structure of C4 was based on County priorities and would be discussed at Timothy Lake. It seemed that people were working more closely together, and there was a strong attendance for the Library report. The point of C4's forming was that the cities and service districts would have more say in how County money was spent since there were only three County Commissioners.

EXECUTIVE SESSION

Mayor Bernard announced the Council would meet in executive session immediately following adjournment pursuant to ORS 192.660(2)(h) to consult with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed and (i) for performance evaluation of a public officer.

ADJURNMENT

It was moved by Councilor Barnes and seconded by Councilor Collette adjourn the meeting. Motion passed unanimously. [5:0]

Mayor Bernard adjourned the meeting at 7:41 p.m.

Pat DuVal, Recorder

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION

March 21, 2006

Council President Barnes called the work session to order at 5:30 p.m. in the City Hall Conference Room.

Council Present: Councilors Collette, Loomis, and Stone.

Staff Present: City Manager Mike Swanson, Community Development/Public Works Director Ken Asher, Resource and Economic Development Specialist Alex Campbell, Planning Director Katie Mangle, Community Services Director JoAnn Herrigel, Code Compliance Assistant Tim Salyers, Code Compliance Coordinator Les Hall, and Engineering Director Paul Shirey.

Introductions

Mr. Asher introduced Katie Mangle recently hired as the City's Planning Director.

Transportation Enhancement/Metropolitan Transportation Improvement Program (MTIP) Pre-application

Mr. Campbell discussed the two-year federal funding cycle. The Transportation Enhancement (TE) funds were administered by the Oregon Department of Transportation (ODOT), and Metropolitan Transportation Improvement Program (MTIP) was a regional pool of money. He discussed current conditions on 17th Avenue between downtown Milwaukie and Ochoco Street related to bike and pedestrian facilities, eroding sidewalks, and minimal bus stop amenities. Improvements would connect the bike/pedestrian route from the end of the 3 Bridges project through Sellwood where it would join with the east side trail system. Staff would bring an MTIP proposal to Council later this spring.

Councilor Stone asked what other projects were suggested for TE funds.

Mr. Campbell looked at other unfunded projects on the Capital Improvement Plan (CIP), and one of those was sidewalk on Logus Road. ODOT staff indicated 17th Avenue would be a much more competitive project. That project would require an intergovernmental agreement (IGA) with the City of Portland.

Councilor Stone asked if Portland would also be securing TE funds to complete its portion of the project.

Mr. Asher replied it would be structured in such a way that the entire project would be done either through a joint application or a side agreement with Portland.

Mr. Campbell added the City of Portland was doing work at 17th and Ochoco to fill the Sellwood Gap, and Milwaukie's project would complement that work.

Mr. Asher added the application would be competitive because both jurisdictions would be sponsoring it, and Metro and the region would like to see this piece connecting the regional assets. There were other ideas for funding the Logus Road project.

Councilor Collette noted there was a list of transportation projects prepared for the Clackamas County Coordinating Committee (C4), and she did not recall this project's being on the list. Milwaukie's list was substantial compared to some of the other jurisdictions.

Mr. Asher replied this project was more in the realm of bike/pedestrian deficiency issues, so it may not have been in the CIP as a high-priority road improvement as 17th Avenue flowed well for cars and buses.

Mr. Campbell commented this was the closest to a traditional project one could do with TE funds. Staff looked at the cost for doing both sides, and it would have been approximately \$2 million. The east side of 17th Avenue under Milwaukie's jurisdiction had a steep drop off, so it would be very expensive to construct sidewalks and retaining walls. The thought was to install a two-sided bike lane and sidewalk on one side to keep down the costs. Sidewalks would not be included on the east side north of Milport. He noted that the mixed-use development would also help the application.

Councilor Loomis liked the idea of tying Riverfront Park to 3 Bridges, Springwater Corridor, Sellwood, and the Pioneer Cemetery.

Code Amendment Proposals

Mr. Hall discussed two proposed ordinance amendments for Council direction. The first dealt with meth labs. He proposed amending the nuisance section of the code by addressing properties deemed unfit for use due to illegal drug manufacturing. Currently, there were no provisions in the code for dealing with those types of properties, and fortunately there have been none to date. If one were found, the City could require that the property be boarded up, but the contaminants were still there. Under current rules, the structure could sit for up to six months before any action could be taken if the property owner had not done so. After that six-month period, the City or a citizen would have to bring suit against the property owner and have a judge fine to the point of abatement. That process could go on for quite some time. The city attorney and building official concur this type of ordinance would be appropriate in that the City could immediately contact the property owner and establish timelines for a quicker resolution. Clackamas County successfully uses a similar process.

Councilor Collette understood the property owner would be required to do the cleanup.

Mr. Hall said that was correct. The cost of cleanup could range from a few thousand to much more than that depending on how much of the property was declared unfit. If this occurred in an apartment, the City would go after the owner for cleanup of the area declared unfit that in the meantime could not be used. If the property owner refused to do the cleanup, the City would go through the municipal court process, charge the civil penalties, do the cleanup, and put a lien on the property for abatement costs.

Mr. Hall discussed the proposed ordinance regarding inoperable vehicles on private property. The current code addressed junk or dismantled vehicles but did not address those that were on properties for years that simply did not run. The proposed ordinance would close the loop. The code addressed where vehicles may be stored and did not allow them to be dismantled. However, it did not address those calls related to cars with flat tires and moss growing on them that did not move and were not project cars. The City can enforce on cars parked in the front yard, but people just move them into the driveway where they just sit. The neighborhood still has to look at them. The proposed ordinance would give people a time period, probably 15 days, in which to get the car fixed, and the program would provide flexibility to work with property owners as long as some progress was shown. The goal was compliance and not sending cases to court. There were a few places in the City where this was prevalent and cars had been sitting for years. At this time there was nothing code enforcement could do, and it was blight on the neighborhoods.

Councilor Collette asked if this applied to school buses.

Mr. Hall replied the ordinance would apply to any vehicle that was designed to transport people or goods including buses, trailers, and RVs.

Councilor Stone asked if the 15-day time period would be long enough to get a vehicle operable or to get it licensed.

Mr. Hall replied it should be sufficient time if someone was motivated. He had found from past experience that if people were not given deadlines, they did not get the work done. The department would work with people to extend deadlines if positive effort was shown.

Councilor Stone understood there were certain areas with difficulties. She asked how proactive the City would be in terms of contacting those people or would it be complaint-driven.

Mr. Hall said right now there were enough houses that the department knew about from complaints to keep busy for some time. He did not anticipate driving by and looking for expired tags. Often properties with these types of conditions had other things going on such as debris and he would to deal with multiple violations at one time. Code enforcement begins by sending out the first warning letter with a deadline for rectifying the problem. If nothing was done, then a second warning letter is sent. During that time people may call code enforcement and work something out. Ultimately, a citation was issued if there was no compliance.

Councilor Collette asked if there were places where people could store vehicles on their property. Some of her neighbors had an Airstream that they used as a guest room.

Mr. Hall said the City had code provisions regarding where vehicles may or may not be parked.

Citizens Utility Advisory Board Work Plan

Board members present: Chair Bob Hatz, Vice Chair Charles Bird, and Ed Miller.

Mr. Shirey said by practice over the past few years, the Citizens Utility Advisory Board (CUAB) has become an important checkpoint for the engineering department's projects and forwards recommendations to the Council. He reviewed the proposed work plan that included the street improvement funding program, 2007 – 2011 CIP, the two-utility system development charge (SDC), the wastewater master plan and future treatment, Johnson Creek Boulevard wastewater extension and annexation, well 8 replacement and Clackamas River Water (CRW) intertie agreement, and the stormwater code update.

Mr. Shirey discussed the wastewater treatment element and the citizens advisory committee (CAC). The City was responsible for the collection system, and the master plan addressed the needed capital for that part of the system. If the County was still spinning in regards to treatment, then the City would likely go ahead and adopt its plan until there was a better understanding of regional wastewater treatment. At that time he would recommend amending the SDC rates. He anticipated some direction from the County regarding treatment options later this year.

The Johnson Creek Boulevard wastewater extension and annexation had to do with unsewered properties north and south of the Johnson Creek facility. The County recently decided to create an urban renewal district to address infrastructure needs in that area. Milwaukie had been looking at a small area that included the Creek to the road and the property north of the offices to the County line. Some preliminary engineering and estimates have been done. Staff has started discussions with area residents and would continue to work toward the possibility that the community desired the service and was interested in annexation. The meeting with the residents was good, and there seemed to be more openness to the idea of the City's doing something good and on time.

The Board reviewed the Well 8 study results and would make a recommendation to the Council. Under the current terms of the agreement with CRW, the City was required to purchase a set amount of water whether the City needed it or not. The City was in the process of exploring its needs and production capabilities.

The City recently hired a stormwater engineer to work with onsite management of stormwater runoff. Staff would recommend adopting code similar to that of neighboring jurisdictions and looking at the private sector for more management to help the City meet clean water discharge standards. The code amendments would go before the Planning Commission and likely be ready for Council consideration in spring 2007.

Councilor Collette was impressed with the Board's work and felt it was a tremendous resource for the community.

Mr. Bird said Mr. Shirey was respectful of the Board's time, and the chair runs the meetings efficiently.

Councilor Stone said the work plan was very active. She had a question about the Board's charge. She had always thought that it worked on sewer, storm, and water matters and not really street infrastructure. She asked if that had changed.

Mr. Shirey said if one interpreted the code strictly, the number of things reviewed by the Board would be less. He made a more liberal interpretation to include the City's entire public infrastructure with the idea that broader was better.

Councilor Stone said several years ago the street improvement funding program surfaced. A group of citizens from different committees and the engineering department convened to discuss the topic. It had not popped out to her that the CUAB was in charge of streets, and it had involved a broader range of people.

Mr. Shirey did not think the Board was in charge of streets but rather served in an advisory position. If there were issues that needed more stakeholder input, then a process for public input would definitely be designed. There were traditional things that the CUAB considered such as rate setting, and there were other matters that benefited from the Board's input.

Mr. Swanson read from the code that outlined the Board's responsibilities that included reviewing utility rate structures and capital improvement programs, acting in an advisory capacity to the Council on those types of matters, and promoting public knowledge, understanding, acceptance and support of official utility programs proposed or implemented by the City.

Mr. Hatz added that the Board only met once a month, but Mr. Shirey did a lot of work during that month in preparing for the meetings.

Mr. Shirey acknowledged the Board's work and particularly Mr. Hatz who had been a member for about 12 years.

Councilor Loomis appreciated that everything that went before the Board was not rubberstamped and that issues were discussed civilly.

"Open Channel" Proposal

Councilor Barnes reported that the Mayor would like to discuss the proposal at a retreat as a team and incorporate most or all of it into the Communication Agreement.

Councilor Collette thought the idea of a retreat was good. She did not see anything on the surface of the proposal that the Council would disagree with but did not want to miss something when the Communication Agreement was discussed.

Councilor Stone thought it bore discussion and agreed to wait until everyone could participate. She thought from reading the documentation Mr. Swanson provided that every

thing covered the substance of the proposal. It was a matter of implementing and following an agreement; it did not matter how much paper there was.

Councilor Loomis agreed it was a matter of whether one was going to follow the rules or not. This proposal came to Council through the neighborhood leadership. It was his thought that it might help some people reflect more before they drifted away from the agreement. The sooner the better for the retreat.

Councilor Barnes concurred and asked that some possible dates be considered for a retreat to review the Council Communication Agreement, the Open Channels Proposal, and other items.

Regional Committee Assignments

Mr. Swanson gathered information on committees that sought members that were not City committees or commissions. When the North Clackamas Parks and Recreation District (NCPRD) was created in the early 1990's there were a number of neighborhoods designated with the City being its own neighborhood. The Commissioners appoint an Urban Parks Advisory Board (UPAB) member from each of those neighborhoods with specific terms. However, the term of the Milwaukie member was left up to the City. The current Milwaukie member has served for four years, and the term of office for the other neighborhoods was three years. He suggested the Council consider revisiting that particular appointment. The current representative had been active for the past four years, but it was probably time for a change.

Councilor Loomis noted it had always been a Council position in the past, but the Councilors did not attend. Because of that, the Milwaukie Park and Recreation Board (PARB) did not get any information, so one of the Board members started attending. He wished to put his hat in the ring for the position, as it was one that interested him. There were not a lot of positions where a Council member actually got to do something. He would speak with Mart Hughes to determine his ongoing interest.

Councilor Collette said there were other regional committees that were not on the list including the Economic Development Advisory Committee, the Public Safety Advisory Committee, and Library Board. Mayor Bernard had asked her if she was interested in taking over for him on a couple of things, but it would be difficult to make any assignments without him present. She suggested it be considered at the Council retreat, and the group agreed.

Councilor Stone asked that the list include the meeting times.

Councilor Loomis said in some cases the process was not followed as he found out when he attended a C4 meeting. If there were committees that Council members should be appointed to, then they should be apprised. It looked like there were only a couple like that

Councilor Stone asked for a list of staff that attended.

Mr. Swanson said there were some technical advisory committees that he would add. He noted that three of the finalists for the community development/public works director now worked at the Johnson Creek facility. It was a strong group of people.

Council President Barnes adjourned the work session at 6:31 p.m.

Pat DuVal, Recorder

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
MARCH 21, 2006**

CALL TO ORDER

Council President Barnes called the 1978th meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Carlotta Collette
Susan Stone

Joe Loomis

Staff present:

Mike Swanson,
City Manager
JoAnn Herrigel,
Community Services Director
Kenny Asher,
Community Development/Public
Works Director

Paul Shirey,
Engineering Director
Mary Rowe,
Human Resources Director
Katie Mangle,
Planning Director

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

Milwaukie High School Student of the Month

The Council honored **Jennifer Chow** as the Milwaukie High Student of the Month for her strong leadership skills and academic strengths. She maintained a 4.0 GPA in her advanced placement classes and demonstrated her respect and concern for others both in the classroom and throughout the school. She was involved with Community 101 that worked with non-profit organizations in the community. Ms. Chow has been involved with the Tech Cadre for three years and has served as CEO for this student-run enterprise. She is recognized as being creative and unafraid of tackling the unknown.

CONSENT AGENDA

It was moved by Councilor Collette and seconded by Councilor Stone to approve the consent agenda. Motion passed unanimously among the members present. [4:0]

- A. **Resolution 9-2006**: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Donald Hammang to the Milwaukie Planning Commission.
- B. **Resolution 10-2006**: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Lisa Batey to the Milwaukie Planning Commission.
- C. **Contract Amendment for Engineering Services for North Main Village Utility and Streetscape Improvements.**

D. Resolution 11-2006: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Scott Churchill to the Milwaukie Design and Landmarks Committee.

AUDIENCE PARTICIPATION

- **Josiah Naylor**

Mr. Naylor spoke about the Foundation for the Law of Time and encouraged the City to adopt the educational agenda of the 13-month calendar.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. City Manager Performance Review

Ms. Rowe described the performance appraisal process that included staff and Council feedback on the City Manager's performance and a salary review with comparable cities.

Councilor Collette said there were a number of things Council and staff praised Mr. Swanson for in his review, and two struck her particularly. He always understood how all the pieces fit together not just immediately but also 5 to 10 years in the future. She also appreciated his ability to bring together a tremendous staff and give them the motivation and leadership that allowed them to do their best.

Councilor Loomis said in addition to Councilor Collette's observations, one of Mr. Swanson's great strengths was his ability to manage. His style gave people responsibility to do things themselves and allowed them to grow. Mr. Swanson had many years of experience, but he never lost the focus on caring about the community in which he worked. He was professional and knew when to speak and when not to. He kept staff, Council, and the City moving forward in a positive manner.

Councilor Stone appreciated Mr. Swanson's management style that promoted staff's growth and placed wonderful people in charge of the different departments. She admired his willingness to talk with Council members individually when necessary. He had an open-door policy and encouraged communication.

Council President Barnes said all one had to do was stand on McLoughlin Boulevard and see the North Main project, Texaco, and Riverfront Park. Milwaukie was going forward because of Mr. Swanson's strength and the vision that he imparted to Council and staff. He was a boss that anyone would want to work for because there was mutual respect between staff and management that was important in a workplace. On a personal level, she could not have lasted without Mr. Swanson. In times of difficulty, he was a saving grace that helped her gain perspective. She asked Ms. Rowe to state for the record what the Council had decided to do regarding compensation.

Ms. Rowe reported the compensation was reviewed annually at the time of the performance review. In the last two years, Mr. Swanson was at the top of the current salary range for the City of Milwaukie, and Council deemed it appropriate to provide an annual bonus. Last year during the Citywide compensation and classification study the city manager salary range was adjusted so it was on par with the average salary range for city managers in the Portland metropolitan area. With the adjustment to the salary range, Council deemed it appropriate to do away with the annual bonus and instead

build it into the base wage for the city manager and bring it up to the average. That equated to a 1.4% salary increase over last year's wages and brought the base salary to \$113,933 annually.

It was moved by Councilor Collette and seconded by Councilor Loomis to adjust the city manager's base pay that incorporated the previous annual bonus amount and provided a 1.4% increase. Motion passed unanimously by the members present. [4:0]

Mr. Swanson said in lieu of retiring and not working at all, the only place he could think of working was Milwaukie. It was a combination of a capable, hardworking, professional staff that cared a great deal about public service, a caring and loyal community, and a Council that was willing to learn and adjust.

B. Proposed Agreement Canceling Clearwater

Mr. Swanson noted that Deputy County Administrator Jim Coleman, in charge of managing the wastewater treatment process, was present in the audience. After a great deal of work that spanned decades, in September 2005 the County Commissioners approved the implementation of the Clearwater Project and entered into agreements with various cities and districts in order to accomplish the regionalization of wastewater treatment. A by-product of Clearwater was the eventual decommissioning of the Kellogg Lake Treatment Plant in 2012. Shortly after execution of the agreements, the chief petitioners within Clackamas County Service District #1 secured signatures to put the Board's Clearwater action on the ballot. In January 2006, the Board of County Commissioners (BCC) adopted two Board Orders. The first one canceled the Clearwater project and directed the staff to do whatever was necessary to cancel the agreements executed with the cities and districts in order to implement Clearwater. The second Board order created a Citizens Advisory Committee (CAC) whose charge was to create a strategic plan for wastewater treatment and report back to the County Commissioners by September 30, 2006. The CAC was advisory to the Service District #1. The process began about six weeks ago. He was approached by Mr. Coleman and asked about his intention in regards to the Clearwater agreements. The agreements provided for three methods of termination. The first was the failure to secure the necessary permits, but Clearwater was not at that stage. The second was the failure to include a necessary party, and the third was mutual agreement of the parties.

He and many others including Council and staff worked very hard on Clearwater, and he had felt good about the direction. Mr. Swanson would, however, recommend that Milwaukie take action to cancel the Clearwater agreement. After having attended a number of CAC meetings and meeting with at least one member of that body a couple of times, he felt the City would be better served by removing impediments and moving forward to come up with a solution. Anything that remained in the way of coming up with a solution just made it harder. He asked City Attorney Ramis to speak before the County Commissioners where he indicated he did not think canceling the project and agreements was the right thing to do. If the BCC truly intended for this to be a collaborative, inclusive process Milwaukie would be there to ensure that it would work. By this action, the City would be taking one more step in ensuring that the CAC had every opportunity to make this work. He felt it would be in a sense bad faith not to remove this obstacle. He understood the Cities of Oregon City and Gladstone would be taking similar actions. Milwaukie could sit back and be petulant, but Mr. Swanson recommended that the City take affirmative action and send the message to the CAC that Milwaukie was willing to work with the Committee.

The goals remained the same. Right after the vote on canceling the Clearwater agreement was taken in January one of the Commissioners approached Mr. Swanson and said he understood he (Mr. Swanson) would be upset because he really desired to

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have the Kellogg Plant decommissioned. Mr. Swanson responded that the Commissioner was wrong. It was one of the goals. The other was to provide cost effective, environmentally safe treatment of wastewater on the east side of the river. To believe that Milwaukie was only interested in closing Kellogg was wrong because the City held both of those goals.

Mr. Swanson recommended the Council take the action to terminate the agreement and send the message to the CAC. He intended to continue working with the CAC to find a solution that satisfied both of the goals that Milwaukie held dear. He noted that Lisa Batey, Island Station Neighborhood Association Chair, was present and commented on her keen interest in the Plant because of its location in that neighborhood. He had spoken with her about this recommendation, and though she may not agree, she did understand.

It was moved by Councilor Stone and seconded by Councilor Loomis to authorize the city manager to sign the agreement terminating the Regionalized Wastewater Treatment Services IGA.

Councilor Collette agreed with Mr. Swanson. She was saddened by the course of events in that she thought Clearwater was the best solution. Since the County did not seem to agree with that, she thought the next best thing to do was to work toward a better solution. This was a first step. The goal was to be at the table as much as possible and work toward a solution.

Councilor Loomis agreed. This was one of Mr. Swanson's strengths. This was reality. He had a great faith in people to do the right thing. It was a matter of putting aside one's own agenda and accepting responsibility for finding the best solution. He thought the County believed it was the right solution, and Councilor Loomis was hopeful it would come to that determination. People thought the process was flawed. One of the misconceptions on the parts of those living outside Milwaukie was that it was all about Milwaukie's getting its riverfront. That was a side benefit. There was a financial cost to the citizens along with a benefit to the City and the region. It makes a difference when things are new and nice and vibrant and has a tendency to spread.

Councilor Stone said Council was connected unanimously on this matter and that it was the right thing to do although rates would be raised a little bit more than usual. It was deemed to be important enough to provide effective services and environmentally sound treatment of wastewater. Although she hated to see this undone, sometimes steps needed to be taken to start over. Milwaukie needed to be at the table, and she appreciated Mr. Swanson's attending the CAC meetings along with Councilor Collette and keeping the others apprised of what was happening. There might be a better solution coming out of this process.

Council President Barnes commented that the petitioners were concerned that everyone was not at the table and able to communicate. The same could be said now. She wanted to make sure it was not just the petitioners and their supporters who were at the table. It was important that Milwaukie and Oregon City residents as well as others who supported Clearwater be at the table. The residents were a strong part of this County, and they needed a voice.

Motion passed unanimously among the members present. [4:0]

C. Council Reports

Councilor Collette would attend the TriMet Board meeting in Clackamas County in the morning and address the Board on Milwaukie's progress.

Councilor Loomis attended the Linwood Neighborhood District Association (NDA) meeting, and Chair Macken-Hambright invited Dave Paul and the Overland Park chair

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to do a presentation. Code Enforcement Coordinator Hall and several police officers did a presentation on graffiti. Annexation efforts were enhanced when public outreach demonstrated the benefits of being part of an organization.

Councilor Stone attended the Ardenwald NDA meeting and heard a presentation on the Sellwood Bridge. Councilor Collette raised the matter of elected official representation on some of the committees. Milwaukie needed to be involved because its neighborhoods would be impacted. The Ardenwald Secret Garden Tour was scheduled for May 20. She would be attending the Clackamas Cities Association dinner in Wilsonville.

Councilor Stone and **Council President Barnes** would be out of town for the April 4 Council meeting.

ADJOURNMENT

It was moved by Councilor Loomis and seconded by Councilor Collette to adjourn the meeting. Motion passed unanimously among the members present. [4:0]

Council President Barnes adjourned the regular session at 7:44 p.m.

Pat DuVal, Recorder



MEMORANDUM

To: Mayor and City Council

Through: Mike Swanson, City Manager

From: Larry Kanzler, Police Chief; Stewart Taylor, Finance Director

Subject: Resolution – Appropriating 2005 Homeland Security Grant

Date: March 31, 2006 for April 18, 2006 City Council Meeting

Action Requested

Approve the resolution appropriating the 2005 Homeland Security Grant.

Background

In 2005 the Police Department received a Homeland Security Grant award in the amount of \$ 29,300 for the purpose of upgrading the security system. The Vendor is Selectron, who provides equipment that is compatible with the current equipment residing at the Public Safety Building. By using a vendor who's equipment is compatible with the existing equipment the Police Department is able to save thousand of dollars that would otherwise have to been spent to transition existing equipment to a new vendor.

Additionally, Selectron is a certified government bidder and vendor on and previously completed a contract with the City of Salem, Oregon on March 7, 2005. Their agreement for that contract is City of Salem number 012094.

Oregon local budget law allows a City Council to approve expenditures of specific purpose grants through adoption of a resolution or ordinance.

Concurrence

The City Manager, Police Chief and Finance Director concur with the proposed resolution.

Fiscal Impact

The resolution appropriates \$ 29,300.00 for the purchase of upgrade equipment and labor to install the security system.

Work Load Impacts

The resolution facilitates operations by providing that the vendor install the security system.

Alternatives

1. Approve the resolution as proposed.
2. Modify the resolution.
3. Do not approve the resolution.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO ADOPT A RESOLUTION AWARDED A CONTRACT IN THE AMOUNT OF \$29,300 TO SELECTRON FOR THE UPGRADE OF THE EXISTING SECURITY SYSTEM. THE AMOUNT OF THE CONTRACT AWARD IS PROVIDED BY THE DEPARTMENT OF HOMELAND SECURITY AS A GRANT AWARD TO THE MILWAUKIE POLICE DEPARTMENT.

WHEREAS, The Police Department applied to the Department of Homeland Security for a grant to upgrade the security system and was awarded that grant application; and

WHEREAS, The Police Department has received authorization to spend to the limits of the awarded grant; and

WHEREAS, Oregon local budget law allows a City Council to approve expenditures of specific purpose grants through adoption of a resolution or ordinance;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Milwaukie, Oregon: The appropriation of the 2005 Department of Homeland Security Grant is approved as follows: Resources - Homeland Security Grant \$29,300.00 for the stipulated use of Capital Outlays in the amount of \$29,300.00 for Security Upgrade.

Introduced and adopted by the City Council on April 18, 2006.

This resolution is effective on May 18, 2006.

James Bernard, Mayor

ATTEST:

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

Pat DuVal, City Recorder

City Attorney

Document1 (Last revised)



To: Mayor and City Council

Through: Katie Mangle, Planning Director
Kenneth Asher, Community Development and Public Works Director
Mike Swanson, City Manager

From: Susan P. Shanks, Associate Planner

Subject: Measure 37 Claim

Date: April 4, 2006

Action Requested

Deny the Measure 37 claims submitted by LeRoy and Chelsea Hummel ("applicant") for the properties located at 4791 King Road and 4813 King Road.

Background

The applicant submitted two Measure 37 claims on November 3, 2005. The claims are for adjoining properties on King Road that were purchased in 1957 and 1989. Based on the applicant's written statement and research conducted by the Planning Department and City Attorney, the City Attorney has concluded:

- The applicant has no grounds for a Measure 37 claim for the property purchased in 1989 and located at 4813 King Road.
- The applicant fails to show that the market value for the property purchased in 1957 and located at 4791 King Road has been reduced as a result of the city's current land use regulations.

The City Attorney's complete findings are provided in the attached memo.

Concurrence

The Planning Director concurs with the City Attorney's assessment.

Fiscal Impact

Denial of both Measure 37 claims results in no fiscal impact to the City.

Work Load Impacts

Denial of both Measure 37 claims results in no additional workload impacts.

Alternatives

As described in the attached memo from the City Attorney, the Council may find that the market value of the 4791 King Road property purchased in 1957 has been reduced as a result of the city's regulations. If the Council makes this determination, the City Attorney recommends granting the applicant a waiver in lieu of compensation since the City lacks the funds to pay compensation for Measure 37 claims.

If the Council opts to grant the applicant a waiver, it must waive those land use regulations that restrict the use of the property and lower its value. The attached memo from the City Attorney describes which land use regulations must be waived and which are exempt from waiver. In general, regulations that protect public safety are exempt from waiver. Regardless of which regulations are waived, granting the applicant a waiver will not result in any fiscal impact to the City.

Attachments

Memo from Gary Firestone, City Attorney.

RAMIS
CREW
CORRIGAN, LLP
ATTORNEYS AT LAW

1727 N.W. Hoyt Street
Portland, Oregon 97209

(503) 222-4402
Fax: (503) 243-2944

MEMORANDUM

TO: Milwaukie City Council

FROM: Gary Firestone, City Attorney's Office

DATE: March 6, 2006

RE: Hummel Measure 37 Claims

BACKGROUND

LeRoy and Chelsea Hummel own two adjacent lots on King Road: 4791 King Road (Tax Lot 5100) and 4813 King Road (Tax Lot 5300). They acquired the properties at two different times. They acquired TL5100 in 1957 and TL5300 in 1989. The properties were in the County until 1962 and were annexed into the City at that time.

Both lots are currently zoned R-5. At the time the Hummels acquired TL5100, it was not subject to any zoning regulations. However, TL 5300 was already in the City and zoned R-5 when purchased by the Hummels.

LEGAL ISSUES AND STANDARDS

Under Measure 37, the initial issue is whether land use restrictions have been placed on the property that restricts the use of the property that decrease the value of the property. To decide this issue, the City must determine what additional regulations restricting the use of the property have been imposed since the properties were first acquired by the current owners.

The City must then determine whether the additional restrictions have reduced the market value of the properties. That requires a comparison of the value of the property with current regulations and the value that the property would have if the only regulations were the regulations in effect at the time the property was acquired by the current owners.

The Hummels have submitted two separate claims, one for each property. Because the properties were acquired at different times, under Measure 37, different standards would be applied to each property

DISCUSSION

Tax Lot 5100

Tax lot 5100 is approximately one acre in size, and is approximately 100 feet by 435 feet. At the time it was purchased by the Hummels, it was not subject to any land use regulations. It was not subject to lot size minimums or to setback or other development standards. The Hummels claim that they want to develop it with 8 to 10 dwellings per acre, but base that amount on current zoning.

The initial step in a Measure 37 analysis is whether the property owner is entitled to compensation. Under the facts of this case, compensation would be the value of the lot subject to all current regulations (other than health and safety regulations) and the value of the lot without any land use regulations. The only evidence as to value offered by the Hummels is information that the market value of one of this property is \$185,981. However, a review of publicly available tax assessor information reveals that the market value as determined by the assessor is \$203,000.

The Hummels have not provided any appraisal of the value of the property assuming it could be developed for multiple dwellings. They have argued that lots have a value of \$70,000 per lot. However, that is the value of already subdivided lots, and the value of an unsubdivided property is far less than the total of the value of each lots if the property were already subdivided, in part because of the anticipated costs of subdividing the property, which includes planning, engineering and development costs. The \$70,000 amount represents the value of a lot that has street frontage and all utilities. In this case, there is an existing house on the property. To achieve maximum development of the property, the house would have to be removed, which would remove the major part of the current value of the property.

The Hummels have not provided information to allow the city to determine the difference, if any, between the value of the property subject to existing regulations and the value that the property in its current undivided condition would have if it were not subject to land use regulations. They have not provided any information as to what the value of the property would be if it were subdividable into 8 to 10 lots.

Furthermore, in their materials, the Hummels stated: "The City of Milwaukie has increased the value of my property through zoning, in an effort to provide more in-fill property available to meet the METRO service district's demands." This admission that the value of the property has been increased by the City's regulations is strong evidence that the Hummels are not entitled to compensation under Measure 37 because the zoning regulations have not reduced the value of the property.

Memorandum re: Hummel Measure 37 Claims

March 6, 2006

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If the Council determines that the Hummels have established that there has been a reduction in value because of the imposition of land use regulations, the City must then decide whether to pay compensation or grant a waiver.

The City lacks the funds to pay compensation for Measure 37 claims. Therefore, if the Council determines that compensation is otherwise payable, it must waive those regulations that restrict the use of the property and lower its value. Although unclear from the materials submitted, it appears that the Hummels seek a waiver of street standards and of lot size and dimension standards. However, Measure 37 does not apply to restrictions for the protection of public safety. The requirement to have adequate streets and sidewalks are regulations that protect the safety of motorists, pedestrians and bicyclists. However, some of the standards go beyond what is necessary for public safety. Therefore, if the Council determines that a waiver is needed, it can waive the requirement that the access street be dedicated to the public, but can require that the accessway meet the minimum standard of having two 10 foot travel lanes, and a 5 foot sidewalk as the minimum standards needed for public safety. The City can also require compliance with sight-distance standards for the intersection of the accessway and King Road, and can require compliance with other sight-distance and clear vision standards.

As to lot size and dimension standards, because there were no standards whatsoever at the time the property was acquired, if the Council determines that a waiver is appropriate, the waiver should be of all lot size and dimensional requirements.

The Claimants asked for a waiver of fees. Fees are not land use regulations that restrict the use of property. Therefore, Measure 37 provides no basis for the waiver of fees.

If a waiver is granted, the Council may limit the waiver to the Hummels. The state takes the position that waivers are not transferable.

Tax Lot 5300

Tax Lot 5300 was subject to the City R-5 zone at the time the Hummels acquired the property. The Hummels have not identified which R-5 regulations, if any, have changed to restrict the use of the property since it was acquired by the Hummels. Measure 37 applies only if the regulations adopted after acquisition of the property restrict the use of the property.

The Claimants sought a waiver to "lift all variances and fees." As stated above, Measure 37 does not provide a basis for waiving fees. Furthermore, the City had variance standards in place in 1989 and those standards have not significantly changed and have not become more restrictive since

that time. The variance standards do not restrict the use of property. Therefore, the waiver sought by the Claimants cannot be authorized under Measure 37.

RECOMMENDATION

We recommend that the Council deny the Measure 37 claim as to TL 5300 for the following reasons:

1. At the time the claimants acquired the property, the property was zoned R-5 and the property is still zoned R-5. The Hummels have not identified any regulations adopted since they acquired the property that restrict the use of the property.
2. The claimants have not provided any information that the market value of the property with existing regulations is less than the market value that the property would have if the 1989 regulations (assuming that there have been changes) were in effect. The Claimants have admitted that the City's zoning regulations have increased the value of their property.
3. Even if the claimants had established that they would be entitled to compensation, the City would be authorized to provide a waiver as an alternative to compensation. Under Measure 37, the waiver is for waiver of regulations adopted after the property acquisition. The Claimants have not identified any regulations that were adopted after they acquired the property that restrict its use.
4. The waiver sought by Claimants was: "Lift all variance requirements and fees needed to develop the property." The City can only waive regulations adopted after the Claimants acquired the property. The City's variance requirements were in place before the Claimants acquired the Property. The City's fee requirements do not restrict the use of the property, so they are not subject to Measure 37.

We recommend denial of the Measure 37 claim for TL5100 for the following reasons:

1. The claimants have not provided any information that the market value of the property with existing regulations is less than the market value that the property would have if unregulated. The Claimants have admitted that the City's zoning regulations have increased the value of their property. There is no evidence in the record that the market value has been reduced because of the City's regulations.

2. The City cannot waive fees under Measure 37.

ALTERNATIVES

The City Attorney's office does not believe there is any possible basis for allowing the Measure 37 claim for TL 5300 unless the Hummels identify code amendments since 1989 that restrict the use of the property.

As to TL 5100, it is clear that there are regulations that limit the uses of property and that there were no such regulations at the time the property owners acquired the property. Whether those regulations have reduced the market value of the property is a factual issue for the Council to decide. If the Council concludes that there is sufficient evidence to conclude that the market value of TL 5100 has been reduced by the City's regulations, then the City has to either pay compensation or provide a waiver. The compensation amount sought by the Claimants is unrealistic. However, any amount probably exceeds the City's ability to pay, so the most likely option, if the Council decides that Claimants have a valid claim, is to provide a waiver to allow development of the property.

If the Council decides to grant a waiver, we recommend the following provisions:

1. The street developments standard are waived, but access must be provided consistent with vehicular and pedestrian safety. Vehicular and pedestrian safety require that all lots be on an access road with two 10-foot travel lanes, and one 5-foot sidewalk. The access road may be public or private. Site distance standards, clear-vision standards, and other safety standards are not waived and remain in effect.
2. All lot size, dimension, setback, and similar standards are waived. All structures must comply with applicable building codes.
3. The waiver is not transferrable.



To: Mayor and City Council

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

From: Paul Shirey, Engineering Director

Subject: System Development Charge (SDC) amendments for water and stormwater utilities and initiation of inflation indexing for SDC rates

Date: April 4, 2006 for April 18, 2006 Regular Session

Action Requested

Adopt new System Development charge (SDC) rates for the stormwater and water utilities as recommended in the attached SDC Stormwater and Water SDC Study (Exhibit A) and adopt the practice of indexing SDC rates annually for inflation

The proposed changes to the stormwater and water SDC rates are subject to 90-day notice prior to public hearing. Notice was published on December 30, 2005. No comments were received.

Background

System Development Charges are one-time fees paid at the time of issuance of building permits for new development and redevelopment to cover the capital costs of public facilities needed to serve new development. SDCs are a means for growth to pay for growth by ensuring that there is capital available to build new capacity in the system to meet the demands placed on it by growth.

The methodology for calculating the SDC rates considers:

- Prior investment by the utility for system capacity expansion (using non-SDC revenues). Part of the SDC rate is calculated to reimburse the utility for this prior expansion. This is called a "reimbursement fee", and,
- Planned capital investment needed to add capacity to the system. This is called an "improvement fee".

SDC fees are required by law to be invested in the improvements for which they are designated, or to reimburse the utility for prior improvements within a period of ten years from time of collection.

Periodic updates to SDC rates are necessary to stay current with the status of the capital programs of the utility. Water and stormwater SDC rates were last approved in the late 1990s based on adopted capital improvement plans at that time. If approved, the proposed rates for the stormwater and water utilities would take effect immediately. (Council approved new transportation SDC rates in late 2004. SDC rates for wastewater will be included as part of the adoption of a new wastewater master plan within the next year or so.)_

A Stormwater Master Plan was adopted in 2005. The expanded Stormwater capital program that resulted requires that the City increase the Stormwater SDC fee. The proposed SDC rate for stormwater is \$1,106 per equivalent service unit as compared to the current rate of \$473. The water utility has recently completed several improvements listed in its Master Plan (2001) and the new SDC rate reflects the fact that those improvements are already paid for. The proposed SDC rate for water is \$971 per meter equivalent. The current water SDC rate is \$1,095.

Staff will return to Council annually to adjust the SDC rates for inflation. This periodic indexing of the rates for inflation is permitted by Oregon law and does not require special notice. The annual SDC rate adjustment has not been done by the City to date. Rate adjustments for inflation can be implemented by Resolution. The index that will be used for the adjustment is the Engineering News Record (ENR) Construction Cost Index (CCI) for the City of Seattle. There is no comparable index for Portland.

Concurrence

The Citizen Utility Advisory Board recommended approval of both water and stormwater SDC rate increases at its regular meeting in January. The Operations, Engineering and Finance Departments concur with the proposed methodology and rates.

Fiscal Impact

SDC revenue accounts for 15-25% of the capital budget of each utility. SDC revenue pays for approximately one capital project per year per utility. Each utility will continue to collect SDCs, but at the newly adopted rates effective upon adoption of the attached Resolutions. SDC revenue and expenses are accounted for in separate funds. Although future SDC revenue is not predictable since it is tied to the number of building permits issued, SDC revenue in the Water SDC Fund is currently \$463,000 and \$159,000 in the Stormwater SDC Fund. SDC revenue collected last fiscal year was \$36,900 in the stormwater fund and \$120,500 in the water fund. No capital projects are

scheduled for stormwater in 2006/07 and about half of the lake Road water line replacement project is funded with SDC revenue.

Work Load Impacts

None

Alternatives

Do Not Approve. The City would continue to collect the existing SDC rates for each utility. Stormwater would be under-collecting and water would be collecting somewhat more than currently justified. Since each fund budgets only a portion of its SDC revenues annually, impacts on capacity to construct capital projects would not be felt for several years. However, the impact on the Stormwater fund would be felt sooner since its capital needs are greater than water.

Defer Action. Same effect.

Attachments

Exhibit A: Water and Stormwater System Development Charge Study,
FCS Group April 2006

Exhibit B: Resolution Amending Stormwater Utility SDC Charges

Exhibit C: Resolution Amending Water Utility SDC Charges



City of Milwaukie, Oregon

Water & Stormwater SDC Study

Presented by
John Ghilarducci

What is an SDC?

SDCs are one-time charges, *not ongoing rates*.

Properties which are already developed *do not pay* SDCs unless they “redevelop”.

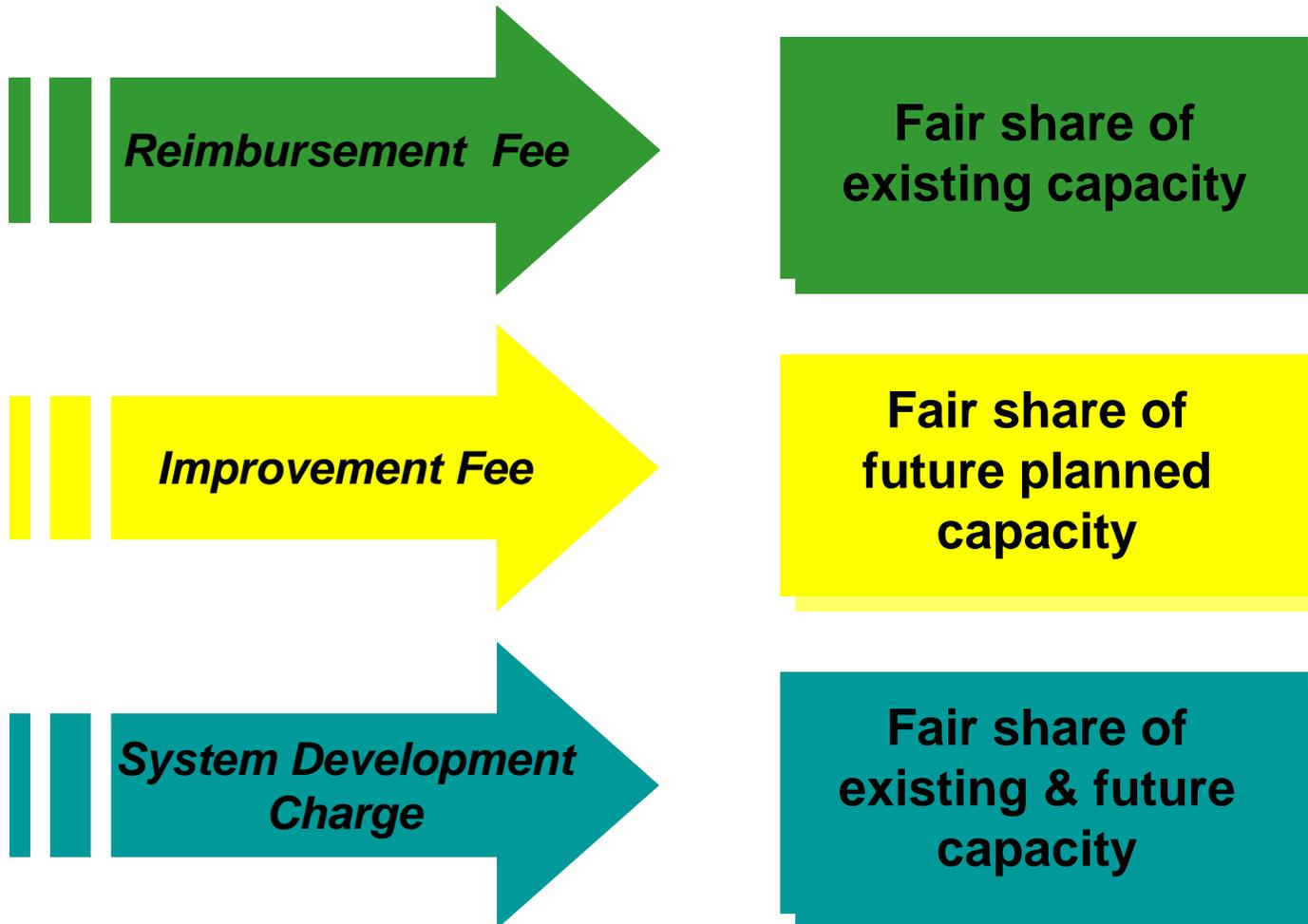
A system development charge is a *one-time* charge, paid *at the time of development*, intended to equitably recover the cost of the system capacity needed to serve that development.

SDCs are for *capital only*, in both their calculation and in their use.

SDCs are for *general facilities*, not “local” facilities.

SDCs include *both future and existing* cost components.

SDC Components



Key Study Objectives / Modifications

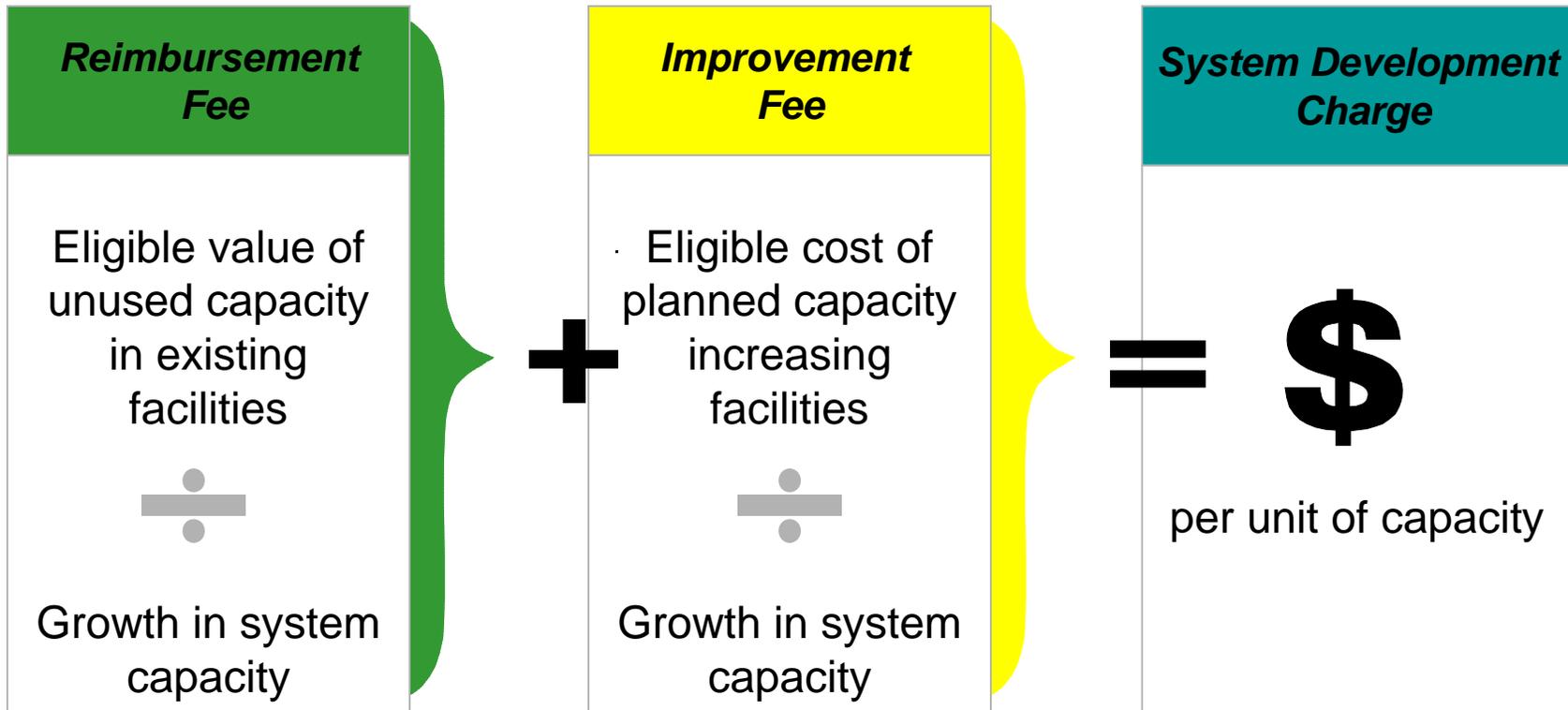
Objectives

- Update charges with current information
- Identify growth-related facilities and allocate costs to the SDC basis project by project

Modifications

- Latest master plans used to make project lists
- Water and stormwater lists allocated project by project

The SDC Calculation



Water: Reimbursement Fee Cost Basis

Allocation of System Assets (1)

Storage
Transmission
Pump Station
Source
Other
Recently Completed Projects

Original Cost	% Unused Capacity	Unused Capacity
\$ 2,004,975	0%	\$ -
8,301,388	44%	3,639,839
198,182	44%	86,895
800,881	0%	-
284,657	44%	124,811
1,174,562	44%	515,000

Total

\$ 12,764,645 34% **\$ 4,366,546**

Non-Allocable Costs

Outstanding Debt Principal (2)
Cash to be Net out of Debt Principal (3)
Contributions in aid of Construction (4)

Original Cost	% Unused Capacity	Unused Capacity
\$ 565,000	34%	\$ 193,276
-	34%	\$ -
1,962,427	34%	\$ 671,310

Total

\$ 2,527,427 **\$ 864,585**

Allocation of Existing Plant in Service

Cost of Available System Assets
less: Non-Allocable Costs

\$ 4,366,546
\$ (864,585)

Net Existing Plant-in-Service Allocable to Growth

\$ 3,501,960

(1) Fixed Asset Schedule provided by the City.

(2) Outstanding debt principal as of the fiscal year ending June 30, 2005

Water: Improvement Fee Cost Basis

Allocation of Capital Improvement Program

Capital Improvement Program	\$ 7,331,577
less: Improvements Allocable to Existing Customers	(4,419,104)
less: Expected Developer CIAC	-
less: Grants	-
	<hr/>
<hr/> Net Capital Improvement Costs Allocable to Growth	<hr/> \$ 2,912,472

No.	Project Listing ¹	Year	Project # or Priority	Description	Capacity	Oversize Capacity ²	Replacing	9/00 Project Cost ³ (\$1000's)	6/05 Project Cost ⁴ (\$1000's)	6/05 Oversize Cost ⁵ (\$1000's)	
CIP:											
A	CIP	2003-04	1610	Harlow St. (56th to Stanley)	6-inch	0-inch	4-inch		30.0	0.0	
B	CIP	2003-04	1180	Sand Filter - Wells 5 & 7	2.3 mgd	-	new		0.0	0.0	
C	CIP	2003-04	1170	Seismic Upgrade of Elevated Tank	1.5 mg	-	-		0.0	0.0	
D	CIP	2003-04	1610	Logus Rd. (43rd to Stanley)	8-inch	2-inch	6-inch		0.0	0.0	
E	CIP	2003-05	0760	Well 8 Rehabilitation	0.6 mgd	-	-		172.5	0.0	
F	CIP	2003-05	1270	Lake Rd. (Main to Oatfield)	8-inch	2-inch	6-inch		252.0	110.3	
G	CIP	2004-05	1605	Clatsop St. & McLoughlin Blvd.	12-inch	6-inch	6-inch		200.0	150.0	
H1	CIP	2004-06	1230	Rio Vista & Waymire	6-inch	0-inch	4-inch		211.0	0.0	
H2	CIP	2004-06	1230	International Way	12-inch	6-inch	new		127.0	95.3	
I	CIP	2004-06	1290	17th Ave. & Ochoco	12-inch	6-inch	8-inch		220.0	165.0	
J	CIP	2004-06	1280	43rd Ave. (Rhodesa to King)	6-inch	0-inch	4-inch		51.7	0.0	
K	CIP	2004-06	1260	40th Ave. & Howe St. (Harvey to 43rd)	10-inch	4-inch	new		152.0	97.3	
L	CIP	2005-06	0780	CRW Intertie - Phase 1	3.0 mgd	2.8 mgd	new		132.0	123.2	
M	CIP	2005-06	1190	54th Pl. & Woodhaven St.	6-inch	0-inch	4-inch		80.0	0.0	
N	CIP	2005-07	1310	38th Ave. & Drake St.	6-inch	0-inch	4-inch		62.0	0.0	
O	CIP	2005-07	1300	55th Ave. (King to Monroe)	6-inch	0-inch	4-inch		87.5	0.0	
P	CIP	2005-07	1320	37th Ave. (Harvey to King)	6-inch	0-inch	4-inch		150.0	0.0	
Q	CIP	2006-08	1585	Llewellyn St. (32nd to 34th)	6-inch	0-inch	4-inch		41.2	0.0	
R	CIP	2006-08	1570	Balfour St. (29th to 32nd)	6-inch	0-inch	4-inch		52.0	0.0	
S	CIP	2006-08	1575	Malcolm St. (29th to 32nd)	6-inch	0-inch	4-inch		52.0	0.0	
T	CIP	2006-08	1580	Olsen St. (29th to 32nd)	6-inch	0-inch	4-inch		52.0	0.0	
U	CIP	2006-08	1565	44th Ave., Howe Ln. and 46th Ave.	6-inch	0-inch	4-inch		88.0	0.0	
V	CIP	2007-08	0760	Storage Tank Design	1.5 mg	-	new		75.0	32.9	
W	CIP	2003-04		Lava Drive Pump Station	125 gpm	0 gpm	125 gpm		0.0	0.0	
X	CIP	2003-04		SDC Study	-	-	-		30.0	6.0	
Y	CIP	2003-04	1004	Operations Building	-	-	-		40.0	17.5	
				Well No 8					349.0	153.0	
			1785	Storage Tank					3,000.0	1,315.4	
			0235	CDBG - King Rd / 37th Ave / Oak St / RR Ave					60.0	26.3	
Subtotal, CIP									5,766.9	2,292.1	
MP Interties:											
Z	MP	2001-02	1	CRW Intertie - Phase 2	3.0 mgd	2.8 mgd	new	201.4	238.1	222.3	
AA	MP	2006-11	2	Oak Lodge Emergency Intertie	3.0 mgd	1.1 mgd	new	185.0	218.8	95.9	
Subtotal, Interties									386.4	456.9	318.2
MP Pipelines:											
DD	MP	2003-04	1	P006 - Ochoco from 17th to McLoughlin	12-inch	- ⁶	new	49.3	58.3	25.6	
EE	MP	2003-05	2	P007 - Shell, Guilford and Oatfield from Lake	12-inch	- ⁶	10-inch	299.3	353.9	155.2	
FF	MP	2004-05	2	P008 - Intersection of 43th and Howe	8-inch	8-inch ⁷	new	1.9	2.2	2.2	
GG	MP	2004-05	2	P009 - Intersection of 44th and Howe	8-inch	8-inch ⁷	new	1.1	1.3	1.3	
HH	MP	2004-05	2	P011 - Intersections of 38th/Harvey and 37th/Harvey	8-inch	8-inch ⁷	new	1.5	1.8	1.8	
II	MP	2004-05	2	P013 - Intersection of Howe and 42nd	12-inch	12-inch ⁷	8-inch	1.1	1.3	1.3	
JJ	MP	2004-05	2	P014 - 42nd from Howe to Olsen	10-inch	10-inch ⁷	8-inch	65.3	77.2	77.2	
KK	MP	2004-05	2	P015 - Intersection of 42nd and Covell	12-inch	12-inch ⁷	new	1.1	1.3	1.3	
LL	MP	2001-11		Small Diameter Pipeline Replacements, less CIP	6-inch	0-inch	4-inch	446.2	527.6	0.0	
Subtotal, Pipelines									866.8	1,025.0	265.9
MP Miscellaneous:											
MM	MP	2006-11		Master Plan Update				70.0	82.8	36.3	
Subtotal, Miscellaneous									70.0	82.8	36.3
TOTAL, CIP AND MASTER PLAN CAPITAL IMPROVEMENT PROJECTS								1,323.2	7,331.6	2,912.5	

Footnotes:

1. MP = 2001 Master Plan, CIP = 2006-2011 Capital Improvement Plan, January 2006.
2. All pipes over 6 inches are assumed to be oversized for growth.
3. September 2000 project costs from City of Milwaukie Water System Master Plan (Seattle ENR CCI of 7153)
4. Current Estimates or Derived from Seattle ENR CCI ratio of September 2000 (7153) to December 2005 (8458.55).
5. Oversize costs are based on prorated oversize capacities listed, or minimum allocation of future water demand (3.9 mgd) compared to current water demand (2.5 mgd).
6. Pipe sized for current and future fire flow. Oversize allocation based on future water demand (3.9 mgd) compared to current water demand (2.5 mgd).
7. Pipe required only to accommodate growth. Oversize allocation is 100% of the project cost.

Water: Fee Calculations

Allocation of System Capacity

Existing Customer Base (MEs)	9,111
Projected Growth (MEs)	<u>7,114</u>
Maximum Customer Base (MEs)	16,225

Fee Calculations

Water Utility Reimbursement Fee	\$	492
Water Utility Improvement Fee	\$	<u>409</u>
SDC Subtotal	\$	902
Administrative Fee		<u>69</u>

7.66%

Total System Development Charge per M.E.: \$ 971

Existing Charge = \$1,095

Water: SDC Application

Meter Size	Meter Flow Factor	TOTAL
5/8" x 3/4"	1.00	\$ 971
3/4" x 3/4"	1.50	1,456
1"	2.50	2,427
1.5"	5.00	4,853
2"	8.00	7,765
3"	16.00	15,531
4"	25.00	24,267
6"	50.00	48,534
8"	80.00	77,655
10"	115.00	111,629
12"	225.00	218,405

Stormwater: Reimbursement Fee Cost Basis

Allocation of System Assets

Total Assets (1)	\$ 6,073,230	
less: Contributions in aid of Construction (CIAC) (2)	<u>(1,923,984)</u>	
Net Allocable Plant-in-Service	\$ 4,149,246	
Growth's Share as Percentage of Buildout	<table border="1"><tr><td>10.06%</td></tr></table>	10.06%
10.06%		
<hr/> <u>Net Existing Plant-in-Service Allocable to Growth</u>	<hr/> <u>\$ 417,221</u>	

(1) Fixed Asset Schedule provide by the City and updated for completed 2005 capital projects.

Stormwater: Improvement Fee Cost Basis

<u>Allocation of Capital Improvement Program</u>	
Capital Improvement Program	\$ 10,269,460
less: Non-growth related capital	<u>(9,083,235)</u>
Net Allocable CIP Costs	\$ 1,186,224
<hr/>	
Net Capital Improvement Costs Allocable to Growth	<u>\$ 1,186,224</u>

Rank	Description	Year	2004 Costs	2005 Costs	Area Served	Area to be developed	% Existing	% Expansion
1	Brookside Storm Improvements	2005	\$ -	\$ -	125.0	12.5	90%	10%
	Brookside Storm Improvements	2006	-	-	125.0	12.5	90%	10%
	Brookside Storm Improvements	2007	293,800	304,349	125.0	12.5	90%	10%
	Brookside Storm Improvements	2008	522,600	541,365	125.0	12.5	90%	10%
	Brookside Storm Improvements	2009	274,300	284,149	125.0	12.5	90%	10%
	Brookside Storm Improvements	2010	139,100	144,095	125.0	12.5	90%	10%
2	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2005	-	-	143.6	21.9	85%	15%
	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2006	245,800	254,626	143.6	21.9	85%	15%
	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2007	245,800	254,626	143.6	21.9	85%	15%
	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2008	243,200	251,932	143.6	21.9	85%	15%
	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2009	250,300	259,287	143.6	21.9	85%	15%
	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2010	240,400	249,032	143.6	21.9	85%	15%
	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2011	211,100	218,680	143.6	21.9	85%	15%
	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2012	174,500	180,766	143.6	21.9	85%	15%
3	SE Stanley Ave. Pipe Replacement (Basin# MSA20)	2011	216,700	224,481	78.8	11.9	85%	15%
	SE Stanley Ave. Pipe Replacement (Basin# MSA20)	2012	240,600	249,239	78.8	7.9	85%	15%
	SE Stanley Ave. Pipe Replacement (Basin# MSA20)	2013	238,600	247,167	78.8	7.9	85%	15%
	SE Stanley Ave. Pipe Replacement (Basin# MSA20)	2014	383,100	396,856	78.8	7.9	85%	15%
4	Plum and Apple Storm Improvements	2013	131,100	135,807	9.6	1.0	90%	10%
5	Outfall to Mt. Scott Creek	2014	345,900	358,320	42.3	4.2	90%	10%
6	SE King (Pump Station)	2015	273,900	283,735			90%	10%
7	SE Lake Rd .Pipe Replacement	2015	344,500	356,870	27.7	2.8	90%	10%
8	Washington St. and SE Lake Rd .Pipe Replacements	2016	314,000	325,275	130.9	13.1	90%	10%
	Washington St. and SE Lake Rd .Pipe Replacements	2017	251,000	260,013	130.9	13.1	90%	10%
	Washington St. and SE Lake Rd .Pipe Replacements	2018	249,800	258,769	130.9	13.1	90%	10%
	Washington St. and SE Lake Rd .Pipe Replacements	2019	249,800	258,769	130.9	13.1	90%	10%
	Washington St. and SE Lake Rd .Pipe Replacements	2020	249,800	258,769	130.9	13.1	90%	10%
	Washington St. and SE Lake Rd .Pipe Replacements	2021	249,500	258,459	130.9	13.1	90%	10%
	Washington St. and SE Lake Rd .Pipe Replacements	2022	227,900	236,083	130.9	13.1	90%	10%
	Washington St. and SE Lake Rd .Pipe Replacements	2023	254,300	263,431	130.9	13.1	90%	10%
	Washington St. and SE Lake Rd .Pipe Replacements	2024	254,300	263,431	130.9	13.1	90%	10%
	Washington St. and SE Lake Rd .Pipe Replacements	2025	263,300	272,754	130.9	13.1	90%	10%
9	Winsor Dr. Pipe Replacement	2013	61,900	64,123	60.9	6.1	90%	10%
10	21st Ave. and SE Monroe St. Pipe Replacement	2016	309,700	320,820	19.0	1.9	90%	10%
11	Hemlock St. to Harmony Rd. Pipe Replacement	2017	172,900	179,108	116.0	11.6	90%	10%
	Hemlock St. to Harmony Rd. Pipe Replacement	2018	224,300	232,354	116.0	11.6	90%	10%
12	Lump Sum Water Quality Facility	2019	313,900	325,171			90%	10%
	Lump Sum Water Quality Facility	2020	313,900	325,171			90%	10%
13	Fumberg St. Pipe Replacement (Basin# MSA90)	2021	248,300	257,216	87.2	13.2	85%	15%
	Fumberg St. Pipe Replacement (Basin# MSA90)	2022	191,200	198,065	87.2	13.2	85%	15%
14	18th Ave. Pipe Replacement	2023	365,400	378,520	28.8	2.9	90%	10%
15	SE Milport Rd. Pipe Replacement	2024	133,000	137,776	35.2	3.5	90%	10%
TOTAL			\$ 9,913,500	\$ 10,269,460			\$ 9,083,235	\$ 1,186,224
Percentage Shares			96.53%	100.00%			88.45%	11.55%

Stormwater: Fee Calculations

Allocation of System Capacity

Existing Customer Base (ESU)	13,986
Projected Growth (ESUs)	<u>1,564</u>
Maximum Customer Base (ESU)	15,550

Fee Calculations

Stormwater Utility Reimbursement Fee	\$ 267
Stormwater Utility Improvement Fee	<u>\$ 759</u>
SDC Subtotal	\$ 1,025
Administrative Fee 7.66%	<u>\$ 79</u>

Total System Development Charge per E.S.U.: \$ 1,104

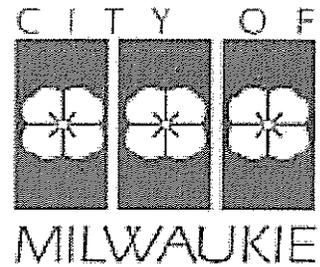
Existing Charge = \$473



Water & Stormwater SDC Study

City of
Milwaukie, Oregon

April 2006



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City of Milwaukie

Water & Stormwater System Development Charge Study

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I. Introduction / Background

In June of 2005, the City of Milwaukie contracted with Financial Consulting Solutions Group, Inc. (FCS GROUP) to perform a System Development Charge (SDC) update for the City's water, sanitary sewer, and stormwater. Due to uncertainty about the future of sanitary sewer treatment service provision, the sanitary sewer analysis was tabled.

A. Background

Buffering the City of Portland, Milwaukie is located in Clackamas County and home to over 20,000 residents. The City experienced 9.6 percent growth from 1990 to 2000, and continues to experience moderate to low growth at or below 1 percent per year.

The City of Milwaukie initially adopted system development charges for each of the five eligible services between 1990 and 1993. Since that time, the City has updated its water and stormwater master plans. The SDC update was performed to incorporate this new information.

B. Scope of Services

The following task plan was developed to meet the City's known objectives for the study.

1. ***Data Analysis and Validation*** – Consultants will gather and analyze data provided by staff, to include the most recent capital improvement plan for the water utility. [We have the most recent plan for stormwater.] Consultants will review recently completed master plans both all utilities.
2. ***Update Fee Cost Bases*** – Determine recently completed eligible capital projects for inclusion in the reimbursement fees for each service. Allocate planned project costs to growth for inclusion in the improvement fees for each service.
3. ***Review with City Staff*** – Consultants will meet with City staff on the same day as either of the meetings described in Task 5 to review preliminary findings and obtain needed input.
4. ***Calculate new SDCs incorporating new capital plans.*** Update SDC schedules for the stormwater and water utilities.
5. ***Presentation*** – Consultants will prepare for and present findings at one Citizen Utility Advisory Board meeting and one City Council meeting. Materials will be provided in advance of the meetings.

II. System Development Charge Methodology

A system development charge is a one-time fee imposed on new development or some types of re-development at the time of development. The fee is intended to recover a fair share of the costs of existing and planned facilities that provide capacity to serve growth.

Oregon Revised Statute 223.297 - 223.314 defines SDCs and specifies how they shall be calculated, applied, and accounted for. By statute, an SDC is the sum of two components:

- A **reimbursement fee**, designed to recover costs associated with capital improvements *already constructed or under construction*, and
- An **improvement fee**, designed to recover costs associated with capital improvements *to be constructed in the future*.

The reimbursement fee methodology must be based on “the value of unused capacity available to future system users or the cost of the existing facilities”, and must further consider “prior contributions by existing users.” For this reason, all past contributions, including grants and developer-donated facilities, are deducted from the reimbursement fee cost basis. These costs were not incurred by the ratepayers, so no “reimbursement” is needed. The statute further specifies that the “methodology shall promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities.” For this reason, we also deduct outstanding debt to be paid by rates. In general, this practice ensures that new customers will only be charged once, in rates, for debt-financed facilities. Reimbursement fee proceeds may be spent on any capital improvements related to the systems for which the SDC applied. Water SDCs must be spent on water improvements, stormwater SDCs must be spent on stormwater improvements, etc.

The improvement fee methodology must include only the cost of projected capital improvements needed to increase system capacity. In other words, the cost(s) of planned projects that correct existing deficiencies, or do not otherwise increase capacity, may not be included in the improvement fee calculation. Improvement fee proceeds may be spent only on capital improvements, or portions thereof, which increase the capacity of the systems for which they were applied.

In general, the proposed SDCs were calculated by adding the reimbursement fee to the improvement fee. Under the approach taken, each separate component was calculated by dividing the eligible cost by the appropriate measure of growth in capacity demand. The unit of capacity used became the basis of the charge. A sample calculation method is shown below.

Reimbursement Fee	+	Improvement Fee	=	SDC
Eligible cost of unused capacity in existing facilities		Eligible cost of planned capacity-increasing capital improvements		SDC (\$ / unit)
Growth in system capacity demand		Growth in system capacity demand		

The improvement fee calculations for each service were complicated by the fact that the source planning documents used different population projections as the bases for their recommendations. While this may lead to questions about the consistency of planning assumptions over time, it does not necessarily create internal inconsistencies in the fee calculations. As long as the planning

horizon used to develop the capital needs (the numerator) and the planning horizon used to estimate the growth in system capacity (the denominator) are the same, the fee is internally consistent. Care has been taken to ensure that this is the case for each service.

Oregon law (ORS 223.304) allows for the periodic indexing of system development charges for inflation, as long as the index used is

- “(A) A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property or a combination of the three;
- (B) Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and
- (C) Incorporated as part of the established methodology or identified and adopted in a separate ordinance, resolution or order.”

We recommend that the City of Milwaukie index its charges to the **Engineering News Record (ENR) Construction Cost Index (CCI)** for the City of Seattle, and adjust the charges annually as per that index. There is no comparable index for the Portland area.

III. Water

It is the City's practice is to charge new water connections an SDC of \$1,095 per meter equivalent based on a 5/8 x 3/4 inch meter¹ - a reimbursement fee of \$476, an improvement fee of \$440, and an administrative charge of \$25.

The calculation of the proposed SDC is summarized below and provided in detail in Appendix A.

A. Capacity Basis

The City has a current water demand of 2.19 million gallons per day. This demand is projected to increase to 3.9 million at buildout. We have assumed that the current customer base, as expressed in meter equivalents (MEs), will grow proportionally.

Applying this approach, the utility currently serves a customer base of 9,111 water meter equivalents. At buildout, it is assumed that 16,225 MEs will be served, representing growth of 7,114 MEs.

**Table III-1
 Water SDC Capacity Basis**

	Current Utilization			Projected Growth			Utilization at Buildout		
	Number of Meters	Meter Flow Factor	Meter Equivalents	Number of Meters	Meter Flow Factor	Meter Equivalents	Number of Meters	Meter Flow Factor	Meter Equivalents
5/8" x 3/4"	5,981	1.0	5,981	4,670	1.0	4,670	10,652	1.0	10,652
1"	253	2.5	632	197	2.5	493	450	2.5	1,125
1 1/2"	89	5.0	443	69	5.0	345	158	5.0	789
2"	151	8.0	1,208	118	8.0	943	269	8.0	2,152
3"	16	16.0	258	13	16.0	201	29	16.0	459
4"	17	25.0	428	13	25.0	334	30	25.0	762
6"	1	50.0	50	1	50.0	39	2	50.0	90
Standby Fire Meter	111	1.0	111	86	1.0	86	107	1.0	107
Deduct or No Meter	-	0.0	-	-	0.0	-	-	0.0	-
Totals	6,619		9,111	5,168		7,114	11,787		16,225

Current Utilization: 2,190,000 gallons per day
 Utilization at Buildout: 3,900,000 gallons per day

B. Reimbursement Fee Calculation

In order to estimate the cost of unused capacity in the existing water system, the numerator in the reimbursement fee calculation, and calculate the fee, the following approach was taken.

- Using current plant-in-service asset records provided by the City, the original cost of utility plant-in-service -- land, building and improvements, machinery and equipment, utility plant and systems, transmission and distribution mains, etc. -- was compiled and adjusted as follows:
 - The original cost of the water plant-in-service totals \$12,764,645;
 - Past contributions in aid of construction, \$1,962,427, were deducted;
 - Net utility debt principal outstanding was deducted. As of 2005, \$565,000 in outstanding debt principal remained.

¹ One meter equivalent is equal to the flow capacity of a 5/8 x 3/4 inch meter.

- Using the previous (2003) work of Murray, Smith and Associates, the project team evaluated each functional component of the water system for available capacity to serve future development. Transmission, pump stations, other miscellaneous assets, and recently completed projects were all assumed to have capacity available to serve buildout, or 44%. No unused capacity was assumed in storage or source of supply.
- The sum of the costs of unused capacity for each functional component less a proportionate share of contributions, or \$3,501,960, became the reimbursement fee cost basis.
- Dividing the reimbursement fee cost basis by the 7,114 MEs of growth projected to buildout, the calculated reimbursement fee equated to \$492 per ME.

C. Improvement Fee Calculation

The following approach was taken to determine the cost of capacity-increasing capital improvements, the numerator in the improvement fee calculation, and calculate the fee.

- The project team updated a comprehensive project list compiled in 2003 using the Water System Master Plan. The sum of this list of project costs, adjusted to current dollars, was \$7,331,600.
- Using the 2003 work of MSA, the project team then allocated the capital improvement list between existing needs and capacity-increasing for growth, based on the type and use of the each project. The sum of capacity-increasing (for growth) project costs was \$2,912,500.
- Finally, the capital projects list was reduced to reflect any known future grants and anticipated developer constructed facilities. No such reductions were applicable for the water utility.
- Dividing the improvement fee cost basis of \$2,912,500 by the 7,114 MEs of growth projected to buildout resulted in an improvement fee of \$409 per ME.

D. Recommended System Development Charge

The recommended water SDC is the sum of the reimbursement fee and the improvement fee, adjusted by an administrative cost recovery factor of 7.66%. The administrative cost recovery factor was derived by dividing annual SDC program accounting and administrative costs, including the amortized cost of this and other recent SDC studies, by forecasted annual SDC revenues for all services. The resulting recommended SDC is provided in Table III-2 below.

Table III-2
Recommended Water SDC

Water Utility Reimbursement Fee		\$	492
Water Utility Improvement Fee		\$	409
SDC Subtotal		\$	902
Administrative Fee	7.66%	\$	69
Total System Development Charge per M.E.:		\$	971

The charges would be applied as follows, by meter size.

**Table III-3
 Applied Water SDC**

Meter Size	Meter Flow Factor *	TOTAL
5/8" x 3/4"	1.00	\$ 971
3/4" x 3/4"	1.50	1,456
1"	2.50	2,427
1.5"	5.00	4,853
2"	8.00	7,765
3"	16.00	15,531
4"	25.00	24,267
6"	50.00	48,534
8"	80.00	77,655
10"	115.00	111,629
12"	225.00	210,405

* Assumes a base meter of 5/8 x 3/4

IV. Stormwater

The City currently charges a Stormwater SDC of \$473 per equivalent surface unit (ESU²) of impervious surface area. Impervious surface area is an accepted and defensible measure of contribution of runoff and associated use of the stormwater system. The proposed charge was also calculated using impervious surface area as the basis for recovery.

The calculation of the proposed SDC is summarized below and provided in detail in Appendix A.

A. Capacity Basis

The City currently serves 13,986 equivalent surface units, and is expected to serve 15,550 ESUs at buildout – as projected in the March 2005 Surface Water Master Plan Update. This represents growth of 1,564 ESUs to buildout.

A summary of this customer information is provided in Table IV-1 below.

**Table IV-1
Stormwater SDC Capacity Basis**

Description	Number
Existing Customer Base (ESUs)	13,986
Projected Growth to Buildout (ESUs)	1,564
Total Customer Base at Buildout (ESUs)	15,550

B. Reimbursement Fee Calculation

In order to estimate the cost of unused capacity in the existing stormwater system, the numerator in the reimbursement fee calculation, and calculate the fee, the following approach was taken.

- Using current plant-in-service asset records provided by the City, the original cost of utility plant-in-service was compiled and adjusted as follows:
 - The original cost of the stormwater plant-in-service totaled \$6,073,230;
 - Past contributions in aid of construction, \$1,923,984, were deducted;
 - There was no outstanding debt, which would otherwise be a deduction against the cost basis, for the stormwater utility.
- It was assumed that the existing stormwater system has unused capacity available to meet the needs of growth to buildout, or 10.06%. A proportionate share of eligible existing system costs was assumed to represent unused capacity. The resulting total of \$417,221 was the reimbursement fee cost basis.
- Dividing the reimbursement fee cost basis by the 1,564 ESUs of growth projected to buildout yielded a reimbursement fee of \$267 per ESU.

² One ESU is equal to 2,706 square feet of impervious surface area.

C. Improvement Fee Calculation

The following approach was taken to determine the cost of capacity-increasing capital improvements, the numerator in the improvement fee calculation, and calculate the fee.

- Using the list originally compiled by City staff and URS Corporation as part of the 2005 Master Plan Update, and the current input of City staff, the project team updated the stormwater project list to account for completed projects and cost changes. This total was \$10,269,460.
- There was no grant funding or expected contributions-in-aid-of construction to be deducted from the gross improvement fee cost basis. Next, using information developed for the 2005 study, City staff and the consultant team identified the growth-related portion of each project, by projecting the area to be developed within the area to be served by each project. The result, \$1,186,224, was the improvement fee cost basis.
- The improvement fee was then calculated as the improvement fee cost basis divided by forecasted growth in ESUs (1,564). The resulting improvement fee was \$759 per ESU.

D. Recommended System Development Charge

The recommended stormwater SDC is the sum of the reimbursement fee and the improvement fee, adjusted by an administrative cost recovery factor of 7.66%. The administrative cost recovery factor was derived by dividing annual SDC program accounting and administrative costs, including the amortized cost of this study, by forecasted annual SDC revenues for all services. The resulting recommended SDC is provided in Table IV-2 below.

**Table IV-2
 Recommended Stormwater SDC**

Stormwater Utility Reimbursement Fee		\$	267
Stormwater Utility Improvement Fee		\$	759
SDC Subtotal		\$	1,025
Administrative Fee	7.66%	\$	79
Total System Development Charge per E.S.U.:		\$	1,104

V. Conclusion

The City of Milwaukie proposed system development charges, to be paid by new development at permitting, are shown in Table V-1 below:

**Table V-1
Proposed SDCs**

Service	Existing SDC	Proposed SDC	Basis
Water	\$1,095.00	\$971.00	per Meter Equivalent
Stormwater	\$473.00	\$1,104.00	per Equivalent Surface Unit

Appendix A
Technical Analysis



City of Milwaukee
Water System Development Fee Analysis
SDC Calculation

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"Universal" System Development Charge - applied to all customers regardless of class

Allocation of System Capacity

Existing Customer Base (MEs)	9,111
Maximum Customer Base (MEs)	<u>16,225</u>
Growth's Share as Percentage of Buildout	<u>44%</u>

Allocation of System Assets (1)

	Original Cost	% Unused Capacity	Unused Capacity
Storage	\$ 2,004,975	0%	\$ -
Transmission	8,301,388	44%	3,639,839
Pump Station	108,182	44%	86,896
Source	800,881	0%	-
Other	284,657	44%	124,811
Recently Completed Projects	1,174,562	44%	515,000
Total	\$ 12,764,645	34%	\$ 4,366,546

Non-Allocable Costs

	Original Cost	% Unused Capacity	Unused Capacity
Outstanding Debt Principal (2)	\$ 565,000	34%	\$ 193,276
Cash to be Net out of Debt Principal (3)	-	34%	\$ -
Contributions in aid of Construction (4)	1,962,427	34%	\$ 671,310
	\$ 2,527,427		\$ 864,585

Allocation of Existing Plant in Service

Cost of Available System Assets	\$ 4,366,546
less: Non-Allocable Costs	<u>(864,585)</u>

Net Existing Plant-in-Service Allocable to Growth **\$ 3,501,960**

Allocation of Capital Improvement Program

Capital Improvement Program	\$ 7,331,577
less: Improvements Allocable to Existing Customers	(4,419,104)
less: Expected Developer CIAC	-
less: Grants	-

Net Capital Improvement Costs Allocable to Growth **\$ 2,912,472**

Water Utility Reimbursement Fee	\$ 492
Water Utility Improvement Fee	\$ 409
SDC Subtotal	\$ 902
Administrative Fee	\$ 69

Total System Development Charge per M.E.: **\$ 971**

(1) Fixed Asset Schedule provided by the City.
(2) Outstanding debt principal as of the fiscal year ending June 30, 2005
(3) Cash from June 30, 2005 CAFR p. 8
(4) Contributed Capital from June 30, 2001 CAFR p. 34

"Universal" Water SDC by Meter Size

base meter size: 1

GFC to be charged to all customers regardless of class

1 = 5/8 x 3/4

2 = 3/4 x 3/4

Meter Size	Meter Flow Factor *	TOTAL
5/8" x 3/4"	1.00	\$ 971
3/4" x 3/4"	1.50	1,456
1"	2.50	2,427
1.5"	5.00	4,853
2"	8.00	7,765
3"	16.00	15,531
4"	25.00	24,267
6"	50.00	48,534
8"	80.00	77,655
10"	115.00	111,629
12"	225.00	218,405

* Assumes a base meter of 5/8 x 3/4



City of Milwaukee
Water System Development Fee Analysis
Customer Base

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WATER

	Current Utilization			Projected Growth			Utilization at Buildout		
	Number of Meters	Meter Flow Factor	Meter Equivalents	Number of Meters	Meter Flow Factor	Meter Equivalents	Number of Meters	Meter Flow Factor	Meter Equivalents
1 5/8" x 3/4"	5,981	1.0	5,981	4,670	1.0	4,670	10,652	1.0	10,652
2 1"	253	2.5	632	197	2.5	493	450	2.5	1,125
3 1 1/2"	89	5.0	443	69	5.0	346	158	5.0	739
4 2"	151	8.0	1,208	118	8.0	943	269	8.0	2,152
5 3"	16	16.0	258	13	16.0	201	29	16.0	459
6 4"	17	25.0	428	13	25.0	334	30	25.0	752
7 6"	1	50.0	50	1	50.0	39	2	50.0	30
8 Standby Fire Meter	111	1.0	111	86	1.0	86	197	1.0	197
9 Deduct or No Meter	-	0.0	-	-	0.0	-	-	0.0	-
Totals	6,619		9,111	5,168		7,114	11,787		16,225

2,190,000	gallons per day
3,900,000	gallons per day

Current Utilization:
 Utilization at Buildout:



City of Milwaukee
Water System Development Fee Analysis
Customer Statistics

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Annual Growth Rate 0.34%
 Two Years of Cumulative Growth 0.68%

Existing System Capacity (1) 2,190,000 gallons per day MFEs 9,111
 Buildout Demand (1) 3,900,000 gallons per day 16,225

(1) per MSA

Customer Data as of 2003						2005
Meter Count Billing 1	Meter Count Billing 2	Total Meter Count	Meter Flow Factor	Meter Flow Equivalents	Meter Equivalents	
00 No meter	9	9	18	0.0	0	0
01 5/8"	2	13	15	1.0	15	15
02 5/8" x 3/4"	2,890	2,955	5,845	1.0	5,845	5,885
03 1"	194	57	251	2.5	628	632
04 1 1/2"	69	19	88	5.0	440	443
05 2"	124	26	150	8.0	1,200	1,208
06 3"	12	1	13	15.0	208	209
07 4"		2	2	25.0	50	50
08 6"		1	1	50.0	50	50
20 Low Income Rate	80	1	81	1.0	81	82
30 Deduct Meter	25	92	117	0.0	0	0
40 Accumulated 4" Cons	5	10	15	25.0	375	378
50 Dual Meter - No Charge	7	1	8	0.0	0	0
60 Accumulated 3" Cons	2	1	3	16.0	48	48
502 2" Standby (4)	6	1	7	1.0	7	7
504 4" Standby (4)	24	7	31	1.0	31	31
506 6" Standby (4)	27	4	31	1.0	31	31
508 8" Standby (4)	20	8	28	1.0	28	28
510 10" Standby (4)	10		10	1.0	10	10
512 12" Standby (4)	2	1	3	1.0	3	3
	3508	3209	6717		9,050	9,111

(3) Customer Data provided by the City

(4) Standby Meters are assumed to be equivalent to one 5/8" x 3/4" meter



City of Milwaukee
Water System Development Fee Analysis
Outstanding Debt Service

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		Outstanding Debt Principal	Interest Rate	Interest	Principal	Total Debt Service	Remaining Principal
15-Oct-97	1997	\$ 1,235,000.00	3.75%	\$ 30,352.50		\$ 30,352.50	\$ 1,235,000.00
15-Apr-98	1998	1,235,000.00	3.75%	30,352.50	70,000.00	100,352.50	1,165,000.00
15-Oct-98		1,165,000.00	4.00%	29,040.00		29,040.00	1,165,000.00
15-Apr-99	1999	1,165,000.00	4.00%	29,040.00	75,000.00	104,040.00	1,090,000.00
15-Oct-99		1,090,000.00	4.25%	27,540.00		27,540.00	1,090,000.00
15-Apr-00	2000	1,090,000.00	4.25%	27,540.00	80,000.00	107,540.00	1,010,000.00
15-Oct-00		1,010,000.00	4.50%	25,840.00		25,840.00	1,010,000.00
15-Apr-01	2001	1,010,000.00	4.50%	25,840.00	80,000.00	105,840.00	930,000.00
15-Oct-01		930,000.00	4.70%	24,040.00		24,040.00	930,000.00
15-Apr-02	2002	930,000.00	4.70%	24,040.00	85,000.00	109,040.00	845,000.00
15-Oct-02		845,000.00	4.80%	22,042.50		22,042.50	845,000.00
15-Apr-03	2003	845,000.00	4.80%	22,042.50	90,000.00	112,042.50	755,000.00
15-Oct-03		755,000.00	4.90%	19,882.50		19,882.50	755,000.00
15-Apr-04	2004	755,000.00	4.90%	19,882.50	95,000.00	114,882.50	660,000.00
15-Oct-04		660,000.00	5.00%	17,555.00		17,555.00	660,000.00
15-Apr-05	2005	660,000.00	5.00%	17,555.00	95,000.00	112,555.00	565,000.00
15-Oct-05		565,000.00	5.10%	15,180.00		15,180.00	565,000.00
15-Apr-06	2006	565,000.00	5.10%	15,180.00	100,000.00	115,180.00	465,000.00
15-Oct-06		465,000.00	5.50%	12,630.00		12,630.00	465,000.00
15-Apr-07	2007	465,000.00	5.50%	12,630.00	105,000.00	117,630.00	360,000.00
15-Oct-07		360,000.00	5.50%	9,900.00		9,900.00	360,000.00
15-Apr-08	2008	360,000.00	5.50%	9,900.00	115,000.00	124,900.00	245,000.00
15-Oct-08		245,000.00	5.50%	6,737.50		6,737.50	245,000.00
15-Apr-09	2009	245,000.00	5.50%	6,737.50	120,000.00	126,737.50	125,000.00
15-Oct-09		125,000.00	5.50%	3,437.50		3,437.50	125,000.00
15-Apr-10	2010	125,000.00	5.50%	3,437.50	125,000.00	128,437.50	

\$ 488,355.00 \$ 1,235,000.00 \$ 1,723,355.00

Current Year:	Total Outstanding Principal
2005	\$ 565,000



City of Milwaukee
Water System Development Fee Analysis
System Assets
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Useful Life 50
 Current Year 2005
 Annual Inflation 3%

Mains	Date	Original Cost	Depreciated Value	Replacement less Depreciation
Underground Water Lines	1930 1/1/1930	68,599.00	- \$	-
Underground Water Lines	1934 1/1/1934	5,250.00	- \$	-
Underground Water Lines	1936 1/1/1936	7,357.00	- \$	-
Underground Water Lines	1937 1/1/1937	12,498.00	- \$	-
Underground Water Lines	1940 1/1/1940	8,550.00	- \$	-
Underground Water Lines	1950 1/1/1950	86,073.00	- \$	-
Underground Water Lines	1952 1/1/1952	63,949.00	- \$	-
Underground Water Lines	1953 1/1/1953	21,253.00	- \$	-
Underground Water Lines	1953 1/1/1953	276,343.00	- \$	-
Underground Water Lines	1955 1/1/1955	43,632.00	- \$	-
Underground Water Lines	1956 1/1/1956	20,506.00	410.12 \$	1,745.56
Underground Water Lines	1957 1/1/1957	26,694.00	1,067.76 \$	4,412.25
Underground Water Lines	1958 1/1/1958	56,003.00	3,360.18 \$	13,480.69
Underground Water Lines	1959 1/1/1959	93,671.00	7,186.68 \$	29,157.05
Underground Water Lines	1960 1/1/1960	48,905.00	4,890.50 \$	18,493.89
Underground Water Lines	1961 1/1/1961	25,354.00	3,042.48 \$	11,170.32
Underground Water Lines	1962 1/1/1962	142,967.00	20,015.38 \$	71,345.16
Underground Water Lines	1964 1/1/1964	46,576.00	8,383.68 \$	28,168.32
Underground Water Lines	1965 1/1/1965	84,871.00	16,974.20 \$	55,370.48
Underground Water Lines	1966 1/1/1966	111,023.00	24,425.06 \$	77,354.82
Underground Water Lines	1967 1/1/1967	139,794.00	33,550.56 \$	103,160.71
Underground Water Lines	1968 1/1/1968	23,655.00	6,150.30 \$	18,360.04
Underground Water Lines	1969 1/1/1969	676,099.00	189,559.72 \$	510,396.83
Underground Water Lines	1970 1/1/1970	814,581.00	244,374.30 \$	687,635.67
Underground Water Lines	1972 1/1/1972	10,512.00	3,574.08 \$	9,479.66
Underground Water Lines	1973 1/1/1973	16,896.00	6,082.56 \$	15,663.10
Underground Water Lines	1974 1/1/1974	44,127.00	16,768.26 \$	41,922.00
Underground Water Lines	1975 1/1/1975	293,402.00	117,360.80 \$	284,865.47
Underground Water Lines	1976 1/1/1976	38,122.00	16,011.24 \$	37,731.54
Underground Water Lines	1977 1/1/1977	55,820.00	24,560.80 \$	56,193.33
Underground Water Lines	1978 1/1/1978	77,861.00	35,816.06 \$	79,557.82
Underground Water Lines	1979 1/1/1979	222,225.00	106,668.00 \$	230,030.28
Underground Water Lines	1980 1/1/1980	123,439.00	61,719.50 \$	129,226.93
Underground Water Lines	1981 1/1/1981	114,107.00	59,335.64 \$	120,617.14
Underground Water Lines	1982 1/1/1982	157,871.00	85,250.34 \$	168,248.92
Underground Water Lines	1983 1/1/1983	327,559.00	183,433.04 \$	351,476.67
Underground Water Lines	1984 1/1/1984	180,781.00	104,852.98 \$	195,057.43
Underground Water Lines	1985 1/1/1985	87,009.00	52,205.40 \$	94,288.76
Underground Water Lines	1986 1/1/1986	171,977.00	106,625.74 \$	186,968.88
Underground Water Lines	1988 1/1/1988	8,384.00	5,533.44 \$	9,145.93
Underground Water Lines	1989 1/1/1989	106,889.00	72,684.52 \$	116,837.32
Underground Water Lines	1990 1/1/1990	117,990.00	82,593.00 \$	128,677.20
Underground Water Lines	1991 1/1/1991	102,131.00	73,534.32 \$	111,227.26
Underground Water Lines	1992 1/1/1992	125,163.00	92,620.62 \$	136,016.50
Underground Water Lines	1993 1/1/1993	39,722.00	30,188.72 \$	43,041.90
Underground Water Lines	1994 1/1/1994	154,693.00	120,660.54 \$	167,022.41
Underground Water Lines	1998 1/1/1998	353,813.21	304,279.36 \$	374,225.23
Underground Water Lines	1999 1/1/1999	358,948.58	315,874.75 \$	377,170.97
Underground Water Lines	1996 1/1/1996	141,068.65	115,676.29 \$	150,931.33
Underground Water Lines	1997 1/1/1997	79,128.00	66,167.52 \$	84,199.07
Underground Water Lines	1998 1/1/1998	235,993.05	203,814.02 \$	250,665.54
Underground Water Lines	1999 1/1/1999	398,469.00	350,652.72 \$	418,697.69
Underground Water Lines	2000 1/1/2000	327,306.65	294,575.99 \$	341,494.30
Underground Water Lines	2001 1/1/2001	446,090.92	410,403.65 \$	461,912.92
Underground Water Lines	2002 1/1/2002	172,103.98	161,777.74 \$	176,778.91
Total Mains		7,995,605.04		7,018,433.17
Other Projects				
Concrete Liner for Water Reservoir #1	1996 2/2/1996	77,600.00	63,632.00 \$	83,025.33
Upgrade Water Reservoir #3	1995 11/28/1995	207,056.57	165,645.26 \$	222,613.37

Total Other Projects	284,656.57		305,638.70
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Wells

Well #2	1936	7,100.00	-	\$	-
Well #3	1946	11,900.00	-	\$	-
Well #4	1960	28,200.00	2,820.00	\$	10,664.10
Well #5	1963	30,900.00	4,944.00	\$	17,109.68
Well #6	1980	459,332.00	229,666.00	\$	480,869.60
Well #7	1982	131,143.96	70,817.74	\$	139,764.93
Well #8	1985	132,305.00	79,383.00	\$	143,374.53

Total Wells	800,880.96		791,782.84
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Storage

1.5 Mill Gal Concrete Reservoir	1948	89,006.00	-	\$	-
1.5 Mill Gal Elevated Tank	1962	320,684.00	44,895.76	\$	160,031.69
3 Mill Gal Steel Reservoir	1979	392,047.00	188,182.56	\$	405,832.87

Total Storage	801,737.00		565,864.56
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Pump Stations

Lava Dr. Pump Station	1977	26,914.12	11,842.21	\$	27,094.13
Standby 3rd Pressure Pump Station	1992	171,268.10	126,738.39	\$	186,119.60

Total Pump Stations	198,182.22		213,213.73
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System Intertie

Clackamas River Harmony Rd.	1998	133,352.00	114,682.72	\$	141,045.28
Portland Johnson Cr. Blv & Brookside	2001	172,431.00	158,636.52	\$	178,546.80

Total System Interties	305,783.00		319,592.08
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Pack Tower

Wells 2,3,5 40th & Harvey	1991	541,498.00	389,878.56	\$	589,726.30
Wells 4.7 Monroe & Oak	1991	661,740.00	476,452.80	\$	720,677.61

Total Pack Tower	1,203,238.00		1,310,403.91
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Projects Completed from the Previous CIP

Sand Filter - Wells 5 & 7	2005	-	-	\$	-
Seismic Upgrade of Elevated Tank	2005	287,505.00	287,505.00	\$	287,505.00
Logus Rd. (43rd to Stanley)	2005	289,740.00	289,740.00	\$	289,740.00
Lake Rd. Phase 1	2005	377,354.00	377,354.00	\$	377,354.00
Lava Drive Pump Station	2005	219,963.00	219,963.00	\$	219,963.00
Total of Completed Projects		1,174,562.00			1,174,562.00

		Original Cost		Replacement less Depreciation
Total Water Assets		\$ 12,764,645		\$ 11,699,491

Project No. Listing	Year	Project Number or Priority	Description	Capacity	Oversize Capacity	Replacing	8/00 Project Cost ¹ (\$1000's)	8/05 Project Cost ¹ (\$1000's)	8/05 Oversite Cost ² (\$1000's)	
CIP:										
A	CIP	2003-04	Harlow St. (56th to Stanley)	6-inch	0-inch	4-inch			30.0	3.0
B	CIP	2003-04	Sand Filter - Wells 5 & 7	2.3 mgd	-	new			0.0	0.0
C	CIP	2003-04	Seismic Upgrade of Elevated Tank	1.5 mg	-	-			0.0	0.0
D	CIP	2003-04	Logan Rd. (43rd to Stanley)	8-inch	2-inch	6-inch			0.0	0.0
E	CIP	2003-05	Well B Rehabilitation	0.8 mgd	-	-			172.3	3.0
F	CIP	2004-05	Lake Rd. (Main to Catfield)	12-inch	6-inch	6-inch			252.0	113.3
G	CIP	2004-05	Clatsop St. & McLoughlin Blvd.	6-inch	0-inch	4-inch			211.0	3.0
H1	CIP	2004-06	Rio Vista & Wymire	12-inch	6-inch	new			127.0	95.3
H2	CIP	2004-06	International Way	12-inch	6-inch	8-inch			220.0	165.0
I	CIP	2004-06	17th Ave. & Ohaco	6-inch	0-inch	4-inch			51.7	3.0
J	CIP	2004-06	1280 43rd Ave. (Rhodasa to King)	10-inch	4-inch	new			152.0	97.3
K	CIP	2004-06	40th Ave. & Howe St. (Harvey to 43rd)	3.0 mgd	2.8 mgd	new			132.0	123.2
L	CIP	2005-06	CRW Interline - Phase 1	6-inch	0-inch	4-inch			80.0	3.0
M	CIP	2005-06	54th Pl. & Woodhaven St.	6-inch	0-inch	4-inch			62.0	3.0
N	CIP	2005-07	38th Ave. & Drake St.	6-inch	0-inch	4-inch			87.3	3.0
O	CIP	2005-07	55th Ave. (King to Monroe)	6-inch	0-inch	4-inch			150.0	3.0
P	CIP	2005-07	37th Ave. (Hailey to King)	6-inch	0-inch	4-inch			41.2	3.0
Q	CIP	2006-08	Lewellyn St. (32nd to 34th)	6-inch	0-inch	4-inch			52.0	3.0
R	CIP	2006-08	Balfour St. (29th to 32nd)	6-inch	0-inch	4-inch			52.0	3.0
S	CIP	2006-08	Malcolm St. (23th to 32nd)	6-inch	0-inch	4-inch			52.0	3.0
T	CIP	2006-08	Olsen St. (29th to 32nd)	6-inch	0-inch	4-inch			52.0	3.0
U	CIP	2007-08	Storage Tank Design	1.5 mg	-	new			75.0	32.9
V	CIP	2003-04	Lava Drive Pump Station	125 gpm	0 gpm	125 gpm			0.0	0.0
W	CIP	2003-04	SDC Study	-	-	-			30.0	3.0
X	CIP	2003-04	Operations Building	-	-	-			40.0	17.5
Y	CIP	2003-04	Well No 8	-	-	-			349.0	163.0
Z	MP	2001-02	Storage Tank	-	-	-			3,000.0	1,315.4
AA	MP	2006-11	CDBG - King Rd / 37th Ave / Oak St / RR Ave	3.0 mgd	2.8 mgd	new	201.4	238.1	223.3	
				3.0 mgd	1.1 mgd	new	185.0	218.3	95.9	
			Subtotal, Interlines				386.4	456.3	318.2	
			MP Interlines:							
DD	MP	2003-04	P006 - Check from 17th to McLoughlin	12-inch	6-inch	new	49.3	58.3	25.6	
EE	MP	2003-05	P007 - Shell, Guilford and Oakfield from Lake	12-inch	12-inch	10-inch	299.3	353.9	155.2	
FF	MP	2004-05	P008 - Intersection of 43th and Howe	8-inch	8-inch	new	1.9	2.1	2.2	
GG	MP	2004-05	P009 - Intersection of 44th and Howe	8-inch	8-inch	new	1.1	1.3	1.3	
HH	MP	2004-05	P011 - Intersections of 38th/Harvey and 37th/Harvey	8-inch	8-inch	new	1.5	1.3	1.8	
II	MP	2004-05	P013 - Intersection of Howe and 42nd	12-inch	12-inch	8-inch	1.1	1.3	1.3	
JJ	MP	2004-05	P014 - 42nd from Howe to Olsen	10-inch	10-inch	8-inch	65.3	77.2	77.2	
KK	MP	2004-05	P015 - Intersection of 42nd and Coveall	12-inch	12-inch	new	1.1	1.3	1.3	
LL	MP	2007-11	Small Diameter Pipeline Replacements, less CIP	6-inch	0-inch	4-inch	446.2	527.5	3.0	
			Subtotal, Pipelines				866.8	1,025.0	265.9	
			MP Miscellaneous:							
MM	MP	2006-11	Master Plan Update	-	-	-	70.0	82.3	35.3	
			Subtotal, Miscellaneous				70.0	82.3	35.3	
			TOTAL, CIP AND MASTER PLAN CAPITAL IMPROVEMENT PROJECTS				1,323.2	7,331.3	2,912.5	

Footnotes:

1. MP = 2001 Master Plan, CIP = 2006-2011 Capital Improvement Plan, January 2006.
2. All pipes over 6 inches are assumed to be oversized for growth.
3. September 2000 project costs from City of Milwaukee Water System Master Plan (Seattle ENRCCI of 7153)
4. Current Estimates or Derived from Seattle ENR CCI ratio of September 2000 (7153) to December 2005 (645655).
5. Oversize costs are based on prorated oversize capacities listed, or minimum allocation of future water demand (3.9 mgd) compared to current water demand (2.5 mgd).
6. Piped for current and future fire flow. Oversize allocation based on future water demand (9.9 mgd) compared to current water demand (2.5 mgd).
7. Piped required only to accommodate growth. Oversize allocation is 100% of the project cost.



City of Milwaukie
System Development Fee Analysis
Administrative Costs

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Net Annual Administrative Cost Related to SDCs

Annual Administration Cost	
Engineering/Public Works (1)	\$ 4,985
Finance (1)	<u>277</u>
 Total Administrative Cost	 \$ 5,262
 Cost of SDC Analysis Over 5 Years (2)	 <u>\$ 6,000</u>
 Net Annual SDC Administrative Cost:	 \$ 11,262

Estimated Annual Proposed SDC Revenues before Admin. Costs

Water (based on calculated charges)	\$ 47,514
Sewer (based on existing charge)	<u>\$ 49,437</u>
Storm Sewer (based on calculated charges)	<u>\$ 50,108</u>
 Total Annual Estimated Revenue	 \$ 147,059

Administration Charge Factor

7.66%

(Net Admin Cost / Annual Estimated Revenue)

- (1) Staff estimate based on 144 engineering hours @ \$ 34.62 / hour
8 finance hours @ \$ 34.62 / hour
- (2) Study cost: \$ 30,000



City of Milwaukee
Storm Sewer System Development Fee Analysis
SDC Calculation

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"Universal" System Development Charge - applied to all customers regardless of class

Allocation of Existing Plant In Service

Cost of Plant-in-Service	
Total Assets (1)	\$ 6,073,230
less: Contributions in aid of Construction (CIAC) (2)	<u>(1,923,984)</u>
Net Allocable Plant-in-Service	\$ 4,149,246
Existing Customer Base (ESU)	13,986
Maximum Customer Base (ESU) (3)	<u>15,550</u>
Growth's Share as Percentage of Buildout	<u>10.06%</u>
Net Existing Plant-in-Service Allocable to Growth	\$ 417,221

Allocation of Capital Improvement Program

Capital Improvement Program	\$ 10,269,460
less: Expected Developer CIAC	<u>-</u>
less: Grants	
less: Non-growth related capital	<u>(9,083,235)</u>
Net Allocable CIP Costs	\$ 1,186,224
Net Capital Improvement Costs Allocable to Growth	\$ 1,186,224

Stormwater Utility Reimbursement Fee	\$ 267
Stormwater Utility Improvement Fee	<u>\$ 759</u>
SDC Subtotal	\$ 1,025
Administrative Fee	<u>\$ 79</u>

Total System Development Charge per E.S.U.: \$ 1,104

(1) Fixed Asset Schedule provide by the City and updated for completed 2005 capital projects.

(2) Contributed Capital from June 30, 2001 CAFR p. 35

(3) Surface Water Master Plan Update, March 2005.



City of Milwaukee
Storm Sewer System Development Fee Analysis
Customer Data
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Average Annual Growth Rate ==> 0.34%

	As of 2004 Update		2005 Estimate w/ 0.34% Annual Growth Rate	
	<u>Accounts</u>	<u>Units</u>	<u>Accounts</u>	<u>Units</u>
Zone 1 (Billing Cycle)				
Storm Sewer No Charge	278	0	279	0
Storm - Res/Duplex	2931	3064	2941	3074
Storm - Low Income	80	80	80	80
Storm - Impervious (Commercial)	279	5833	279	5873
Zone 2 (Billing Cycle)				
Storm Sewer No Charge	56	0	56	0
Storm - Res/Duplex	2996	3029	3006	3039
Storm - Low Income	91	92	91	92
Storm - Impervious (Commercial)	83	1821	83	1827
Grand Total				
Storm Sewer No Charge	334	0	335	0
Storm - Res/Duplex	5927	6093	5947	6114
Storm - Low Income	171	172	172	173
Storm - Impervious (Commercial)	361	7674	362	7700
Total	6793	13939	6816	13986

Units at Build-Out (1) 15,550
 (1) Surface Water Master Plan Update, March 2005.



City of Milwaukee
Storm Sewer System Development Fee Analysis
System Assets
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Useful Life 50
 Current Year 2005
 Annual Inflation 3%

Mains	Date	Original Cost	Depreciated Value	Replacement less Depreciation
Underground Storm Lines	1949	12,922.00	-	\$ -
Underground Storm Lines	1957	11,572.00	462.88	\$ 1,912.74
Underground Storm Lines	1959	5,520.00	441.60	\$ 1,720.05
Underground Storm Lines	1960	105,310.00	10,531.00	\$ 39,823.99
Underground Storm Lines	1961	38,400.00	4,608.00	\$ 16,918.05
Underground Storm Lines	1962	6,690.00	936.60	\$ 3,338.53
Underground Storm Lines	1964	19,510.00	3,511.80	\$ 11,799.29
Underground Storm Lines	1965	31,213.00	6,242.60	\$ 20,363.60
Underground Storm Lines	1966	45,242.00	0,063.24	\$ 31,522.18
Underground Storm Lines	1967	86,623.00	20,789.52	\$ 63,923.27
Underground Storm Lines	1968	44,343.00	11,529.18	\$ 34,417.22
Underground Storm Lines	1969	21,999.00	6,159.72	\$ 17,852.58
Underground Storm Lines	1970	20,821.00	6,246.30	\$ 17,576.23
Underground Storm Lines	1971	30,024.00	9,607.68	\$ 26,247.27
Underground Storm Lines	1972	20,070.00	6,823.80	\$ 18,099.01
Underground Storm Lines	1973	21,666.00	7,799.76	\$ 20,085.03
Underground Storm Lines	1974	5,820.00	2,211.60	\$ 5,529.18
Underground Storm Lines	1975	189,153.00	75,661.20	\$ 183,649.59
Underground Storm Lines	1976	109,170.00	45,851.40	\$ 108,051.83
Underground Storm Lines	1977	177,634.00	78,158.96	\$ 178,822.05
Underground Storm Lines	1978	113,050.00	52,003.00	\$ 115,513.69
Underground Storm Lines	1979	100,089.00	48,042.72	\$ 103,608.51
Underground Storm Lines	1980	470,130.00	235,065.00	\$ 492,173.91
Underground Storm Lines	1981	32,970.00	17,144.40	\$ 34,851.04
Underground Storm Lines	1984	16,825.00	9,758.50	\$ 18,153.68
Underground Storm Lines	1985	25,714.00	15,428.40	\$ 27,865.41
Underground Storm Lines	1986	278,576.00	172,717.12	\$ 302,860.52
Underground Storm Lines	1990	111,780.00	78,246.00	\$ 121,904.72
Underground Storm Lines	1991	88,266.00	63,551.52	\$ 96,127.38
Underground Storm Lines	1992	9,747.00	7,212.78	\$ 10,592.21
Underground Storm Lines	1993	288,437.00	219,212.12	\$ 312,544.07
Underground Storm Lines	1994	230,423.00	179,729.94	\$ 248,788.27
Underground Storm Lines	1995	120,075.00	96,060.00	\$ 129,096.61
Underground Storm Lines	1998	197,363.95	169,733.00	\$ 208,750.18
Underground Storm Lines	1999	300,382.70	264,336.78	\$ 315,631.93
Underground Storm Lines	1996	265,622.75	217,810.66	\$ 284,193.51
Underground Storm Lines	1997	231,407.41	194,382.22	\$ 246,237.59
Underground Storm Lines	1998	5,560.00	4,781.60	\$ 5,880.76
Underground Storm Lines	1999	5,000.00	4,400.00	\$ 5,253.83
Underground Storm Lines	2000	5,500.00	4,950.00	\$ 5,738.41
Underground Storm Lines	2001	5,398.00	4,966.16	\$ 5,589.46
Underground Storm Lines	2002	24,000.00	22,560.00	\$ 24,651.92
Underground Storm Lines	2002	8,937.00	8,400.78	\$ 9,179.76
Total Mains		3,938,955.82		3,624,307.30

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Other Assets	Date	Original Cost	Depreciated Value	Replacement less	
				Depreciation	
General Capital Projects	2000	24,677.00	22,209.30	\$	25,746.67
Roswell Street & Storm	2001	203,853.00	187,544.76	\$	211,083.28
Brookside Storm Improvements	2002	74,693.00	70,211.42	\$	76,721.91
Vactor Truck	2003	95,437.50	91,620.00	\$	97,199.66
1/4 Standby Generator	1998	10,861.50	9,340.89	\$	11,488.12
				\$	
2 Drywells 47th and Harvey	1998	18,260.00	15,703.60	\$	19,313.45
Wells	1997	15,488.29	13,010.16	\$	16,480.89
42nd Ave Sidewalk Improvements	2001	60,181.00	55,366.52	\$	62,315.51
Roswell Street & Storm Improvement	2001	98,494.00	90,614.48	\$	101,987.40
Brookside Storm Improvements	2001	61,116.00	56,226.72	\$	63,283.67
Brookside Storm Improvements	2001	29,264.00	26,922.88	\$	30,301.94
IMS Software/GIS Systems	1996	12,318.75	10,101.38	\$	13,180.00
				\$	
Drywell	1998	16,625.00	14,297.50	\$	17,584.12
Drywell	1999	9,705.00	8,540.40	\$	10,197.68
Drywell	1999	10,294.00	9,058.72	\$	10,816.59
Drywell	2000	10,000.00	9,000.00	\$	10,433.47
Drywell	2001	10,100.00	9,292.00	\$	10,458.23
Drywell	2002	12,000.00	11,280.00	\$	12,323.90
Drywell	1989 1998-1988	160,000.00	108,800.00	\$	174,592.06
Drywell	1979 1998-1978	70,000.00	33,600.00	\$	72,461.47
Drywell	1969 1978-1968	120,000.00	33,600.00	\$	97,382.15
Drywell	1959 1968-1958	90,000.00	7,200.00	\$	28,044.31
				\$	
Roswell Street & Storm Impr.	2002	10,000.00	9,400.00	\$	10,271.63
40th and 43rd Storm Project	2002	119,905.66	112,711.32	\$	123,162.70
Total Other Assets		1,343,273.70			800,918.63
Projects Completed in 2005 & Transferred from CIP List					
Brookside Storm Improvements	2005	545,200.00	545,200.00	\$	545,200.00
Meek St. and 32nd Ave. Pipe Improvements	2005	245,800.00	245,800.00	\$	245,800.00
Total 2005 Projects		791,000.00			791,000.00
		Original Cost		Replacement less	
Total Storm Sewer Assets		\$ 6,073,230		Depreciation	\$ 5,216,226

Cost in Year:	
2004	2005
8165	8459

ENR CCI for Seattle:

Improvement Projects (Upgrades & Expansions)

Rank	Description	Year	2004 Costs	2005 Costs	Area Served	Area to be developed	% Repair & Replacement	% Upgrade	% Expansion
1	Brookside Storm Improvements	2005	\$ -	\$ -	125.0	12.5	0%	90%	10%
	Brookside Storm Improvements	2006	-	-	125.0	12.5	0%	90%	10%
	Brookside Storm Improvements	2007	293,800	304,348	125.0	12.5	0%	90%	10%
	Brookside Storm Improvements	2008	522,600	541,365	125.0	12.5	0%	90%	10%
	Brookside Storm Improvements	2009	274,300	284,148	125.0	12.5	0%	90%	10%
	Brookside Storm Improvements	2010	139,100	144,085	125.0	12.5	0%	90%	10%
2	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2005	-	-	143.6	21.9	0%	85%	15%
	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2006	245,800	254,626	143.6	21.9	0%	85%	15%
	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2007	245,800	254,626	143.6	21.9	0%	85%	15%
	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2008	243,200	251,982	143.6	21.9	0%	85%	15%
	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2009	250,300	259,287	143.6	21.9	0%	85%	15%
	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2010	240,400	249,032	143.6	21.9	0%	85%	15%
	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2011	211,100	218,680	143.6	21.9	0%	85%	15%
	Meek St. and 32nd Ave. Pipe Improvements (Basin# JCA41)	2012	174,500	180,766	143.6	21.9	0%	85%	15%
3	SE Stanley Ave. Pipe Replacement (Basin# MSA20)	2011	216,700	224,481	78.8	11.9	0%	85%	15%
	SE Stanley Ave. Pipe Replacement (Basin# MSA20)	2012	240,600	249,293	78.8	7.9	0%	85%	15%
	SE Stanley Ave. Pipe Replacement (Basin# MSA20)	2013	238,600	247,167	78.8	7.9	0%	85%	15%
	SE Stanley Ave. Pipe Replacement (Basin# MSA20)	2014	383,100	386,896	78.8	7.9	0%	85%	15%
4	Plum and Apple Storm Improvements	2013	131,100	135,807	9.6	1.0	0%	90%	10%
5	Outfall to Mt. Scott Creek	2014	345,900	358,320	42.3	4.2	0%	90%	10%
6	SE King (Pump Station)	2015	273,900	283,735	27.7	2.8	0%	90%	10%
7	SE Lake Rd. Pipe Replacement	2015	344,500	356,870	130.9	13.1	0%	90%	10%
8	Washington St. and SE Lake Rd. Pipe Replacements	2016	314,000	325,275	130.9	13.1	0%	90%	10%
	Washington St. and SE Lake Rd. Pipe Replacements	2017	251,000	260,013	130.9	13.1	0%	90%	10%
	Washington St. and SE Lake Rd. Pipe Replacements	2018	249,800	258,769	130.9	13.1	0%	90%	10%
	Washington St. and SE Lake Rd. Pipe Replacements	2019	249,800	258,769	130.9	13.1	0%	90%	10%
	Washington St. and SE Lake Rd. Pipe Replacements	2020	249,800	258,769	130.9	13.1	0%	90%	10%
	Washington St. and SE Lake Rd. Pipe Replacements	2021	249,500	258,459	130.9	13.1	0%	90%	10%
	Washington St. and SE Lake Rd. Pipe Replacements	2022	227,900	236,083	130.9	13.1	0%	90%	10%
	Washington St. and SE Lake Rd. Pipe Replacements	2023	254,300	263,431	130.9	13.1	0%	90%	10%
	Washington St. and SE Lake Rd. Pipe Replacements	2024	254,300	263,431	130.9	13.1	0%	90%	10%
	Washington St. and SE Lake Rd. Pipe Replacements	2025	263,300	272,754	130.9	13.1	0%	90%	10%
9	Whor Dr. Pipe Replacement	2013	61,900	64,123	60.9	6.1	0%	90%	10%
10	21st Ave. and SE Monroe St. Pipe Replacement	2016	309,700	320,820	19.0	1.9	0%	90%	10%
11	Hemlock St. to Harmony Rd. Pipe Replacement	2017	172,900	179,108	116.0	11.6	0%	90%	10%
	Hemlock St. to Harmony Rd. Pipe Replacement	2018	224,300	232,354	116.0	11.6	0%	90%	10%
12	Lump Sum Water Quality Facility	2019	313,900	325,171	87.2	8.7	0%	85%	15%
	Lump Sum Water Quality Facility	2020	313,900	325,171	87.2	8.7	0%	85%	15%
13	Fumberg St. Pipe Replacement (Basin# MSA90)	2021	248,300	257,216	87.2	8.7	0%	85%	15%
	Fumberg St. Pipe Replacement (Basin# MSA90)	2022	191,200	198,065	28.8	2.9	0%	90%	10%
14	18th Ave. Pipe Replacement	2023	365,400	378,520	28.8	2.9	0%	90%	10%
15	SE Milport Rd. Pipe Replacement	2024	133,000	137,776	35.2	3.5	0%	90%	10%
TOTAL			\$ 9,913,500	\$ 10,269,460			\$ 0.00%	\$ 9,083,236	\$ 1,186,224
Percentage Shares			\$6.53%	100.00%				88.45%	11.55%



City of Milwaukie
System Development Fee Analysis
Administrative Costs

DRAFT

Net Annual Administrative Cost Related to SDCs

Annual Administration Cost	
Engineering/Public Works (1)	\$ 4,985
Finance (1)	<u>277</u>
 Total Administrative Cost	 \$ 5,262
 Cost of SDC Analysis Over 5 Years (2)	 <u>\$ 0,000</u>
 Net Annual SDC Administrative Cost:	 \$ 11,262

Estimated Annual Proposed SDC Revenues before Admin. Costs

Water (based on calculated charges)	\$ 47,514
Sewer (based on existing charge)	\$ 49,437
Storm Sewer (based on calculated charges)	<u>\$ 50,108</u>
 Total Annual Estimated Revenue	 \$ 147,059

Administration Charge Factor

7.66%

(Net Admin Cost / Annual Estimated Revenue)

- (1) Staff estimate based on 144 engineering hours @ \$ 34.62 / hour
8 finance hours @ \$ 34.62 / hour
- (2) Study cost: \$ 30,000

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
AMENDING STORMWATER UTILITY SYSTEM DEVELOPMENT CHARGES.**

WHEREAS, the City adopted a new stormwater facilities master plan in 2005, which necessitates a change in the stormwater utility systems development charges (SDCs); and

WHEREAS, the City hired FCS Group, a consulting firm, to prepare the methodology and rates; and

WHEREAS, the City Council has reviewed the materials prepared by FCS Group and relies on that material; and

WHEREAS, while the City is required to mail notice to persons who have requested notice of proposed SDCs, no one has requested such notice, and instead the City published notice on December 30, 2005 in the Clackamas Review in order to inform the public of the proposed changes; and

WHEREAS, a public hearing was held on April 18, 2006, and the methodology was available for review at least 60 days prior to the hearing.

NOW, THEREFORE, BE IT RESOLVED that

SECTION 1: The Milwaukie City Council adopts the stormwater utility system development charge methodology contained in Section II of the report prepared by FCS Group, and attached as Exhibit A.

SECTION 2: The Milwaukie City Council adopts the stormwater utility Capital Improvement Plan list of projects shown in Appendix A of the report prepared by FCS Group, and attached as Exhibit A.

SECTION 3: The Milwaukie City Council adopts a storm sewer utility system development rate in the amount of \$1,106 per E. S. U., which shall prevail over any previously established charge.

SECTION 4: This resolution is effective upon adoption.

Introduced and adopted by the City Council on April ____, 2006.

James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:

Pat DuVal, City Recorder

City Attorney

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
AMENDING WATER UTILITY SYSTEM DEVELOPMENT CHARGES.**

WHEREAS, the City’s water utility has constructed a number of the improvements in its 2001 Master Plan , which necessitates a change in the water utility systems development charges (SDCs); and

WHEREAS, the City hired FCS Group, a consulting firm, to prepare the methodology and rates; and

WHEREAS, the City Council has reviewed the materials prepared by FCS Group and relies on that material; and

WHEREAS, while the City is required to mail notice to persons who have requested notice of proposed SDCs, no one has requested such notice, and instead the City published notice on December 30, 2005 in the Clackamas Review in order to inform the public of the proposed changes; and

WHEREAS, a public hearing was held on April 18, 2006, and the methodology was available for review at least 60 days prior to the hearing.

NOW, THEREFORE, BE IT RESOLVED that

- SECTION 1: The Milwaukie City Council adopts the water utility system development charge methodology prepared by FCS Group and attached as Exhibit 1.
- SECTION 2: The Milwaukie City Council adopts the water utility Capital Improvement Plan prepared by FCS Group and attached as Exhibit 2.
- SECTION 3: The Milwaukie City Council adopts a water utility system development rate in the amount of \$898 per M.E., subject to the table titled “Universal Water SDC by Meter Size” found in Exhibit 2.
- SECTION 4: This resolution is effective upon adoption.

Introduced and adopted by the City Council on April ____, 2006.

James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:

Pat DuVal, City Recorder

City Attorney



To: Mayor and City Council

**Through: Mike Swanson, City Manager
Kenny Asher, Director of Community Development & Public Works
Katie Mangle, Planning Director**

From: Alice Rouyer, Planning Consultant

Date: April 7, 2006 for the April 18, 2006 Council Meeting

**Subject: Appeal (A-06-01) of applications CSO-05-04 and TPR-05-04 for a
Public Transit Facility at 9600 SE Main**

Action Requested

Uphold the February 14, 2006 Planning Commission approval of CSO-05-04 and TPR-05-04, adopting the recommended findings and conditions in support of approval and authorizing construction of a public park-and-ride facility at 9600 SE Main.

Background

On March 2, 2006, Mark Whitlow of Perkins Coie LLP submitted an appeal of the Planning Commission's approval of the Community Service Overlay application for a TriMet public park-and-ride at 9600 SE Main. The Planning Commission approved this application on February 14, 2006 after hearing applicant and public testimony at its January 10, 2006 meeting. See attached appeal (Attachment 2). This report will be organized in the following way:

- Brief project description;
- Analysis of appeal; and
- Decision-making process and staff recommendation (recommended findings and conditions of approval can be found in Attachment 1).

In addition to the attachments provided to this report, a supplemental packet is provided. The packet contains the following:

- Attachment A: January 10, 2006 Planning Commission staff report. Attached to this staff report are the TriMet's original application request.
- Attachment B: February 14, 2006 Planning Commission staff report. Attached to this staff report are TriMet's revised applications materials dated January 17, 2006.
- Attachment C: Notice of Decision dated February 15, 2006
- Attachment D: Southgate Park-and-Ride Facility Impact Analysis (DKS, dated September 2003). TriMet submitted this to the City on April 6, 2006.

Project Description

The applicant proposes to construct and operate a 329-space public park-and-ride transit facility located at 9600 SE Main Street that includes the following:

- a. Demolition of the 20,000 square foot theater building and construction of new paving, parking lot striping, and landscaping.
- b. Closure of the northerly curb cut onto Main Street for traffic safety.
- c. Retention of the existing southerly curb cut on Main Street, which will also be used for truck access to the adjoining property to the south.
- d. Reduction of total existing parking by 52 spaces from the existing 381 spaces to 329. This includes elimination of 43 parking spaces along the southern property line as needed to comply with the access easement in favor of the southerly adjoining property. While demolition of the theater building will create new parking, restriping, and installation of landscaping will have the net effect of eliminating nine additional parking spaces.
- e. Improvement to the stormwater drainage system.
- f. Renovation of lighting and installation of a pay phone, public art, new bike lockers, and a 6-foot chain link fence along the northerly property line.
- g. Increase in landscaping from 1.6% of the site to 15%, with new irrigated landscaping along Main Street.
- h. 11 feet of right-of-way dedication along the Main Street frontage.
- i. Restriping the roadway to accommodate required bike lanes.
- j. Adjustment request to use the existing curb tight sidewalk that does not meet width requirements or planter strip requirements (see description below):

The applicant is requesting an adjustment to sidewalk and planter strip dimensions and proposes to use the existing 5.5-foot curb tight sidewalk. Adjustments to right-of-way design standards may be granted when the following can be demonstrated:

- a. The existing system is consistent with purposes of Chapter 1400 – Transportation Planning Design Standards and Procedures and the Transportation System Plan.
- b. Existing transportation facilities serving the site are adequately sized and are in useable and safe condition, but do not meet a dimensional standard.

The Engineering Director has reviewed the adjustment request and recommends approval of the adjustment upon finding the existing 5.5-foot curb tight sidewalk adequately serves the site (*See Supplemental Packet Attachment A – January 10, 2006 Planning Commission staff report. Reference is found in Attachment 3 of this report.*). The traffic study demonstrates the proposal does not violate the level of service requirements of any intersections within the area of study (*See Supplemental Packet A – January 10, 2006 Planning Commission staff report. Reference is found in Attachment 2 of this report.*).

Analysis of Appeal

The appellant's complete written statement is included in Attachment 2. Staff has extracted the key points from this appeal and provided written analysis and response below. Please refer to the applicant's complete statement contained in Attachment 2 when reviewing staff's analysis:

1. The application is for new development, and cannot rely on nonconforming status of the existing parking lot.

The appellant claims that TriMet cannot rely on a nonconforming use status in order to argue for a less than conforming parking lot design on the site. The appellant relies on the provisions outlined in Milwaukie Municipal Code (MMC) Section 19.800 to contend that the previous park-and-ride use was never a nonconforming use. The appellant misreads what the code provisions allows. The recommended findings for approval do not rely on a nonconforming use status. The only nonconformity on the site is with regard to parking design standards. Therefore, MMC Section 19.800, which applies only to nonconforming uses and nonconforming structures, does not apply.

When applying parking design standards on previously-developed sites, the City relies on MMC Section 19.502 "Off-Street Parking and Loading Applicability" to determine the extent to which parking design standards apply. Section 19.502.A states that the standards and procedures of the Off-Street Parking Code "shall apply to all development, remodeling and changes of use

that increase parking and loading demand." When the lot was originally developed as a theater use, the demand was determined to be 381 spaces. The proposed 329 space park-and-ride lot will reduce the overall number of spaces, but will fulfill an overall regional parking demand for parking spaces along transit corridors. TriMet projects that demand for this lot to be equal to the 329 spaces provided since the lot will be absorbing an overall regional demand for commuter parking along transit corridors. The proposed park-and-ride will not increase parking and loading demand.

For property with nonconforming parking and loading facilities, Section 19.502.B requires "an attempt to bring them into conformance when remodeling or change of use occurs." Nonconforming parking facilities are neither "nonconforming uses" nor "nonconforming structures" and are therefore not subject to Chapter 19.800, which only regulates nonconforming uses and nonconforming structures. The parking lot on this site is a nonconforming parking and loading facility since it was consistent with then applicable code when originally provided as parking for the theater use of the property but does not currently conform with several design requirements, including landscaping/buffering requirements and disabled parking as to its design. In this situation, Section 19.502B, requires "an attempt to bring [the parking design] into conformance with current standards." The Planning Commission found and Staff agrees that the parking lot design proposed by the applicant is significantly closer to conformance with current parking design standards, particularly as to landscaped area.

2. If the park-and-ride is a nonconforming use or structure, TriMet must comply with the nonconforming situation provisions of MMC Section 19.800.

The appellant argues that it is erroneous for TriMet to rely on a nonconforming status and further argues that if it is relying on this status, it must abide by the requirements outlined in MMC Section 19.800 "Nonconforming Uses".

The recommended findings for approval do not rely on a nonconforming use status. As outlined above, the only nonconformity on the site is with regard to parking design standards. Therefore, MMC Section 19.800, which applies only to nonconforming uses and nonconforming structures, does not apply.

3. Applying the Community Service Overlay (CSO) overlay zone is a map amendment that requires compliance with the Statewide Planning Goals and the Transportation Planning Rule.

The appellant contends that an approved CSO designation is a new zoning designation. As such, it would trigger compliance with Statewide Planning Goals and the statewide Transportation Planning Rule (TPR). MMC Section 19.321.1

states that “the community service overlay will function as an overlay designation for public and private institutions for most zones and districts.” Certain uses, including uses in the following categories can be approved as CSO designated uses in most zones and districts. These categories are:

- Institutions—Public/Private and Other Public Facilities;
- Utilities;
- Recreation Facilities; and
- Communication Facilities.

The CSO is an overlay designation that must meet development standards of the underlying zone and other criteria for CSO uses. Nothing in MMC Section 19.321 provides for a map change or imposition of a zone. CSO uses are similar to conditional uses in this respect. CSO approvals are not a map amendment since they do not amend the zoning map. Therefore, CSO uses are not required to conform with the Statewide Planning Goals or the TPR.

4. The park-and-ride is not a “public transit facility” and the Planning Commission failed to make a finding regarding the use.

The appellant claims that the proposed park-and-ride is not a “public transit facility use.” The City Council finds that the park-and-ride is a “public transit facility” under the CSO uses listed in MMC Section 19.321.2.B.8. The term “public transit facility” is not defined in the code. In such cases, the meaning of the term or phrase is based on its commonly understood meaning. In evaluating the matter, staff applied the followed reasoning:

- TriMet is a public transit agency and the park-and-ride is intended for public use.
- The purpose of the park-and-ride lot is to support site-specific access to public transit.
- A facility is defined as “something designed and created to serve a particular function and to afford a particular convenience or service; such as “catering facilities”; “educational facilities”; or “toilet facilities” (Source: wordnet.princeton.edu).

Staff has drafted an additional finding for the Council’s consideration to address this issue.

5. The appellant claims that the application does not satisfy City transportation standards under Chapter 19.1400. The applicant's analysis is incomplete for two reasons:

The application satisfies the City Transportation Standards under Chapter 19.1400. The appellant makes two arguments that the transportation study is inadequate. More detailed findings relating to the transportation standards of 19.1400 are provided in Attachment 1 – Findings and Conditions of Approval. The applicant's analysis is appropriate and, in response to the appellant's two allegations of incompleteness, the following findings are made:

a. Failure to Provide Queuing Analysis

The applicant addressed queuing analysis questions in its January 24, 2006 letter to Planning Commission Chairman Hammang under item #2 with an attached memorandum from DKS Associates stating "The operational analysis and simulation that was conducted as part of the analysis for the park-and-ride lot (and updated with the 2005 information and site size) indicates that this intersection would perform within the City of Milwaukie's and ODOT's performance standards (*See Supplemental Packet Attachment B – February 14, 2006 Planning Commission staff report . This reference can be found in Attachment 2 of the 2/14/06 report*).

Table 3 of the December 16, 2005 Southgate Park-and-ride Traffic Analysis Update conducted by DKS Associates and submitted by TriMet as Appendix 6 to its application reports that both the SE McLoughlin Blvd / SE Milport and SE Milport / SE Main Street intersections operate at Level of Service A or B in the peak periods, well above the City's LOS D standard. The delay of approximately 40 seconds at this intersection is due to the signal cycles (120-second) set by ODOT to support the operation of SE McLoughlin Boulevard – not from queuing. The analysis by DKS does not show appreciable increases in queuing and delay at this pair of intersections (*See Supplemental Packet Attachment A – January 10, 2006 Planning Commission staff report. This reference can be found in Attachment 2, Appendix 6 of the 1/10/06 report*).

TriMet also provided in its oral testimony the results of a vehicle license plate survey of park-and-ride users from 1999 indicating that the predominance of vehicles approached and left the lot from the south and southeast and were, therefore, not likely to use the Main / Milport intersection. Most vehicles would use some combination of Harrison Street and the northbound "slip lane" from northbound McLoughlin to Main Street, just south of the park-and-ride lot. DKS determined for TriMet that use of the "slip lane" is used by less than 25 vehicles per hour and with

queuing of no more than one vehicle at a time. Truck counts suggest that SE Ochoco rather than this connector is the major truck access point for the district (*The DKS “slip lane” analysis can be found in Supplemental Packet Attachment B – February 14, 2006 Planning Commission staff report. This reference can be found in Attachment 2 of the 1/10/06 report*). City Council finds that that the applicant has sufficiently analyzed the traffic issues, including queuing, in these materials.

b. Failure to Provide TPR Analysis

The appellant contends that an approved CSO designation is a zoning map amendment. As such, it would trigger compliance with the statewide Transportation Planning Rule (TPR). The CSO is an overlay designation that must meet development standards of the underlying zone and other criteria for CSO uses. As detailed in Item #2 above, nothing in MMC Section 19.321 provides for a map change or imposition of a zone. CSO uses are similar to conditional uses in this respect. CSO approvals are not a map amendment since they do not amend the zoning map. Therefore the City Council finds that CSO uses are not required to conform with the statewide TPR.

6. The requested adjustment to sidewalk width standards should be denied.

The appellant claims that the requested adjustment to sidewalk width standards should be denied. Sidewalk width standards and other street design standards are outlined in MMC Section 1400. The applicant has requested to use the existing 5.5-foot curb tight sidewalk. Table 1409.3 requires an 8-foot sidewalk and a 5-foot planter strip for the extent of the 580-foot Main Street frontage. The City Engineer has the authority, pursuant to MMC Section 19.404.C to adjust the design requirements of Section 1400. There are five reasons through which the City Engineer can make a conclusion to allow an adjustment. These are:

1. *In all cases the adjustment is consistent with the purposes of Chapter 19.1400 and the Milwaukie Transportation System Plan;*
2. *The adjustment serves to protect significant features such as, but not limited to, trees, historic or other valued buildings, water resources and the like where means to ensure continued protection of the resource are secured;*
3. *Strict compliance with design standard will result in potentially hazardous condition;*

4. *Strict compliance is deemed infeasible due to engineering limitations including connectivity to adjoining transportation and stormwater facilities; and/or*
5. *Existing transportation facilities that serve the site are adequately sized and are in usable and safe condition but do not meet a dimensional standard.*

Anyone of these five reasons justify an adjustment. The City Council finds that criterion #4 and criterion #5 in MMC Section 19.404.C are the basis for approving the adjustment request included with this proposal. The location of an existing building to the immediate north the site will make it infeasible to construct sidewalks that strictly comply with required construction of an 8-foot sidewalk and 5-foot planter strip at this time, without constraining the use of that property. In addition, the City Council finds that the existing 5.5 foot curb tight sidewalk is sized adequately to serve the site in a safe and usable condition. The applicant has agreed to dedicate 11 feet of right-of-way, which provides adequate right-of-way to construct future sidewalk and planter strip consistent with dimensional requirements.

The adjustment is consistent with the purposes of Chapter 19.1400 and the City's Transportation System Plan. Section 1400 incorporates the City's Transportation System Plan and provides the criteria for satisfying the Transportation System Plan. The purpose of the City's Transportation System Plan and Section 19.1400 are set forth at 19.1401. Chapter 19.1400 sets forth the criteria for complying with the State's transportation planning rule and the City's Transportation System Plan. It further implements performance measures to protect the functional classification capacity and level of service of transportation facilities. The applicant's transportation engineer has provided a report that assures that the development will provide transportation improvements in rough proportion to the identified impacts of the development. Further, the proposed public transit facility is designed to accommodate multiple modes of travel, including pedestrian, bicycle, transit and auto.

7. The benefits of the park-and-ride facility do not outweigh the adverse impacts.

The Planning Commission adopted the findings based on a review of the evidence, making a determination that the benefits of the park-and-ride facility outweigh adverse impacts. The adopted Planning Commission findings address this matter in the following way:

The Planning Commission found that the application is consistent with Section 321 - Community Service Overlay Zone. In particular the Commission found that the use is in the general public interest and that the benefits to the public

outweigh possible adverse impacts. The Commission accepted the analysis of benefits and impacts as detailed in the applicant's original application (*See Supplemental Packet A – January 10, 2006 Planning Commission staff report. Reference is found in Attachment 2 of this report*).

These benefits and impacts include, but are not limited to the following:

Benefits:

- a. The proposal provides conveniently located parking that supports transit and the needs of commuters in this corridor. This in turn reduces demand on McLoughlin Boulevard thereby reducing congestion and air pollution.
- b. The park-and-ride lot relieves commuter parking pressure in downtown Milwaukie and other local streets for those commuters with destinations north of the City.
- c. Certain physical improvements that are specific to the proposal benefit the public including:
 1. Closure of the northerly curb cut, which presently does not meet city standards for proximity to intersections.
 2. As conditioned, installation of closed circuit surveillance to reduce crime and assist in criminal prosecution, which will benefit the industrial neighborhood by reducing criminal attraction.
 3. Increased landscaping on the site will improve stormwater quality and reduce run-off.
 4. The proposed landscaping along Main Street improves the appearance of the streetscape and neighboring industrial neighborhood.
 5. The removal of the vacant theater building will improve the appearance of the immediate area and reduce criminal activity that might be sheltered or hidden by the structure.

Impacts that have been considered include:

- a. The proposal could result in long-term loss of property tax revenue.

It should be noted that the site has been in public ownership since 2004. Since government agencies and nonprofits are not required to pay property tax, a Community Service Overlay approval on this site will not result in any immediate net loss of tax revenue. It is possible that if the use is not approved, the site could be returned to private ownership. It is also possible that a public property owner could establish a use on this site that is consistent with the underlying Manufacturing Zone designation. In that case, the site would not generate any new tax revenue.

The appellant submitted reports from the economic consultant Johnson Gardner with information about the amount of commerce, employment, tax revenue, average wages and tax revenue generated in the North Industrial district. The reports do not provide any evidence or even suggest that the proposed park-and-ride would cause any business in the area to move, reduce employees, shut down, or reduce operations.

- b. Park-and-ride traffic and existing conditions of the Main Street and Milport intersection.

These issues are discussed in more detail under Appeal Item #5 above.

On the whole, the Commission found that the proposed public transit facility would complement the existing uses in the North Industrial District and that public benefits outweighed adverse impacts.

8. Siting the TriMet facility in the Southgate location is premature given the status of the City's transportation systems planning.

The appellant claims that siting the TriMet facility in the Southgate location is premature given the status of the City's transportation systems planning. This is an application for a public transit facility and must be reviewed against the criteria outlined in the Community Service Overlay regulations. This application does not request approval of any activities relating to light rail or a future transit center. The City Council is obligated to make a decision based on the facts presented in the application.

Decision Making Process and Staff Recommendation

Code Authority

Milwaukie Zoning Ordinance Sections:

1. 321 - Community Service Overlay
2. 500 - Off-street Parking and Loading
3. 1011.3 - Minor Quasi-Judicial Review
4. 1400 - Transportation Planning, Design Standards, and Procedures

This application is subject to minor quasi-judicial review, which requires the City Council to consider whether the applicant has demonstrated compliance with the code sections shown above. In quasi-judicial reviews the Council assesses the application against relevant approval criteria and evaluates testimony and evidence received at the public hearing. The Council has three decision-making options as follows:

1. Approve the application upon finding that all approval criteria have been met.
2. Approve the application subject to conditions when they are needed for compliance with approval criteria.
3. Deny the application upon a finding that it does not meet approval criteria.

The final decision on this application, which includes any appeals to the City Council, must be made by May 17, 2006, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

Staff recommends that the Council approve the application and adopt the findings and impose the conditions as outlined in Attachment 1.

Concurrence

This report has been reviewed and approved by the City Manager, Director of Community Development & Public Works, City Attorney, and Development Review Engineer.

Fiscal Impact

This project will result in no direct fiscal impact to the City.

Attachments

1. Recommended Findings in Support of Approval and Conditions of Approval
2. Appeal application dated March 2, 2006
3. Revised Park-and-Ride Site Plan dated January 17, 2006
4. Public comment received since March 2, 2006

Supplemental Packet

Attachment A: January 10, 2006 Planning Commission staff report. Attached to this staff report are the TriMet's original application request.

Attachment B: February 14, 2006 Planning Commission staff report. Attached to this staff report are TriMet's revised applications materials dated January 17, 2006.

Attachment C: Notice of Decision dated February 15, 2006

Attachment D: Southgate Park-and-Ride Facility Impact Analysis (DKS, dated September 2003). TriMet submitted this to the City on April 6, 2006.

ATTACHMENT 1

Findings in Support of Approval

- 1. The applicant proposes to construct and operate a 329-space public park-and-ride transit facility located at 9600 SE Main Street that includes the following:**
 - a. Demolition of the 20,000 square foot theater building and construction of new paving, parking lot striping, and landscaping.**
 - b. Closure of the northerly curb cut onto Main Street for traffic safety.**
 - c. Retention of the existing southerly curb cut on Main Street, which will also be used for truck access to the adjoining property to the south.**
 - d. Reduction of total existing parking by 52 spaces from the existing 381 spaces to 329. 43 parking spaces will be eliminated along the southern property line as needed to comply with the access easement in favor of the southerly adjoining property. Nine additional spaces will be eliminated due to restriping and installation of landscaping.**
 - e. Improvement to the storm water drainage system.**
 - f. Renovation of lighting and installation of a pay phone, public art, new bike lockers, and a 6-foot chain link fence along the northerly property line.**
 - g. Increase in landscaping from 1.6% of the site to 15%, with new irrigated landscaping along Main Street.**
 - h. 11 feet of right-of-way dedication.**
 - i. Restriping the roadway to accommodate required bike lanes.**
 - j. Adjustment request to use the existing curb tight sidewalk that does not meet width requirements or planter strip requirements.**
- 2. The proposal is subject to the following code sections:**
 - a. 321 - Community Service Overlay**
 - b. 500 - Off-street Parking and Loading**
 - c. 1011.3 - Minor Quasi-Judicial Review**
 - d. 1400 - Transportation Planning, Design Standards, and Procedures**
- 3. Public notice of the City Council public hearing has been provided as required by MMC Section 1002.**
- 4. The appeal application states that the proposed park-and-ride is not a “public transit facility” and is therefore not a community service use. The City Council finds that the proposed park-and-ride is a “public transit**

facility” under the CSO uses listed in MMC Section 19.321.B.8. The term “public transit facility” is not defined in the code. In such cases, the meaning of the term or phrase is based on its commonly understood meaning. In evaluating the matter, City Council applied the followed reasoning:

- **TriMet is a public transit agency and the park-and-ride is intended for public use.**
- **The purpose of the park-and-ride lot is to support site-specific access to public transit.**
- **A facility is defined as “something designed and created to serve a particular function and to afford a particular convenience or service; such as “catering facilities”; “educational facilities”; or “toilet facilities” (Source: wordnet.princeton.edu).**

- 5. The Milwaukie Municipal Code requires compliance with Section 19.321.4 for all community service uses:**

MMC 19.321.4 Authority to Grant or Deny a Community Service Use

A. An application for a community service use may be allowed if:

- 1. The requirements of the underlying zone are met;*

- 6. The property is located in the Manufacturing Zone (M). The proposed use is subject to Site Development requirements outlined in MMC 19.314.6. applicable standards are:**

C. Parking and loading: See MMC Section 19.500:

- 7. Findings relating to compliance with MMC Section 19.500 section can be found in Findings 20 through 49.**

D. Landscaping. Fifteen percent landscaping of the site is required. A variety of trees, shrubbery and ground cover is encouraged. Street trees are required along street frontages and within parking lots to help delineate entrances, provide shade and permeable areas for storm water runoff. A bond or a financial guarantee will be required.

- 8. City Council finds that the revised site plan submitted January 17, 2006 complies with the 15% site landscaping standard. As conditioned, the proposal complies with the 15% site landscaping standard.**

G. Transportation requirements and standards: as specified in Chapter 19.1400.

- 9. Findings relating to compliance with this section can be found in Findings 50 through 84.**
 - 2. Specific standards for the uses found in subsections 19.321.7 – 19.321.10 are met; and*
- 10. There are no specific standards in MMC 19.321.7 – 19.321.10 relating to public transit facilities. This standard does not apply.**
 - 3. The hours and levels of operation of the proposed use can be adjusted to be reasonably compatible with surrounding uses.*
- 11. The 329-space public transit facility is compatible with surrounding uses. The facility is in the Manufacturing Zone, and there are no noise sensitive uses nearby. The only possible adverse impact is from traffic, and as demonstrated in Findings 50 through 84, the traffic impacts are limited. No specific limitations on hours or levels of operation are required for this proposal.**

B In permitting a community service use or the modification of an existing one, the Planning Commission, or the Community Development Director in the case of a minor change, may impose suitable conditions which assure compatibility of the use with other uses in the vicinity. These conditions may include but are not limited to:

 - 1. Limiting the manner in which the use is conducted by restricting the time an activity may take place and by minimizing such environmental effects as noise and glare;*
- 12. No such conditions limiting the manner in which the use is conducted or restricting the time on the public transit facility use are needed for this proposal, given its location in an area where there are no noise-sensitive or sound-sensitive uses.**
 - 2. Establishing a special yard, setback, lot area, or other lot dimension;*
- 13. No such conditions establishing a special yard, setback, lot area or other lot dimension are needed for this proposal, given the nature of adjacent uses.**

3. *Limiting the height, size, or location of a building or other structure;*
- 14. The existing structure on the site will be demolished prior to completion of the new public transit facility. Given that the proposal includes no buildings or structures, no such conditions of approval limiting the height, size or location are needed for this proposal.**

 4. *Designating the size, number, location, and design of vehicle access points;*
- 15. The applicant's proposal includes closure of the existing northerly Main Street curb cut to address traffic safety concerns. The applicant will be required to close this curb cut in order to comply with the approved plan dated January 17, 2006. The conditions do designate the size, number, location and design of the access point.**

 5. *Increasing roadway widths, requiring street dedication, and/or requiring improvements within the street right-of-way including full street improvements;*
- 16. Issues relating to street dedication and required improvements are addressed in Finding 69.**

 6. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or truck loading area; and/or
- 17. Issues relating to parking and loading areas are addressed in Findings 20 – 49.**

 7. Limiting or otherwise designating the number, size, location, height and lighting of signs.
- 18. Prior to installing any signs on the site, the applicant will be required to comply with MMC Title 14 "Signs". This title regulates the number, size, height and lighting of signs. No signs are proposed as part of this application.**

D. The Planning Commission will hold a public hearing on the establishment of the proposed community service use. If the commission finds that the establishment of the community service use is in the general public interest and that the benefits to the public outweigh the possible adverse impacts of the use, then the commission may approve the designation of the site for community service use. If the commission finds otherwise, the application may be denied. This approval will result in the application of the community service overlay designation to a particular piece of land, subject to any conditions the Planning Commission may attach.

- 19. The City Council finds that that the use is in the general public interest and that the benefits to the public outweigh possible adverse impacts of the use. The Council accepts the analysis of benefits and impacts as detailed on pages 5 and 6 of the applicant's application report (See *Supplemental Packet Attachment A – January 10, 2006 Planning Commission staff report. Reference is found in Attachment 2 of that report.*) with additions identified in the staff report. These include, but are not limited to, the following:**

Benefits:

- a. **The proposal provides conveniently located parking that supports transit and the needs of commuters in this corridor. This in turn reduces demand on McLoughlin Boulevard thereby reducing congestion and air pollution.**
- b. **The park-and-ride relieves commuter parking pressure in downtown Milwaukie and other local streets for those commuters with destinations north of the City.**
- c. **Certain physical improvements that are specific to the proposal benefit the public including:**
 1. **Closure of the northerly curb cut, which presently does not meet city standards for proximity to intersections.**
 2. **As conditioned, installation of closed circuit surveillance to reduce crime and assist in criminal prosecution, which will benefit the industrial neighborhood by reducing criminal attraction.**
 3. **Increased landscaping on the site will improve storm water quality and reduce run-off.**
 4. **The proposed landscaping along Main Street improves the appearance of the streetscape and neighboring industrial neighborhood.**

- 5. The removal of the vacant theater building will improve the appearance of the immediate area and reduce criminal activity that might be sheltered or hidden by the structure.**

Impacts that have been considered include:

- a. **Loss of property tax revenue or other economic benefits**

The Council finds that since the site is currently under public ownership and is not contributing property tax revenue, the approval, development and use of the park-and-ride will not result in a direct loss of property tax revenue. Further, the approval, development and use of the park-and-ride is not expected to adversely affect any businesses in the area to the extent that the business would close, move, reduce production, cut jobs or otherwise decrease the economic benefit to the City. The Council finds that the proposed park-and-ride would not diminish the assessed value of property in the area.

- b. **Park-and-ride traffic and existing conditions of the Main Street and Milport intersection.**

The Council finds that the public transit facility would result in some increase in traffic on Main Street and at the Milport intersection, but that the street and intersection would continue to function at acceptable levels of service and that the impact is minor and far outweighed by the benefits that the public transit facility would provide.

- 20. The Milwaukie Municipal Code requires compliance with Section 19.500 "Off Street Parking and Loading."**

MMC 19.502 - Applicability of Provisions

A. The standards and procedures of Chapter 19.500 shall apply to all development, remodeling and changes of use that increase parking and loading demand.

- 21. When the lot was originally developed as a theater use, the demand was determined to be 381 spaces. The proposed 329-space park-and-ride lot will reduce the overall number of spaces, but will fulfill a regional parking demand for parking spaces along this transit corridor. TriMet projects that demand for this lot to be equal to the 329 spaces provided, since the lot will be absorbing an overall regional demand for commuter parking along transit corridors. The proposed park-and-ride will not increase parking and loading demand.**

B. The standards and procedures of this section shall also apply to uses with nonconforming parking and loading facilities, in an attempt to bring them into conformance with current standards when remodeling or change in use occurs.

- 22. The parking on the site complied with applicable code provisions when the parking was established for the original movie theater use in the 1970s. However, the lot does not comply with all current standards. An attempt to bring the existing parking area closer into conformance with parking standards is required. The proposed park-and-ride conforms, or at least comes closer to conforming with the following sections of Chapter 19.500. Additional findings to support this conclusion are included below.**

MMC Section 19.503.10 - Off-Street Parking Space Standards

- A. A minimum of fifty percent of spaces shall be regular-sized spaces and a maximum of fifty percent can be compact spaces. Handicapped spaces shall be according to federal and state requirements.*
- B. The minimum dimensions for required off-street parking shall be in accordance with the table listed in this section.*

- 23. Approximately 90 spaces in the parking area will be compact. Parking spaces on the revised January 17, 2006 site plan have been designed and sized to comply with parking size and dimension standards.**

MMC Section 19.503.11 - Paving and Striping

Paving and striping shall be required for all maneuvering and standing areas. Off-street parking areas shall have a durable and dust-free hard surface, shall be maintained for all-weather use, and shall be striped to show delineation of parking spaces and directional markings for driveways and accessways.

- 24. The revised site plan dated January 17, 2006 complies with the paving and striping standard.**

MMC Section 19.503.12 - Curb Cuts

Curb cuts to parking areas shall be the minimum number necessary to provide access while not inhibiting the safe circulation and carrying capacity of the street. Curb cuts shall comply with the access spacing standards of Chapter 19.1400.

- 25. The revised site plan dated January 17, 2006 proposes to remove the northerly curb cut. One curb cut will remain on the site following completion of the development. The plan complies with the minimum curb cut standard, whereas the existing conditions are not in compliance.**

MMC Section 19.503.13 - Aisles

Aisles shall be required in parking areas greater than three spaces. Parking spaces shall be provided with adequate aisles or turnaround areas so that all vehicles may enter the street in a forward manner.

- 26. Parking aisles are provided on the revised site plan dated January 17, 2006, in conformance with this standard.**

MMC Section 19.503.14 - Connections

Parking areas shall be designed to connect with parking areas on adjacent sites to eliminate the use of the street for cross movements.

- 27. The applicant is proposing to maintain an existing connection to a loading dock on the adjacent parcel to the immediate south of the site. The January 17, 2006 plan complies with this standard.**

MMC Section 19.503.15 - Lighting

Lighting of a parking area shall be required and shall be designed to enhance safe access for vehicles and pedestrians on the site. Parking area lighting shall be situated to avoid glare and be deflected so as not to shine on adjacent property.

- 28. The applicant proposed a lighting plan intended to enhance safe access for vehicles on the site. The proposal complies with this standard, whereas the existing condition is not in compliance.**

MMC Section 19.503.16 - Drainage

All areas used for circulation and parking shall meet city standards for surface water runoff.

- 29. The proposal complies with the City's standards for surface water runoff, an improvement over existing conditions.**

MMC Section 19.503.17 - Pedestrian Access

Pedestrian access through parking areas shall be attractive, separated from vehicular circulation and parking, lighted and provide direct access. Walkways shall be required in parking areas over twenty spaces and shall be buffered by landscaping or a curb.

- 30. The revised site plan dated January 17, 2006 does not comply with this standard. The City Council finds that the existing parking lot cannot be made conforming with this standard without a significant loss of parking spaces. MMC Section 19.502.B does not require full conformance with all standards of MMC Section 19.500, but instead requires that applicants attempt to bring nonconforming parking and loading areas into closer conformance with standards. On balance, the City Council finds that the applicant has complied with MMC Section 19.502.B and therefore, full compliance with the pedestrian access standards is not required.**

MMC Section 19.503.18 - Park-and-Ride Facilities

Park-and-Ride facilities may be encouraged or required as part of development review for uses along transit routes. These uses have days and hours not in conflict with weekday uses (e.g., churches, fraternal organizations) and may be encouraged or required to allow a portion of their parking area to be used for a park-and-ride lot.

- 31. City Council finds that the Park-and-Ride facility standard does not apply to this proposal because this standard addresses park-and-ride facilities that share uses with other developments. Since this is a stand-alone public park-and-ride facility with no associated on-site development, the standard does not apply. However, the Council notes that City policy, as stated in Section 19.503.18 is to encourage park-and-rides as part of the City's policy to encourage transit use.**

MMC Section 19.503.19 - Landscaping

Parking area landscaping shall be required in all districts and for all uses other than single-family and duplex residences. Landscaping shall be based on the following standards.

A. Perimeter landscaping of parking areas may be considered as part of site landscaping already required. Perimeter landscaping shall meet the following standards which are illustrated in Figures 19.503.19(A)(1) and 19.503.19(A)(2) at the end of this chapter.

1. A minimum of eight feet of landscaped buffer area between off-street parking area and right-of-way shall be provided, as measured from inside of curb to inside of curb or edge of right-of-way.

32. The proposed plan dated January 17, 2006 provides at least eleven feet of landscape buffer area between the off-street parking area and the sidewalk. Upon completion of the project and after the applicant dedicates the required eleven feet of right-of-way to the City, the landscaping will remain until full roadway improvements are constructed on Main Street. At that time, the applicant shall be required to remove parking spaces as necessary to replace any landscape buffer that was needed to accommodate road improvements. At that time, the minimum landscape buffer shall measure no less than eight feet between the off-street parking area and the right-of-way. As conditioned, the project complies with this standard, whereas existing conditions are not in compliance.

2. A minimum of six feet of landscaped buffer area shall be provided, as measured from inside of curb to inside of curb, between off-street parking area and lot line when not next to right-of-way. This standard is not applicable in the downtown zones.

33. The proposed plan dated January 17, 2006 brings the parking area closer to conformance with this standard. A new six foot landscape buffer will be provided along the north property line. Perimeter areas along the east and south property lines will be not brought into conformance. MMC Section 19.502.B does not require full conformance with all standards of MMC Section 19.500, but instead requires that applicants attempt to bring nonconforming parking and loading areas into closer conformance with standards. On balance, the City Council finds that the applicant has complied with MMC Section 19.502.B and therefore, full compliance with the six foot landscape buffer perimeter landscaping standard is not required.

3. A minimum of six feet of landscaped buffer area shall be provided, as measured from inside curb to inside curb, between off-street parking area and other uses on the site; e.g., buildings, open space, storm water

system. Landscaped islands may be used as an alternative to a landscaped buffer area between buildings.

- 34. Off-street parking is the single use on the site. Therefore, this landscaping standard requiring perimeter landscaping between buildings/structures/uses and the parking area does not apply.**

4. A minimum of eight feet of landscaped buffer area shall be provided, as measured from the inside of curb to inside of curb, on both sides of driveway into off-street parking area.

- 35. The revised site plan dated January 17, 2006 complies with this standard, whereas existing conditions are not in compliance.**

5. One landscaped island shall be required per every eight parking spaces. The islands shall be a minimum of six feet in width, as measured from the inside of curb to inside of curb, and shall include one tree per island. If two islands are located contiguously, they may be combined and counted as two islands with two trees planted.

- 36. The proposed plan dated January 17, 2006 brings the parking area closer to conformance with this standard. New landscaping islands at least six feet in width per every eight parking spaces will be included in the new parking area to be constructed where the existing theater building now stands. Landscaping islands will also be provided in new locations on other portions of the parking area. However, these islands do not conform with the spacing standard of placement every eight parking spaces. The City Council finds that the existing parking lot cannot be made conforming with this standard without a significant loss of parking spaces. MMC Section 19.502.B does not require full conformance with all standards of MMC Section 19.500, but instead requires that applicants attempt to bring nonconforming parking and loading areas into closer conformance with standards. On balance, the City Council finds that the applicant has complied with MMC Section 19.502.B and therefore, full compliance with the landscaping island standard is not required.**

6. Landscaping requirements for perimeter buffer areas shall be as follows: one tree to be planted every forty lineal feet of landscaped buffer area. The remainder of the buffer area shall be grass, ground cover, mulch, shrubs, trees, or other landscape treatment other than concrete and pavement.

- 37. The revised landscaping plan dated January 17, 2006 complies with this requirement, whereas existing conditions are not in compliance. The applicant will be required to construct the landscaping in accordance with this plan and demonstrate compliance with this standard at time of site development.**

7. Where off-street parking areas abut a property boundary, continuous screening of plant materials shall be provided along the perimeter buffer area. Provision of screening may be phased in multiphase projects and is optional along access drives, where not contiguous to off-street parking areas or buildings.

- 38. The proposed plan dated January 17, 2006 brings the parking area closer to conformance with this standard. A new six foot landscape buffer will be provided along the north property line. Perimeter areas along the east and south property lines will not be brought into conformance. MMC Section 19.502.B does not require full conformance with all standards of MMC Section 19.500, but instead requires that applicants attempt to bring nonconforming parking and loading areas into closer conformance with standards. The City Council finds that the applicant has complied with MMC Section 19.502.B and therefore, full compliance with the perimeter screening standard is not required.**

B. Interior landscaping of parking areas shall be required and shall meet the following standards which are illustrated in Figures 19.503.19(B)(1), 19.503.19(B)(2), and 19.503.19(B)(3).

- 1. One landscaped island shall be required per every eight parking spaces. The interior islands shall be a minimum of six feet in width, as measured from the inside of curb to inside of curb, and shall include one tree per island. If two interior islands are located contiguously, they may be combined and counted as two islands with two trees planted.*

- 39. This standard is a repeat from the same standard listed above under MMC Section 19.503.17.5. This is a scrivener's error in the MMC. Finding #36 is therefore repeated here. The revised site plan dated January 17, 2006 brings the parking area closer to conformance with this standard. New landscaping islands at least six feet in width per every eight parking spaces will be included in the new parking area to be constructed where the existing theater building now stands. Landscaping islands will also be provided in new locations on other portions of the parking area. However, these islands do not conform to the spacing standard of placement every**

eight parking spaces. The City Council finds that the existing parking lot cannot be made conforming with this standard without a significant loss of parking spaces. MMC Section 19.502.B does not require full conformance with all standards of MMC Section 19.500, but instead requires that applicants attempt to bring nonconforming parking and loading areas into closer conformance with standards. On balance, the City Council finds that the applicant has complied with MMC Section 19.502.B and therefore, full compliance with the landscaping island standard is not required.

2. Divider medians of a minimum of six feet in width shall be provided, as measured from inside of curb to inside of curb. This may substitute for interior islands, provided that one tree is planted every forty feet and that the remainder of the buffer area shall be landscaped as identified in subsection (A)(6) above.

40. The revised site plan dated January 17, 2006 does not comply with this standard. The City Council finds that the existing parking lot cannot be made conforming with this standard without a significant loss of parking spaces. MMC Section 19.502.B does not require full conformance with all standards of MMC Section 19.500, but instead requires that applicants attempt to bring nonconforming parking and loading areas into closer conformance with standards. On balance, the City Council finds that the applicant has complied with MMC Section 19.502.B and therefore, full compliance with the landscaping island standard is not required.

3. A row of parking spaces shall be terminated on each end by a terminal island, of a minimum six feet in width from inside of curb to inside of curb. This shall be provided that one tree is planted every forty feet and the remainder of the buffer area shall be landscaped as identified in subsection (A)(6) above.

41. The revised site plan dated January 17, 2006 complies with this standard, whereas existing conditions are not in compliance.

C. Parking bumpers or wheel stops, of a minimum of four inches in height, shall be provided at parking spaces to prevent vehicles from encroaching on the street right-of-way, adjacent landscaped areas, or pedestrian walkways.

42. The revised site plan dated January 17, 2006 complies with this standard.

D. Preservation of existing trees is encouraged in the off-street parking area and may be credited toward the total number of trees required, based on staff's review.

43. The revised site plan dated January 17 2006 and the landscaping plan submitted with the original proposal in November 2005 indicates that the applicant will preserve existing vegetation and trees in existing planter islands and along the site perimeter. The proposal complies with the standard encouraging preservation of existing trees.

E. Installation of parking area landscaping shall be required before a certificate of occupancy is issued, unless a performance bond is posted with the city. Then landscaping shall be installed within six months thereafter or else the bond will be foreclosed and plant materials installed by the city.

44. The applicant will be required to comply with the landscaping installation standard during site construction.

F. Parking area landscaping shall be maintained in good and healthy condition by the property owner, owner's agent, or the holder of the certificate of occupancy, as determined by the city.

45. The applicant will be required to comply with the parking area landscaping maintenance standard following completion of the project.

H. A landscaping plan shall be required. It shall be drawn to scale and shall accompany development permit applications for all developments, excluding single-family and two-family dwelling structures. The plan shall show the information required for the parking plan in subsection 19.503.20, and the following additional information:

- 1. A list of existing vegetation by type, including number, size, and species of trees;*
- 2. A proposal to protect existing trees;*
- 3. A list of existing natural features;*
- 4. The location and space of existing and proposed plant materials;*
- 5. A list of plant material types by botanical and common names;*
- 6. Notation of trees to be removed;*

7. *Size and quantity of plant materials;*
8. *Irrigation plan; and*
9. *Method for maintenance of landscaping.*

- 46. The applicant submitted a landscaping plan compliant with this standard in November 2005. The applicant will also be required to submit a complete landscaping plan at time of development permit application. The proposal complies with the landscaping plan standard.**

MMC Section 19.503.2 - Parking Plan

A parking plan shall be required. It shall be drawn to scale and shall accompany development permit applications for all developments, excluding single-family and two-dwelling structures. The plan shall show that all elements related to Chapter 19.500 are met, and shall include but is not limited to:

- A. Delineation of individual spaces;*
- B. Circulation area necessary to serve spaces;*
- C. Access to streets, alleys, and properties to be served;*
- D. Curb cuts;*
- E. Type of landscaping, fencing, or other materials;*
- F. Abutting land uses;*
- G. Grading, drainage, surfacing, and subgrading details;*
- H. Location of lighting fixtures;*
- I. Delineation of all structures and obstacles to on-site circulation; and*
- J. Specification of signs and wheel stops.*

- 47. The applicant submitted a parking plan compliant with this standard in November 2005. The revised site plan dated January 17, 2006 also complies with the parking plan standard.**

MMC Section 19.504 - Off-street Loading Standards

19.504.1 - General Provisions.

- A. Off-street loading shall be required for commercial, industrial, public, and semipublic uses, as appropriate, for the receipt or distribution of merchandise by vehicles. Such uses shall have one or more spaces for standing, loading, and unloading of vehicles. Off-street loading is not required in the downtown storefront and downtown office zones.*

- B. Loading areas shall be provided on the site; shall be separated from parking areas; and, in cases where two separate uses exist on one parcel of land, the total required off-street loading shall be the sum of the requirements for each use separately.*
- C. It shall be the obligation of the property owner to comply with the regulations of this section and to maintain the loading area(s).*

MMC Section 19.504.2 - Number of Loading Spaces Required

The minimum number of loading spaces required for commercial, industrial, public, and semipublic uses shall be as follows:

<i>Building Size</i>	<i>Required Loading Spaces</i>
<i>Under 5,000 square feet</i>	<i>0</i>
<i>From 5,000 to under 25,000 square feet</i>	<i>1</i>
<i>From 25,000 to under 60,000 square feet</i>	<i>2</i>
<i>60,000 square feet and over</i>	<i>3</i>

- 48. No new buildings will be constructed on the site. The existing building on the site will be demolished. Loading spaces are only required for sites with building floor area. Therefore, off-street loading standards do not apply to this project.**
- 49. Consistent with MMC Section 19.502.B, the proposed public transit facility conforms, or comes closer to conforming, to the following sections of Chapter 19.500:**
 - 503.10 Off-street Parking Space Standards**
 - 503.11 Paving**

- 503.12 Curb cuts**
- 503.13 Aisles**
- 503.14 Connections**
- 503.15 Lighting**
- 503.16 Drainage**
- 503.19 Landscaping**

50. The Milwaukie Municipal Code requires compliance with Section 19.1400 “Transportation Planning, Design Standards, and Procedures.”

MMC 19.1403 - Applicability

A. Chapter 19.1400 applies to the following forms of development, except as limited by subsection 19.1403.1 of this section: partitions, subdivisions, new construction, including single and multifamily residential, commercial, industrial, institutional, governmental, and other.

51. MMC Section 19.1400 applies to this proposal.

B. Application Required. All actions subject to this section require submission of an application for transportation review. Applications shall be reviewed in accordance with Section 19.1001.

52. An application is required. TriMet submitted an application and appropriate fees in November 2005. The application was reviewed in accordance with the procedures outlined in MMC Section 19.1001.

MMC 19.1403.1 - Limitations

A. For all development other than partitions, subdivisions, and single family, new construction or substantial redevelopment, as defined in Section 19.103, is exempt from Section 19.1407.2, Adequacy Requirements, when the estimated value of the construction improvements is less than two hundred thousand dollars (\$200,000.00), and when a transportation impact study is not required. The two hundred thousand dollars (\$200,000.00) value threshold shall be increased three percent (3%) annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter.

53. The limitations outlined in MMC 19.1403.1.A do not apply to this proposal.

B. New single-family residential development and substantial redevelopment of existing single-family structures are exempt from Section 19.1407.2 - Adequacy Requirements, except for the following requirements when the value of improvements is less than ninety thousand dollars (\$90,000.00). The ninety thousand dollars (\$90,000.00) value threshold shall be increased three percent (3%) annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter shall comply with the following provisions:

- 1. Section 19.1409.1(B) - Required frontage;*
- 2. Table 19.1409.2 - Additional Setbacks in Major Streets;*
- 3. Section 19.1409.2(B) - Right-of-way dedication;*
- 4. Section 19.1409.2(E) - Vision clearance;*
- 5. Section 19.1410.2 - Public sidewalks; and*
- 6. Section 19.1413 - Access management.*

54. Since this proposal does not include residential development, the exemptions outlined in MMC 1403.1.B do not apply to this project.

MMC 19.1404 - Exception, adjustment, or variance

- A. The criteria in this chapter reflect the need for flexibility in the application of transportation requirements and design standards to respond to unique site characteristics or hardship situations. Criteria are provided for different categories of exceptions and adjustments.*
- B. Review Process. All requests for adjustments and exceptions shall be processed in accordance with 19.1011.2-Type II-Administrative Review procedures concurrent with the application for land use approval.*

55. Pursuant to Section 19.1005 this adjustment approval has been processed concurrent with the requested CSO and TPR approvals and these separate findings are entered as to the adjustment criteria.

C. Adjustments. The transportation facility design standards of Chapter 19.1400 and the Transportation Design Manual may be adjusted in accordance with Table 19.1409.3 and the criteria listed below. Transportation facility design standards apply only to improvements located within public rights-of-way. An adjustment to a design standard may be granted when the City Engineer finds it is consistent with the following, based upon professional judgment and accepted engineering practices:

1. *In all cases the adjustment is consistent with the purposes of Chapter 19.1400 and the Milwaukie Transportation System Plan;*
2. *The adjustment serves to protect significant features such as, but not limited to, trees, historic or other valued buildings, water resources, and the like where means to ensure continued protection of the resource are secured;*
3. *Strict compliance with the design standard will result in a potentially hazardous condition;*
4. *Strict compliance is deemed infeasible due to engineering limitations including connectivity to adjoining transportation and storm water facilities; and/or*
5. *Existing transportation facilities that serve the site are adequately sized and are in usable and safe condition but do not meet a dimensional standard.*

Cost of required improvements shall not be a basis for granting an adjustment.

- 56. Sidewalk width standards and other street design standards are outlined in MMC Section 1400. The applicant has requested to use the existing 5.5-foot curb tight sidewalk. Table 1409.3 requires an 8-foot sidewalk and a 5-foot planter strip for the extent of the 580-foot Main Street frontage. The City Engineer has the authority, pursuant to MMC Section 19.404.C to adjust the design requirements of Section 1400.**
- 57. Pursuant to MMC Section 19.404.C, any one of the five reasons justify an adjustment. The City Council finds that criterion #4 and criterion #5 in MMC Section 19.404.C are the basis for approving the adjustment request included with this proposal. The location of an existing building to the immediate north the site will make it infeasible to construct sidewalks that strictly comply with required construction of an 8-foot sidewalk and 5-foot planter strip at this time, without constraining the use of that property. In addition, the City Council finds that the existing 5.5 foot curb tight sidewalk is sized adequately to serve the site in a safe and usable condition. The applicant has agreed to dedicate 11 feet of right-of-way, which provides adequate right-of-way to construct future sidewalk and planter strip consistent with dimensional requirements.**

The adjustment is consistent with the purposes of Chapter 19.1400 and the City's Transportation System Plan. Section 1400 incorporates the City's Transportation System Plan and provides the criteria for satisfying the Transportation System Plan. The purpose of the City's Transportation System Plan and Section 19.1400 are set forth at 19.1401. Chapter 19.1400 sets forth the criteria for complying with the State's transportation planning

rule and the City's Transportation System Plan. It further implements performance measures to protect the functional classification capacity and level of service of transportation facilities. The applicant's transportation engineer has provided a report that assures that the development will provide transportation improvements in rough proportion to the identified impacts of the development. Further, the proposed public transit facility is designed to accommodate multiple modes of travel, including pedestrian, bicycle, transit and auto.

- D. Exceptions. The City Engineer may waive compliance with transportation facility design standards for improvements located in the right-of-way in the following cases:*
- 1. An approved and funded capital improvement project that benefits the site is scheduled for construction within three (3) years of the land use approval;*
 - 2. The developer pays to the City a fee in lieu of construction costs for required site improvements and there will be no safety hazards as determined by the City Engineer; and/or*
 - 3. A local improvement district, which includes the development site, has been approved.*
- E. Variances. Requests for relief from any provision of this chapter or the roadway design manual that cannot be modified under 19.1404.C or 19.1404.D shall be reviewed under provisions of Chapter 19.700-Variance, Exceptions, and Home Improvements.*

58. No exceptions or variances to MMC 19.1400 are requested with this project.

MMC 19.1405.5 - Approval Criteria

Criteria for decisions under Chapter 19.1400 are as follows:

- A. The proposed development and related transportation improvements comply with procedures, requirements, and standards of Chapter 19.1400 and the Transportation Design Manual unless an exception or adjustment has been granted in accordance with Section 19.1404 or a variance has been granted in accordance with Chapter 19.700.*
- B. If a transportation impact analysis is required, the findings of the analysis ensure that the development will provide transportation improvements and mitigation in rough proportion to the identified impacts of the development.*
- C. All required improvements identified under city review of a transportation impact analysis shall be provided or otherwise accommodated in accordance with Section 19.1408.4-Mitigation.*
- D. The proposed development will not result in hazardous or unsafe transportation conditions or unacceptable level of service impacts that cannot be mitigated. (Ord. 1907 (Attach. 2), 2002; Ord. 1893 (part), 2001)*

- 59. The project was subject to the approval criteria detailed in MMC Section 19.1405.5. The approval criteria have been met as detailed in Findings 56 through 73.**

MMC 19.1406 - Neighborhood Through-trip Study

Any non-residential development adding more than twenty-five (25) through vehicles per day to an adjacent residential local street will require assessment and mitigation of local street impacts. Through trips are defined as those to and from a development that have neither an origin nor a destination in the neighborhood. The through-trip study shall include the following:

- A. An estimate of the number of through trips per day on adjacent residential streets created by the development and the existing counts for the same streets.*
- B. Traffic management strategies shall be identified to mitigate the impacts of increased through trips attributed to new development consistent with Section 19.1408.3-Rough Proportionality and 19.1408.4-Mitigation.*

This provision shall be implemented independent of Section 19.1408 when the development proposal does not require a transportation impact study in accordance with 19.1408.2.B-Threshold Scoring. If a transportation impact analysis is required, the through-trip study shall be included in the transportation impact study. (Ord. 1893 (part), 2001)

- 60. MMC Section 19.1406 states that any non-residential development adding more than 25 trips per day to a residential local street requires a mitigation of impacts. The development is located in the Manufacturing Zone and is not located adjacent to a local street. Therefore, a through-trip study was not required.**

MMC 19.1407 - Adequate Transportation Facility Requirement

19.1407.1 Purpose. The purpose of this Chapter is to ensure that streets, sidewalks and other transportation facility design elements are safe, convenient, and adequate to accommodate the impacts of new development or redevelopment consistent with the State Transportation Plan Rule and the Milwaukie Comprehensive Plan.

- Adequacy Requirement

Rights-of-way, streets, sidewalks, necessary public improvements, and other public transportation facilities shall be adequate at the time of development or shall be made adequate in a timely manner for all development projects subject to review under Chapter 19.1400. This provision applies to transportation facilities located in the public right-of-way abutting the development site.

The provision may also apply to transportation facilities located in rights-of-way that do not abut the site when a transportation impact analysis conducted under

Section 19.1408 demonstrates that affected facilities are insufficient to accommodate the impacts of the proposed development. In such cases transportation improvements are required in rough proportion to the impacts created by the development in accordance with Section 19.1408.

MMC 19.1407.3 - Definition of Necessary Improvements

As used in 19.1407.2, "necessary improvements" are:

- A. Improvements identified as necessary in a transportation impact analysis to comply with the adequate public facility requirement; and/or*
- B. Improvements otherwise identified as necessary for compliance with 19.1407.4.B.*

MMC 19.1407.4 - Definition of Adequacy

As used in 19.1407.2, "adequate" means the following:

- A. Compliance with Level of Service D for all intersections, except those on Oregon Highway 99E, which shall be subject to the following:*
 - 1. Level of Service F for the first hour of the morning or evening two-hour peak period; and*
 - 2. Level of Service E for the second hour of the morning or evening two-hour peak period; and*
- B. Compliance with the design standards specified in Chapter 19.1400 and the Transportation Design Manual, including but not limited to the following:*
 - 1. Right-of-way width;*
 - 2. Functional classification cross section;*
 - 3. Transportation facility design standards;*
 - 4. Pedestrian, bicycle and transit standards; and*
 - 5. Access management standards.*

MMC 19.1407.5 - Definition of Level of Services

Level of Service is determined by using the latest edition of the Highway Capacity Manual (Transportation Research Board). Comparable measures of performance, including volume to capacity analysis, may be substituted for Level of Service analysis, as outlined in the Transportation Design Manual.

MMC 19.1407.6 - Definition of Timely

As used in 19.1407.2, "timely" means the following:

- A. Necessary transportation improvements will be constructed by the developer or through another mechanism, such as a local improvement district. Necessary improvements shall be completed, or the developer shall provide*

the City with a deposit, letter of credit, performance bond or other surety satisfactory to staff, prior to:

- 1. Final city inspections for occupancy approval; and/or*
 - 2. Recording of the plat in the case of a subdivision or partition; and/or*
- B. Necessary transportation improvements are included in the Milwaukie Capital Improvement Plan, are fully funded and are scheduled to be under construction within three years of the date the land use approval is issued. (Ord. 1893 (part), 2001)*

61. MMC Section 19.1407 requires new development to be safe, convenient, adequate and timely to accommodate the impacts of new development. The applicant was required to demonstrate compliance with the:

- **“Necessary Improvements” requirement as outlined in MMC Section 19.1407.3;**
- **“Adequacy” requirements as outlined in MMC Section 19.1407.4;**
- **“Timely” improvement requirement as outlined in MMC Section 19.1407.6; and**
- **“Definition of Level of Service” requirements as outlined in MMC Section 19.1407.5.**

62. The applicant submitted a Transportation Impact Analysis (TIA) demonstrating that after development, intersections within the study area will function at acceptable levels of service. In particular, the intersections of Main/Milport/McLoughlin Blvd. and the “slip lane” entry from McLoughlin to Main located south of this intersection would perform adequately and within the Level of Service standards outlined in MMC 19.1407.4. The City’s traffic consultant, David Evans and Associates, confirms that the intersections located within the study area will have some impact from the proposed development, but will operate at an acceptable level of service.

63. Consistent with MMC Section 19.1404.C, the applicant has demonstrated the need for an adjustment to allow for use of the existing 5.5-foot curb-tight sidewalk along Main Street. The City Council finds that the sidewalk will adequately and safely serve the site. Sufficient space is available on the site to accommodate required bicycle lanes along the Main Street frontage abutting the site. The applicant will also dedicate 11 feet of right-of-way to allow for future development of full street improvements along the Main Street frontage.

64. Based on the facts presented, the City Council finds that the project meets the Adequacy requirement of MMC Section 19.1407.2.

MMC 19.1408 -Transportation Impact Analysis

19.1408.1 - Intent. A transportation impact analysis documents the expected impacts of a proposed development on the surrounding transportation system and the adequacy of the transportation system to serve the proposed development. The TIA provides a consistent framework to evaluate transportation impacts and the basis to assess reasonable and proportionate mitigation of impacts. Frontage improvements are a development requirement and shall not be considered mitigation of transportation impacts.

MMC 19.1408.2 - Applicability

A. All projects that require development review under Chapter 19.1400 shall schedule a pre-application conference with the Planning Director and City Engineer or designees prior to submittal of the land use application.

65. The applicant completed a required preapplication conference in fall 2005.

B. Based on the information provided by the applicant, the City will determine whether a transportation impact analysis is required under the "threshold scoring" method described in the Transportation Design Manual.

C. The City may also require a pre-application conference and transportation impact analysis for quasi-judicial plan amendment, zone change and conditional use permit applications.

D. The determination of whether a transportation impact analysis is required is not a land use action and may not be appealed.

E. If it is determined that a transportation impact analysis is required, the City shall specify the required content and impact area of the project, consistent with the guidelines in the Transportation Design Manual.

F. The applicant shall pay to the City the costs of transportation impact study review in accordance with the fee resolution adopted by the City Council.

G. If the application requires specific notice to ODOT or Clackamas County under the provisions of 19.1405.4, the City will request agency input to establish a coordinated scope for the transportation impact analysis.

H. The transportation impact analysis shall be submitted with the application materials for land use approval. Failure to submit the transportation impact analysis shall be grounds for deeming the application incomplete pursuant to Section 19.1004 and Oregon Revised Statutes 227.178.

I. The decision-making authority may apply conditions to land use decisions as needed to satisfy adequate transportation facility requirements of Section 19.1408 or otherwise mitigate transportation impacts described in the transportation impact analysis.

- 66. A traffic study was conducted on behalf of the applicant and submitted by DKS Associates. This was followed up by additional analysis submitted by DKS dated January 20, 2006 to respond to questions relating to queuing analysis at the Milport/Main/McLoughlin intersection and performance of the “slip lane” located along northbound McLoughlin near the Hwy. 224 overpass. On April 6 2006, TriMet submitted the final revised version of the *Southgate Park-and-ride Facility TIA* dated September 24, 2003. The City Council finds that the TIA and supplemental documentation adequately demonstrates impacts and reasonable proportional mitigation of those impacts.**

MMC 19.1408.3 - Rough Proportionality

- A. Mitigation of impacts due to increased demand for transportation facilities associated with the development proposal shall be provided in rough proportion to the transportation impacts of the development. These impacts shall be identified by the transportation impact analysis conducted under Section 19.1408.2.*
- B. The applicant shall bear the burden of demonstrating proportionate impacts to motor vehicle, pedestrian, bicycle, and transit facilities related to the development proposal.*
- C. The estimation of rough proportionality does not require precision, though it shall be as precise as possible given available analytical methods. Accepted engineering methods shall be used when available and appropriate. Limitations of available engineering methods and practices do not preclude estimation of rough proportionality through other approaches. Professional judgment and reasoning may be used to describe proportional impacts in terms that allow identification of required mitigation. In identifying proportional impacts the following shall be considered:*
- 1. Condition and capacity of existing facilities within the impact area in relation to city standards.*
 - 2. Existing vehicle, bicycle, pedestrian, and transit use within the impact area.*
 - 3. The effect of increased demand on transportation facilities related to the proposed development and any other approved development within the impact area.*
 - 4. Applicable Transportation System Plan/Comprehensive Plan policies and network action plans.*
 - 5. Whether any route affected by increased demand within the impact area is listed in any city program including School Trip Safety; Neighborhood Traffic Management; Capital Improvement; System Development Improvement, or others.*
 - 6. Accident history within the impact area.*

7. *Potential increased safety risks to transportation facility users, including pedestrians and cyclists.*
 8. *Other considerations as may be specified in the development review process and communicated in writing by the City.*
- 67. MMC Section 1408.3(B) requires the applicant to demonstrate proportionate impacts to motor vehicle, pedestrian, bicycle and transit facilities created by the development. Mitigation of those impacts is required in rough proportion to the impacts of the development. The TIA demonstrated that all intersections will operate at an acceptable level of service with the exception of Harrison at McLoughlin Blvd. This intersection will be improved as part of a city capital improvements project, therefore the applicant is not responsible for improvements to this intersection. The applicant is mitigating safety impacts through the following, as demonstrated in the applicant's original application submitted in November 2005 and the revised site plan dated January 17, 2006:**
- a. Closure of the northerly on-site access driveway from Main Street.**
 - b. Installation of new signs under existing stop signs for each direction on SE Main Street. The signs will say, "Side street does not stop."**
 - c. At the direction of the City Engineer, restripe Main Street along the frontage of the site to accommodate required bicycle lanes.**

MMC 1408.4 - Mitigation

- A. Mitigation of transportation impacts shall be provided by the applicant when there is an increase in demand for transportation facilities, including motor vehicle, pedestrian, bicycle, and/or transit trips within the impact area. Increase in demand is demonstrated through a transportation impact analysis conducted under this Chapter.*
- B. Mitigation options include, but are not limited to, the following:*
 - 1. On- and off-site improvements constructed by the developer (beyond required frontage improvements) can be considered as mitigation of transportation impacts.*
 - 2. Demand management programs may be used as mitigation when applied as conditions of land use approval.*
 - 3. Payment of in-lieu fee may be used to meet mitigation requirements where it is not practical to construct improvements due to cost or timing considerations. The in-lieu fee shall be commensurate with the cost of mitigation improvements. Such payments shall be reserved by the city for future transportation projects that serve the project impact area.*

4. *Correction of off-site transportation deficiencies within the impact area, not substantially related to the impacts of the project, may be credited toward mitigation requirements.*
5. *Construction of on-site facilities or facilities located within the right-of-way adjoining the project site that exceed minimum required standards and which have a public transportation benefit may be considered toward meeting mitigation requirements. (Ord. 1893 (part), 2001)*

68. Mitigation is addressed in Finding 72.

MMC 1409 - Street Requirements and Design Standards

19.1409.1 General Provisions

- A. *Streets shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual.*
- B. *Streets shall be designed in consideration of Chapter 5 of the Milwaukie Comprehensive Plan. Chapter 5, Figure 6.1 illustrates the Functional Classification of Streets; Figure 6.10 illustrates the Street Master Plan.*
- C. *No development permit shall be issued unless it complies with the Adequate Transportation Facility Requirement set forth in Section 19.1408.*
- D. *No development permit shall be issued unless the development has frontage or approved access to a public street. For lots that are legally nonconforming with regard to frontage, an access easement sufficient to accommodate required improvements will be required.*
- E. *All transportation facilities shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual. ODOT facilities shall be designed consistent with state and federal standards.*
- F. *Cross sections for street improvements by functional classification are included in the Transportation Design Manual.*
- G. *Rights-of-way shall be provided in accordance with the widths shown in Table 19.1409.3 and may not be varied under provisions of this Chapter.*
- H. *Transportation facility design standards shall be provided in accordance with the dimensions shown as "required" on Table 19.1409.3.*
- I. *Under provisions of Section 19.1404-Adjustments and Exceptions, the City Engineer may authorize adjustments to transportation facility design standards not less than the "minimum allowed" dimensions in Table 19.1409.3.*

69. MMC Table 19.1409.3 establishes provisions for frontage improvements and required right-of-way dedication. Prior to project completion, the applicant will restripe the roadway to accommodate the required bike lanes, at the direction of the City Engineer. Finding 57 addresses the

Adjustment that is included in this approval to accommodate use of an existing 5.5-foot curb tight sidewalk where an eight-foot sidewalk and five-foot planter strip along the extent of the Main Street frontage. The applicant will dedicate 11 feet of right-of-way to allow for future development of full Main Street development when the improvements can be feasibly built.

MMC 19.1409.2 - Street Functional Classifications and Improvement Standards

A. Right-of-way and Improvements. Table 19.1409.3 specifies right-of-way widths and improvement standards by street functional classification. The Transportation Design Manual includes cross sections that illustrate the improvements (e.g., lanes, parking strip, sidewalk, etc.) associated with each functional classification and right-of-way width.

B. Dedication. All streets and necessary rights-of-way shall be dedicated to the public for street purposes in accordance with Table 19.1409.3 and Section 19.1407 Adequate Transportation Facility Requirements. Additional dedication may be required at intersections for improvements identified as needed by the Milwaukie Transportation System Plan or a transportation impact analysis conducted under Section 19.1408.

70. Reference to improvement standards and dedication is included in Finding 74.

C. Improvements. No development shall occur unless the development has frontage or approved access to a public street.

- 1. Any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with this Chapter.*
- 2. New development shall be connected to the street network by a paved street.*
- 3. Half-street improvements, as opposed to full-width street improvements, are generally not acceptable. However, half-street improvements may be approved where essential to reasonable development of the property and when the review authority finds that it will be possible to obtain the dedication and/or improvement of the remainder of the street when property on the other side of the half-street is developed. The minimum width for a half-street improvement shall be 20 feet.*
- 4. To ensure adequate access to a development site, the review authority may require off-site street improvements concurrent with development if warranted by a Transportation Impact Analysis.*

5. *Where necessary to give access or permit future development of adjoining land, streets shall be extended to the boundary lines of the tract to be developed, and:*
 - a. *These street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets at such time as the adjoining property is developed.*
 - b. *A barricade and sign shall be constructed at the end of the street that shall not be removed until authorized by the City Engineer. The cost of the barricade and sign shall be included in the street construction cost.*
 - c. *Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub streets in excess of 150 feet in length.*
 - d. *In order to assure the eventual continuation or completion of the street, reserve strips may be required.*
 - e. *Drainage facilities shall be provided to properly manage storm water run-off from temporary dead-ends.*

- 71. The site has existing access to the Main Street right-of-way. The existing northerly access driveway will be closed to address safety concerns. Findings 80 and 81 address access the northerly access closure in more detail.**

MMC 19.1410 - Pedestrian requirements and Standards

19.1410.1 - General Provisions

- A. *Pedestrian facilities, including public sidewalks, on-site walkways, and pedestrian/bicycle accessways, shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual.*
- B. *Goals, objectives and policies relating to walking are included in Chapter 5 of the Milwaukie Comprehensive Plan and provide the context for the pedestrian requirements and standards. Figure 3.1 of the Comprehensive Plan illustrates the Walkways Network Master Plan and Figure 3.2 illustrates the Walkways Action Plan.*
- C. *Americans with Disabilities Act (ADA) requirements for pedestrian facilities shall apply where there is a conflict with City standards.*

MMC 19.1410.2 - Public sidewalks

- A. *Requirement. Public sidewalks are required on the public street frontage of all new development (including detached and attached single family dwellings on existing lots), all land divisions, and substantial redevelopment of commercial, industrial, multifamily and institutional uses. Public sidewalks are generally constructed within the dedicated public right-of-way, but may be located*

outside of the right-of-way within an easement with the approval of the City Engineer.

- B. Design Standards. Standards and cross section details for the location, width and design of public sidewalks are included in the Transportation Design Manual.*
- C. Maintenance. Maintenance of sidewalks, curbs, and planting strips is the continuing obligation of the adjacent property owner in accordance with Chapter 12.04.*

- 72. MMC 19.1410 establishes standards for pedestrian facilities. The applicant will reconstruct the existing sidewalk curb ramp on the southeast corner of the intersection of Main Street and Milport to meet current ADA requirements and delineate the difference between the sidewalk and the development property. The applicant will construct a flared style sidewalk curb ramp consistent with the Transportation Design Manual standards with yellow pedestrian warning pads. As conditioned, the proposal is consistent with MMC Section 1410.**

MMC 1411 - Bicycle Requirements and Standards

19.1411.1 - General Provisions

- A. Bicycle facilities, including on-street bike lanes, off-street bikeways, and bicycle parking, shall be designed and improved in accordance with the standards of this Chapter, the bicycle parking provisions of Section 19.505, and the Transportation Design Manual.*
- B. Goals, objectives and policies relating to bicycling are included in Chapter 5 of the Milwaukie Comprehensive Plan. Figure 4.1 of the Comprehensive Plan illustrates the Bikeways Network Master Plan and Figure 4.2 illustrates the Bikeways Action Plan.*

MMC 19.1411.2 - Bike Lanes and Bikeways

- A. Requirement. Bike lanes and bikeways shall be provided in accordance with the Milwaukie Transportation System Plan. Except as amended by the Transportation System Plan, bike lanes shall be provided along collector and arterial streets.*
- B. Timing of Construction. To assure continuity and safety, bike lanes and bikeways will generally be constructed as part of the construction or improvement of collector and arterial streets.*
- C. Design Standards. Bike lanes shall be 6 feet wide and shall be provided for each direction of travel allowed on the street. Bike lanes and bikeways shall be constructed consistent with the design guidelines and standards delineated in the latest edition of the Oregon Bicycle Plan. Excerpts of the guidelines and standards are provided in the Transportation Design Manual.*

- 73. MMC Section 19.1412 establishes standards for bicycle requirements. The proposal is for the establishment of a park-and-ride facility where motor vehicles will generally drive to the site to catch a bus. The site will continue to provide bicycle parking and all TriMet buses provide bicycle racks for commuters. As noted in Finding 74 above, the applicant will restripe the road to accommodate bicycle lanes, at the direction of the City Engineer.**

MMC 19.1412 - Transit Requirements and Standards

19.1412.1 - General Provisions

- A. Transit facilities, including bus stops, shelters and related facilities, shall be designed and improved in accordance with TriMet standards and the requirements and standards of this Chapter and the Transportation Design Manual.*
- B. Goals, objectives and policies relating to transit are included in Chapter 5 of the Milwaukie Comprehensive Plan.*

MMC 19.1412.2 - Transit Facilities

- A. Notice and Coordination with Tri-Met. When development of a multifamily, commercial, office, or institutional use is proposed within two hundred feet of an existing or planned transit route, notice shall be provided to Tri-Met as outlined in Section 19.1405.4. Tri-Met may recommend that transit-related facilities be constructed at the time of development to support transit use.*
- B. Factors Determining Transit Requirements. The factors that determine the level of transit facility requirements include but are not limited to street classification, existing and planned level of transit service in adjacent streets, block length, proximity of major pedestrian destinations, existing and anticipated ridership, and transit needs of a development. Required improvements may include provision of an easement for a bus stop, benches, shelters, bus turnouts, curb extensions, median refuges for pedestrian crossings, public telephones, or pedestrian lights. The required improvements shall reflect a reasonable and proportionate share of the impacts of the development.*
- C. Location of Transit Facilities. Transit facilities shall be located at controlled street intersections, where possible. A bus stop shall consist of at least a bus stop pad designed in compliance with the ADA. The location of the bus stop shall be chosen so that there is a connection to an accessible route. Where a bus stop has already been established within 500 feet of the affected development, a new bus stop shall only be provided if recommended by Tri-Met and required by the Director. Otherwise, the developer shall upgrade the existing stop through provision of improved waiting facilities (i.e., installation of benches, shelters or landscaping).*

74. The proposal is for the establishment of a public park-and-ride transit facility. The proposal is consistent with MMC Section 1412.

MMC 19.1413 - Access Management Standards

19.1412.1 - General Provisions

A. Access permit required. Access to a public street requires an access permit in accordance with the following:

- 1. Permits for access to City streets shall be subject to review and approval by the City Engineer based on the adopted City standards contained in this Chapter. An access permit may be in the form of a letter to the applicant, or it may be attached to a land use decision notice as a condition of approval.*
- 2. Permits for access to State highways shall be subject to review and approval by ODOT, except when ODOT has delegated this responsibility to the City or Clackamas County. Decisions regarding access permits to State highways shall be based on access standards adopted by ODOT.*
- 3. Permits for access to County highways shall be subject to review and approval by Clackamas County, except where the County has delegated this responsibility to the City. Decisions regarding access permits to County highways shall be based on access standards adopted by Clackamas County.*

B. Access Spacing Targets. All development shall be provided public street access. Access roads (public. and/or private), driveways, and easements shall be as set forth in other sections of these Design Standards. Spacing of access points (public street and/or driveways) shall meet the criteria in Table 19.1413.1 to the greatest extent practicable. The minimum spacing is measured between the nearest points of the point of curvature on the curb return(s) of public streets or the top of the wings of any driveway

Spacing criteria are based upon several factors, including stopping sight distance, ability of turning traffic to leave a through lane with minimal disruption to operation, minimizing right turn conflict overlaps, maximizing egress capacity and reducing compound turning conflicts where queues for turning/decelerating traffic encounter conflicting movements from entering/exiting streets and driveways.

C. Modification of Access Spacing Targets. Any development that deviates from the access spacing (public street or driveway) targets will be required to prepare an access study that assesses transportation impacts adjacent to the project frontage within a distance equal to the access spacing requirements established in Table 19.1413.1. For example, for a site with arterial access, analysis would include evaluation of site access and capacity along the project frontage plus capacity and access issues within five hundred and thirty feet of the adjacent property. The access study shall include the following:

1. *Review of site access spacing and design.*
2. *Traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site.*
3. *Review of all modes of transportation to the site.*
4. *Where access spacing targets are not met, a series of mitigation measures shall be identified including but not limited to assessment of medians, consolidation of access, shared driveways, temporary access, provision of future consolidated access or other measures that would be acceptable to the City Engineer or designee.*

D. Driveways. Access to private property shall be permitted with the use of driveway curb cuts. The access points with the street shall be the minimum necessary to provide access while not inhibiting the safe circulation and carrying capacity of the street. Driveways shall meet all applicable guidelines of the Americans with Disabilities Act.

TABLE 19.1413.1 Access Spacing Targets.

Street Classification	Minimum feet
<i>Arterial</i>	<i>600</i>
<i>Collector</i>	<i>300</i>
<i>ODOT Facilities (ORE 99E, ORE 224)</i>	<i>Per Appendix C of Oregon Highway Plan</i>

- E. Access study requirements. The City or other agency with access jurisdiction may require an access study prepared by a qualified professional to determine access requirements.*
- F. Authority to restrict access. To provide for increased traffic movement on congested streets and to eliminate turning movement problems, the City Engineer may restrict the location of driveways on streets and require that driveways be placed on adjacent streets, upon the finding that the proposed access would:*
1. *Cause or increase existing hazardous traffic conditions;*
 2. *Provide inadequate access for emergency vehicles; or*
 3. *Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.*

G. Conditions of approval. The City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements for shared driveways, development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system.

MMC 19.1413.2 - Location of Driveway Access

- A. Double frontage. When a lot has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street.*
- B. Distance from property line. Unless a shared access is proposed or required, new curb cuts for driveway access shall be at least seven and a half feet from the property line in residential districts and at least ten feet from the property line in all other districts.*
- C. New single family development fronting arterials or collectors. Direct individual access to arterial or collector streets from detached or attached single-family dwellings and lots shall be discouraged. Direct access shall be considered only if there is no practical alternative way to access the site and only if the driveway is designed to allow for vehicles to turn around on-site (via a hammerhead or loop).*
- D. Backing into the right-of-way prohibited. Driveways shall be designed to contain all vehicle backing movements on-site, except for detached or attached single family uses on local streets.*
- E. Minimum distance from driveway to intersection curb return. To protect the safety and capacity of street intersections, the following minimum distance from the intersection curb return to the bottom of the driveway wing shall be maintained:
 - 1. For local and neighborhood streets, driveways for detached or attached single family residential shall be located at least forty-five feet from the intersection curb return, or located as far away from the curb return as possible.*
 - 2. Driveways for multifamily and all other uses accessing local and neighborhood streets shall be located at least one hundred feet from the intersection curb return.*
 - 3. For arterials and collectors, driveways shall be located beyond the end of queue of traffic during peak hour conditions or a minimum of four hundred feet for arterials and three hundred feet for collectors, whichever is greater.**

MMC 19.1413.3 - Number and Size of Driveways

A. Number. The number of access points on arterial and collector streets from any development shall be minimized whenever possible through the use of shared driveways and coordinated on-site circulation patterns.

- 1. One driveway per site frontage will be the normal number allowed. For residential properties, additional site access is permitted by use of a mountable curb and reinforced sidewalk in accordance with design requirements of the Transportation Design Manual.*
- 2. Multifamily, commercial or industrial developments with street frontage greater than one hundred and fifty feet may request an additional driveway, if needed.*

B. Shared driveways. Within commercial, industrial and multifamily areas, shared driveways and internal access between similar uses are encouraged to reduce the number of access points to the higher classified roadway, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared driveways or internal access between uses will be established by means of common access easements.

C. Driveway size. Driveway openings (curb cuts) shall be the minimum width necessary to provide the required number of vehicle travel lanes (nine feet for each travel lane). The following standards (measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians. This Chapter does not apply to requirements for flag lots, which are found in Title 17.

- 1. Single family attached and detached uses shall have a minimum driveway width of 9 feet and a maximum width of eighteen feet.*
- 2. Three-family uses shall have a minimum driveway width of sixteen feet and a maximum width of twenty feet.*
- 3. Multiple family uses with between four and seven dwellings shall have a minimum driveway width of twenty feet, and a maximum width of twenty-four feet.*
- 4. Multiple family uses with more than eight dwelling units, and off-street parking areas with sixteen or more spaces, shall have a minimum driveway width of twenty-four feet, and a maximum width of thirty feet.*
- 5. Commercial, office and institutional uses shall have a minimum driveway width of twelve feet, and a maximum width of thirty-six feet.*
- 6. Industrial uses shall have a minimum driveway width of fifteen feet, and a maximum width of forty-five feet.*

Maximum driveway widths for commercial and industrial uses may be increased if the City Engineer determines that more than two lanes are

required based on the number of trips generated or the need for turning lanes.

75. **MMC Section 19.1413 establishes access management standards. The applicant has made the project more conforming with regard to the City's access management standards by proposing to close the northerly access driveway that is currently in close proximity to the Milport/Main intersection.**
76. **The maximum driveway width for industrial uses is 45 feet. MMC Section 1413.C.6 authorizes the City Engineer to allow an increase in the access driveway width when more than two lanes are required or there is a need for turning lanes. The need for the driveway width is based upon an easement over the park-and-ride lot that guarantees truck access to the southerly adjoining property. The 50-foot access drive is necessary to accommodate truck-turning movements.**

**FINDINGS IN RESPONSE TO ISSUES RAISED
IN THE APPEAL SUBMITTED MARCH 2, 2006**

77. **The appellant claims that TriMet cannot rely on a nonconforming use status in order to argue for a less than conforming parking lot design on the site. The appellant relies on the provisions outlined in Milwaukie Municipal Code (MMC) Section 19.800 to contend that the previous park-and-ride use was never a nonconforming use. The recommended findings for approval do not rely on a nonconforming use status. The only nonconformity on the site is with regard to parking design standards. Therefore the City Council finds that MMC Section 19.800, which applies only to nonconforming uses and nonconforming structures, does not apply.**

When applying parking design standards on previously-developed sites, the City relies on MMC Section 19.502 "Off-Street Parking and Loading Applicability" to determine the extent to which parking design standards apply. Section 19.502.A states that the standards and procedures of the Off-Street parking code "shall apply to all development, remodeling and changes of use that increase parking and loading demand." When the lot was originally developed as a theater use, the demand was determined to be 381 spaces. The proposed 329-space park-and-ride lot will reduce the overall number of spaces, but will fulfill a regional parking demand for parking spaces along this transit corridor. TriMet projects that demand for this lot to be equal to the 329 spaces provided, since the lot will be

absorbing an overall regional demand for commuter parking along transit corridors. The proposed park-and-ride will not increase parking and loading demand.

78. The appellant argues that it is erroneous for TriMet to rely on a nonconforming status and further argues that if it is relying on this status, it must abide by the requirements outlined in MMC Section 19.800 “Nonconforming Uses”.

The recommended findings for approval do not rely on a nonconforming use status. As outlined above, the only nonconformity on the site is with regard to parking design standards. Therefore the City Council finds that MMC Section 19.800, which applies only to nonconforming uses and nonconforming structures, does not apply.

79. The appellant contends that an approved CSO designation is a new zoning designation. As such, it would trigger compliance with Statewide Planning Goals and the statewide Transportation Planning Rule (TPR). MMC Section 19.321.1 states that “the community service overlay will function as an overlay designation for public and private institutions for most zones and districts.” Certain uses, including uses in the following categories can be approved as CSO designated uses in most zones and districts. These categories are:

- Institutions—Public/Private and Other Public Facilities
- Utilities;
- Recreation facilities; and
- Communication facilities

The CSO is an overlay designation that must meet development standards of the underlying zone and other criteria for CSO uses. Nothing in MMC Section 19.321 provides for a map change or imposition of a zone. CSO uses are similar to conditional uses in this respect. CSO approvals are not a map amendment since they do not amend the zoning map. Therefore, the City Council finds that CSO uses are not required to conform with the Statewide Planning Goals or the TPR.

80. The appellant claims that the proposed park-and-ride is not a “public transit facility use.” The City Council finds that the park-and-ride is a “public transit facility” under the CSO uses listed in MMC Section 19.321.2.B.8. The term “public transit facility” is not defined in the code. In such cases, the meaning of the term or phrase is based on its commonly

understood meaning. In evaluating the matter, staff applied the followed reasoning:

- TriMet is a public transit agency and the park-and-ride is intended for public use.
- The purpose of the park-and-ride lot is to support site-specific access to public transit.
- A facility is defined as “something designed and created to serve a particular function and to afford a particular convenience or service; such as “catering facilities”; “educational facilities”; or “toilet facilities” (Source: wordnet.princeton.edu).

81. The appellant claims that the application does not satisfy City transportation standards under Chapter 19.1400. The application satisfies the City Transportation Standards under Chapter 19.1400. The appellant makes two arguments that the transportation study is inadequate. The applicant’s analysis is appropriate and, in response to the appellant’s two allegations of incompleteness, the following findings are made: The applicant’s analysis is incomplete for two reasons:

a. Failure to Provide Queuing Analysis

The applicant addressed queuing analysis questions in its January 24, 2006 letter to Planning Commission Chairman Hammang under item #2 with an attached memorandum from DKS Associates stating “The operational analysis and simulation that was conducted as part of the analysis for the park-and-ride lot (and updated with the 2005 information and site size) indicates that this intersection would perform within the City of Milwaukie’s and ODOT’s performance standards (See Supplemental Packet Attachment B – February 14, 2006 Planning Commission staff report . This reference can be found in Attachment 2 of the 2/14/06 report).

Table 3 of the December 16, 2005 Southgate Park-and-ride Traffic Analysis Update conducted by DKS Associates and submitted by TriMet as Appendix 6 to its application reports that both the SE McLoughlin Blvd / SE Milport and SE Milport / SE Main Street intersections operate at Level of Service A or B in the peak periods, well above the City’s LOS D standard. The delay of approximately 40 seconds at this intersection is due to the signal cycles (120-second) set by ODOT to support the operation of SE McLoughlin Boulevard – not from queuing. The analysis by DKS does not show appreciable increases in queuing and delay at this pair of intersections (See

Supplemental Packet Attachment A – January 10, 2006 Planning Commission staff report. This reference can be found in Attachment 2, Appendix 6 of the 1/10/06 report).

TriMet also provided in its oral testimony the results of a vehicle license plate survey of park-and-ride users from 1999 indicating that the predominance of vehicles approached and left the lot from the south and southeast and were, therefore, not likely to use the Main / Milport intersection. Most vehicles would use some combination of Harrison Street and the northbound “slip lane” from northbound McLoughlin to Main Street, just south of the park-and-ride lot. DKS determined for TriMet that use of the “slip lane” is used by less than 25 vehicles per hour and with queuing of no more than one vehicle at a time. Truck counts suggest that SE Ochoco rather than this connector is the major truck access point for the district (*The DKS “slip lane” analysis can be found in Supplemental Packet Attachment B – February 14, 2006 Planning Commission staff report. This reference can be found in Attachment 2 of the 1/10/06 report*). City Council finds that that the applicant has sufficiently analyzed the traffic issues, including queuing, in these materials.

b. Failure to Provide TPR Analysis

The appellant contends that an approved CSO designation is a zoning map amendment. As such, it would trigger compliance with the statewide Transportation Planning Rule (TPR). The CSO is an overlay designation that must meet development standards of the underlying zone and other criteria for CSO uses. As detailed in Item #2 above, nothing in MMC Section 19.321 provides for a map change or imposition of a zone. CSO uses are similar to conditional uses in this respect. CSO approvals are not a map amendment since they do not amend the zoning map. Therefore the City Council finds that CSO uses are not required to conform with the statewide TPR.

- 82. The appellant claims that the requested adjustment to sidewalk width standards should be denied. This issue is addressed in Findings 56 and 57.**
- 83. The appellant claims that the benefits of the Park-and-ride Facility do not outweigh the adverse impacts. This issue is addressed in Finding 19.**

- 84. The appellant claims that siting the TriMet facility in the Southgate location is premature given the status of the City's transportation systems planning. This is an application for a public transit facility and must be reviewed against the criteria outlined in the Community Service Overlay regulations. This application does not request approval of any activities relating to light rail or a future transit center. The City Council is obligated to make a decision based on the facts presented in the application.**

Conditions of Approval

1. The park-and-ride shall be constructed in accordance with approved plan dated January 17, 2006.
2. Closed Circuit Television surveillance shall be installed and operational as soon as reasonably feasible, and in no event later than three years following the opening of the park-and-ride. Until the surveillance system is installed, the applicant shall submit annual security reports to staff and the Planning Commission in January of each year regarding personal and property crime occurring on the site. The report shall include annual crime statistics from the TriMet Transit Police and the Milwaukie Police Department. The report shall also include progress on the schedule for installation of security cameras. TriMet shall coordinate with the Milwaukie Police Chief regarding system development and potential shared access.
3. Prior to issuance of any development permits, the applicant shall dedicate 11 feet of right-of-way fronting Main Street to accommodate future planter strip, sidewalk, and bike lane improvements.
4. Prior to commencement of construction for on-site improvements, the applicant shall submit construction plans for ODOT review. This condition does not apply to demolition of the theater
5. The applicant shall cut and cap the existing wastewater service line for the Southgate Theater building within 5 feet of the 12-inch wastewater main in accordance with requirements of the City of Milwaukie demolition permit and the 2004 Oregon Structural Specialty Code.
6. The applicant shall abandon the existing water service for the Southgate Theater building at the 12-inch water main on SE Main Street in accordance with requirements of the City of Milwaukie demolition permit.
7. Prior to final inspection, the applicant shall install "Side Street Traffic Does Not Stop" (ODOT sign #OR3-13) under the existing STOP sign for each direction on SE Main Street at the intersection with SE Milport Road.
8. Prior to final inspection, at the direction of the City Engineer, the applicant shall restripe Main Street fronting the project site to accommodate required bike lanes.

9. Prior to final inspection, the applicant shall reconstruct a flared style sidewalk curb ramp consistent with the Transportation Design Manual standards with yellow pedestrian warning pads (MASCO CASTinTACT preferred) at the southeast corner of the intersection of SE Main Street and SE Milport Road.
10. Prior to issuance of any development permits or commencement of construction, the applicant shall submit full-engineered plans for all public improvements to the City of Milwaukie Planning Department for review and approval. Prior to final inspection or occupancy of the site, construction of the improvements must be completed and final Mylar "as constructed" drawings submitted before the City will approve occupancy of the site. Construction shall be consistent with approved site plan and the property shall be maintained consistent with the approved site plan.
11. Prior to issuance of any development permits or commencement of construction, the applicant shall pay an inspection fee equal to 5.5% of the cost of the public improvements.
12. Prior to issuance of any development permits or commencement of construction, the applicant shall provide a payment and performance bond for 100% of the cost of the public improvements.
13. Prior to commencement of construction, the applicant shall provide an erosion control plan and obtain an erosion control permit.
14. At such time full roadway improvements on Main Street are constructed the applicant and future owners/assigns shall be responsible for constructing eight feet of on-site landscaping required in Section 503.19 (A)(1), screening the right-of-way from parking area. This will likely result in the loss of parking spaces at that time.
15. Prior to final inspection and occupancy of the site, no less than 15% of the site shall be landscaped. The new parking area to be provided in place of the demolished theater must comply with dimensional and landscaping requirements of MMC Section 500.
16. Prior to installing any signs on the site, the applicant will be required to comply with MMC Title 14 "Signs".
17. Applicant shall maintain all landscaped areas shown on the approved plans.

Attachment 2



PLANNING DEPARTMENT
6101 SE JOHNSON CREEK BLVD.
MILWAUKIE, OREGON 97206

PHONE: (503) 786-7630
FAX: (503) 774-8236

Application for Land Use Action

APPEAL of File Number: CSO-05-04/TPR-05-04 Admin. I Minor QJ Leg.
 Admin. II Major QJ

Type: Appeal of Planning Director Decision
 Appeal of Planning Commission Decision

RESPONSIBLE PARTIES: (Please print or type)

APPLICANT(S): <u>Tri-Met % Steve Abel, Steel River LLP</u>	Phone: <u>(503) 294-9599</u>
Address: <u>900 SW Fifth Ave., Suite 2600, Portland</u>	Zip: <u>97204</u>
PROPERTY OWNER(S): <u>Industrial District Property Owners</u>	Phone: <u>(503) 727-2073</u>
Address: <u>% Mark Whitlow, Perkins Coie LLP, 1120 NW Couch St, Portland</u>	Zip: <u>97209</u>

SITE INFORMATION:

Address: <u>9600 SE Main St.</u>	Map & Tax Lot(s): <u>1S1E2SCB01000</u>
Comprehensive Plan Designation: <u>Industrial</u>	Zoning: <u>M</u> Size of property: <u>4.5 acres</u>

PROPOSAL (describe briefly):

Map amendment applying CSO overlay for Tri-Met park + ride facility

PLEASE NOTE: The Land Use Committee (LUC) of your Neighborhood District Association (NDA) will receive a review copy of this application. They may contact you and/or you may wish to contact them:

NDA: N/A LUC Chair: N/A Phone: _____

ATTEST: I am the property owner or I have attached the owner's authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: N/A (this is an appeal). [Signature] Date: 3-2-06

THIS SECTION FOR OFFICE USE ONLY:

File #: <u>AP-06-01</u>	Fee: \$ _____	Rcd. by: _____	Date stamp: <u>3/2/06 4:00PM Barb [Signature]</u>
Notes:			

SEE NEXT PAGE FOR APPLICATION CHECKLIST → N/A

Mark D. Whitlow
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1120 N.W. Couch Street, Tenth Floor
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March 2, 2006

VIA MESSENGER

Mayor Bernard and City Council
City of Milwaukie
c/o City Recorder
10722 SE Main Street
Milwaukie, OR 97222

**Re: Appeal of Planning Commission Decision on Tri-Met Park & Ride
Application CSO 05-04 and TPR 05-04**

Dear Mayor Bernard and Members of the Council:

This appeal of the Milwaukie Planning Commission's decision approving the above-referenced application is submitted on behalf of the following business and property owners in the North Milwaukie Industrial District (the "Industrial District"): Oregon Transfer Company, Rudie Wilhelm Warehouse Co., Anderson Die & Mfg., Co., Oregon Worsted Company, Holman Distribution Center of Oregon, Inc., R & R Textiles, Inc., Corinthian Textiles, Heiberg Garbage & Recycling, American Medical Response, STX Oregon Property Management and 6710 LLC.

On February 15, 2006, the Planning Commission issued its decision approving Tri-Met's request for application of the Community Service Overlay ("CSO") zone and Transportation Plan Review to allow construction and operation of a 329-space public park and ride facility at the entrance to the Industrial District. For the reasons set forth below, the City Council should reverse the Planning Commission decision and deny the application.

**1. The Application is for New Development, and Cannot Rely
on Nonconforming Status of the Existing Parking Lot.**

The application, and the Planning Commission decision, improperly attempt to portray the existing parking lot as a nonconforming use or development that can simply be "modified" or "brought closer to conformance" with current city standards.

[33180-0010/PA060580.086]

However, the present application does not involve a valid existing nonconforming use or structure under the Milwaukie Municipal Code ("MMC"), and therefore the application is for new development that requires full compliance with the zoning ordinance requirements

a. The Prior Park and Ride Use Was an Illegal Use That Was Never Permitted

As explained in the city staff report dated January 10, 2006, the Southgate Theater was approved as a conditional use in the Light Manufacturing (M-L) zone in 1972. In 1985, the M-L zone was changed to the Manufacturing (M) zone, which eliminated the prior conditional uses of the M-L zone, thereby rendering the theater a non-conforming use in the M zone. According to the applicant, Tri-Met had a private agreement with the Southgate Theater landowner to use the parking lot for park and ride purposes until the theater closed in 2000. However, the applicant has provided no evidence to establish that Tri-Met ever obtained any city approvals for the use of the property as a park and ride facility. At best, the agreement with the Southgate Theater owner could only have been an agreement for the shared use of the theater's parking lot, and not a right to use the lot exclusively as a park and ride facility as now proposed. Because Tri-Met's prior use of the parking lot was never lawfully approved by the city, it was an illegal use and the applicant is currently requesting approval for new development. Therefore, any statements in the application and Planning Commission decision regarding "reducing" the number of parking spaces in the parking lot, or "moving toward conformity" with the zoning code cannot be considered by the City Council.

b. If the Prior Park and Ride Use was Nonconforming, it was Abandoned after 2000.

As stated above, because Tri-Met's prior contractual use of the site as a park and ride facility was never permitted by the city, it was an illegal use that cannot be relied upon as a means to show compliance with the current code. If the city incorrectly concludes that Tri-Met's prior use of the site as a park and ride was somehow legal, there can be no dispute that Tri-Met's prior use became nonconforming in 1985, when the city amended the M-L zone provisions to remove theaters from the list of conditional uses.

Under MMC Section 19.803, a nonconforming use is abandoned if the use is discontinued for a period of six months, and "further use of the property shall conform to this Chapter." Tri-Met cannot establish that it has used the site continually since the theater closed in 2000 and was acquired by a new property owner. The applicant has the burden of proof to establish that a use meets the continuity requirements in order to retain nonconforming status. *Lawrence v. Clackamas County*, 40 Or LUBA 507 (2001). As correctly explained by city staff regarding the abandonment issue at page 3 of the January 10, 2006 staff report to the Planning Commission: "The theater's non-conforming status and the former park and ride's non-conforming status expired following their respective closings." As discussed in Section 2 below, in order to establish that there is an existing nonconforming use or structure on the site, the applicant must undertake a Type I administrative review process under MMC 19.809 and obtain a determination from the planning director that there is a recognized nonconforming situation.

c. The Application Must Comply With All Applicable Standards.

The Planning Commission's final decision ignores the conclusion of city staff in the January 10, 2006 staff report regarding the expiration of the nonconforming park and ride use, and instead applies MMC Section 502 regarding "uses with nonconforming parking and loading facilities." Specifically, at Finding No. 6, the Planning Commission decision erroneously approves the applicant's revised site plan, because it "demonstrates an attempt to bring the existing parking area closer into conformance with parking standards." The Planning Commission does not conclude that the applicant has actually satisfied all of the applicable off-street parking and loading requirements of MMC Chapter 19.500. As explained above, any nonconforming use of the site by Tri-Met was abandoned after the theater was closed, and Tri-Met cannot be allowed to simply move "closer into conformance" with applicable standards rather than demonstrating actual compliance with the code. The Planning Commission decision fails to include findings addressing all applicable standards of Chapter 19.500, and does not identify exactly which standards are not met by the applicant's proposed site plan. To the extent the Planning Commission concluded that applicable standards of Chapter 19.500 are not met, the application cannot be approved.

2. If the Park and Ride is a Nonconforming Use or Structure, Tri-Met Must Comply With the Nonconforming Situation Provisions of MMC Chapter 19.800.

As explained above, the Planning Commission's decision treats at least some portion of the existing parking facility as a nonconforming use or structure, stating in Finding No. 6 that the parking lot is nonconforming, and that MMC Section 502 allows Tri-Met to "bring the existing parking area closer into conformance with parking standards." If the Planning Commission is correct, and the proposed park and ride is a nonconforming use or nonconforming structure, then Tri-Met must be required to comply with the standards applicable to continuation of a nonconforming use or structure, which are set forth at MMC 19.801 and 19.802. Those code sections prohibit the alteration or expansion of a nonconforming use or structure unless the alteration or expansion is "approved by the planning commission after a public hearing ... upon a determination that the proposed modifications would result in no more of a detriment to surrounding properties than the existing use." Here, the applicant proposes to convert what was only a shared parking arrangement with the Southgate Theater into an exclusive park and ride facility.

At a minimum, in order to expand the alleged nonconforming parking use or structure, the applicable city procedures would require: (a) a Type I review proceeding under MMC 19.809 to make a determination regarding the legal status of the nonconforming use or structure, followed by (b) a quasi-judicial review process under MMC 19.802 to consider Tri-Met's proposed alteration of the nonconforming use or structure. The Planning Commission made a conclusion regarding the nonconforming nature of the parking lot, but did not undertake either of the necessary procedures, and therefore the decision must be remanded.

3. Applying the CSO Overlay Zone is a Map Amendment that Requires Compliance with the Statewide Planning Goals and the Transportation Planning Rule.

By applying the CSO "overlay zone" to the subject property, the city is effectively amending its comprehensive plan and zoning maps to allow a new set of uses on the site, without addressing state laws that regulate the impacts of such changes in use on the transportation system. The fact that this is a *de facto* map amendment is reflected in the city's CSO zone provisions, which recognize that the application of the CSO zone places a new "overlay" zoning designation on the subject property that allows

different uses than would otherwise be allowed in the underlying zoning district. MMC § 19.321. Under the current "Manufacturing" zoning designation, the proposed park and ride facility would not be allowed; however, if Tri-Met's application is approved, there will be a new CSO zoning designation on the site that will allow the new proposed use. This is undeniably a plan and zoning map amendment that triggers the application of the Statewide Planning Goals, the TPR, and Metro's Functional Plan. The application does not address any of these standards, and therefore the application must be denied.

Specifically, with respect to the TPR, because the proposed application of the CSO zone to the subject property is a zoning map amendment, the proposed park and ride facility must comply with OAR 660-12-0060, which requires a planning horizon year (15 years or the horizon year identified in the adopted TSP) comparative analysis of the existing and proposed zoning designations at full build-out. This analysis would need to occur to determine if such an action causes a significant affect to the surrounding transportation system. The applicant's TIA materials do not provide the required analysis under the TPR.

4. The Park and Ride is Not a "Public Transit Facility," and the Planning Commission Failed to Make a Finding Regarding the Use.

The proposed park and ride facility is not a "public transit facility" within the meaning of MMC Section 19.321.2.(B)(8). The Planning Commission failed to make a specific finding that the park and ride facility falls within or is similar to the public transit facility use that is identified as an allowed use in the CSO zone. Under MMC Section 19.321.2.(B)(10), such a determination can only be made by the Planning Commission, and the City Council must remand the decision back to the Planning Commission to make the requisite determination that the park and ride is a "similar use" that should be allowed in the CSO zone.

5. The Application Does Not Satisfy City Transportation Standards Under Chapter 19.1400.

As explained above, because the prior park and ride use on the site was either an illegal use that was never permitted, or was a nonconforming use and/or structure that was abandoned after 2000, Tri-Met's application proposes new development that must demonstrate compliance with all of the city's transportation standards in MMC

Chapter 19.1400. Tri-Met's repeated statements in its application that it is merely requesting a "renovation" of the site and "reduction" of the number of parking spaces from 381 spaces to 331 spaces are incorrect.

Section 19.1407 provides as follows: "The purpose of this Chapter is to ensure that streets, sidewalks, and other transportation facilities are safe, convenient, and adequate to accommodate the impacts of new development or redevelopment consistent with the State Transportation Planning Rule and the Milwaukie Comprehensive Plan, Transportation Systems Plan, and Capital Improvement Plan."

Although the applicant has provided a supplemental TIA dated December 13, 2005, that analysis is incomplete for two reasons: (a) it does not provide an adequate queuing analysis at the Milport Road intersections with SE Main Street and the Westside Frontage Road; and (b) it fails to provide the required analysis under the state Transportation Planning Rule (TPR).

a. Failure to Provide Queuing Analysis

One of the primary traffic constraints on the McLoughlin Employment Area arises out of the close proximity of the Milport Road/Main Street intersection with the McLoughlin Blvd/Main Street intersection, and the identical situation with the Main Street/Westside Frontage Road intersection on the west side of McLoughlin. On the east side, there is only 50 feet between these intersections, which allows for a maximum storage capacity of two passenger vehicles (or one truck or bus). The addition of a park and ride facility for 331 cars will exacerbate existing queuing problems at these two intersections. The applicant's TIA and the Planning Commission decision fail to provide an adequate analysis of these impacts and resulting safety issues, as required by MMC 19.1405.5, 19.1407 and 19.1408.

b. Failure to Provide TPR Analysis

In addition to the above-quoted provisions of MMC 19.1407.1, which require the city to ensure that new development is "consistent with the State Transportation Planning Rule," the proposed application of the CSO overlay zone is a map amendment that applies a new zone on the subject property, and therefore requires the applicant to provide a TPR analysis under OAR 660-012-0060. The TPR is triggered by any "amendment to a land use regulation" that will significantly affect an existing transportation facility. This issue is addressed in more detail in Section 2 above.

6. The Requested Adjustment to Sidewalk Width Standards Should be Denied.

The Planning Commission approved the applicant's request for an adjustment to the otherwise applicable 8-foot sidewalk and 5-foot planter strip requirements, based in part on a conclusion that the applicant has agreed to dedicate 11 feet of right-of-way as required by the city zoning ordinance, and therefore there is sufficient room to provide the required sidewalk and planter strip in the future. However, if the applicant is being granted an adjustment to those standards, the Planning Commission's logic is circular because the adjustment expressly allows the applicant to *not* construct the required improvements. The Planning Commission's decision does not adequately address MMC 19.404, and the applicant cannot be granted an adjustment based on the fact that it is merely complying with otherwise applicable right-of-way requirements.

7. The Benefits of the Park and Ride Facility do not Outweigh the Adverse Impacts.

The criteria applicable to the requested map amendment adding the CSO overlay zone to the site require findings that the "benefits to the public outweigh the possible adverse impacts of the use," and that the hours and levels of operation of the proposed use can be adjusted to be reasonably compatible with surrounding uses. The Planning Commission failed to adopt adequate findings addressing these standards, particularly in light of evidence provided by the Industrial District group regarding the impacts of the park and ride facility on existing industrial uses in the area, and the economic benefits to the city provided by the Industrial District.

At the Planning Commission hearing on January 10, 2006, the Industrial District property owners submitted a memorandum from economists Johnson Gardner providing a summary of the direct economic benefits provided by the North Industrial District businesses to the City of Milwaukie. As stated in that memorandum, businesses in the North Industrial District generate a total of \$308 million of commerce in the City of Milwaukie, which represents slightly over 17 percent of the City's economy. Also, businesses in the District account for 2,484 jobs in the City of Milwaukie, which constitutes 15 percent of the City's total employment. Businesses in the District support average wages of \$44,300 across all industries affected, which is 20 percent higher than Clackamas County wages for corresponding industries.

The Planning Commission was also provided a supplemental memorandum from Johnson Gardner dated January 16, 2006, which provides an analysis of the tax revenues generated by businesses in the North Industrial District. As stated in the attached memorandum, commerce and employment driven by District businesses generate \$27.8 million in state and local tax and fee revenues annually. Of that amount, \$5.4 million is property tax, \$20.8 million is in taxes on business and commerce, and over \$6.7 million is state income tax, which helps fund education at the local level. Local schools receive about \$2.2 million in taxes annually from North Industrial District businesses.

As evidenced by this economic data, more than just a parking lot is at stake in this application. A majority of property owners and business leaders in the North Industrial District have expressed their legitimate concerns to the planning commission regarding the negative impacts of the proposed facility on existing businesses in the area. The functionality of the North Industrial District is in a precarious balance that should not be further encroached upon by the proposed use, which is incompatible with the area and is not proposing to mitigate its impacts. Allowing the proposed parking lot use will undermine the economic growth potential of the industrial district and employment center, and will negatively impact the economy of district and the City of Milwaukie as a whole. The city should not disregard or marginalize the North Industrial District by allowing the proposed non-employment use in a designated employment area.

Based in part on this information, the City Council should find that the benefits to the public from the park and ride would not outweigh the adverse impacts that would arise out of approving the park and ride facility in this important employment area.

8. Siting the Tri-Met Facility in the Southgate Location is Premature, Given the Status of the City's Transportation Systems Planning.

There is currently significant debate and uncertainty regarding the appropriate alignment of the Milwaukie Light Rail line, and the appropriate location of a light rail transit center in Milwaukie. In 2004, the city made a planning determination that the Kellogg Lake site is a better location for a light rail transit center than Southgate. Although there is current uncertainty regarding the viability of the Kellogg Lake site, approving the proposed park and ride facility at the Southgate site as proposed by Tri-Met would amount to a *fait accompli* regarding the ultimate location of a light rail

Planning Commission
March 2, 2006
Page 9

transit center in this location, and the abandonment of the Tillamook Branch alignment for the light rail line. The previous conclusion of the Milwaukie Transit Center Working Group and the City of Milwaukie was that the Southgate site is not an appropriate location for a future light rail transit center. For the same reasons, the site is not appropriate for a park and ride facility, particularly because the approval of a Tri-Met park and ride facility at Southgate will commit the City to ultimately siting the transit center in this location.

Therefore, approving this application would not be just an approval of a park and ride, but also an approval of the ultimate location of the transit center and a Main Street light rail alignment. These are decisions that need to be made as part of a larger planning process that considers all of the resulting impacts of those decisions, including impacts of a Main Street alignment on businesses within the Industrial District. The city should not make this decision based solely on the limited facts of the application currently before the planning commission. The Planning Commission erred by refusing to accept testimony offered at the public hearing regarding alternative uses of the site, and by rejecting consideration of the impact of this decision on future transit uses for the site. This application should be denied, or at a minimum, continued until all of the future impacts of placing a transit center in this location can be considered.

For the above-stated reasons, the City Council should reverse the Planning Commission's decision and deny the Tri-Met application.

Very truly yours,



Mark D. Whitlow

MDW:raa

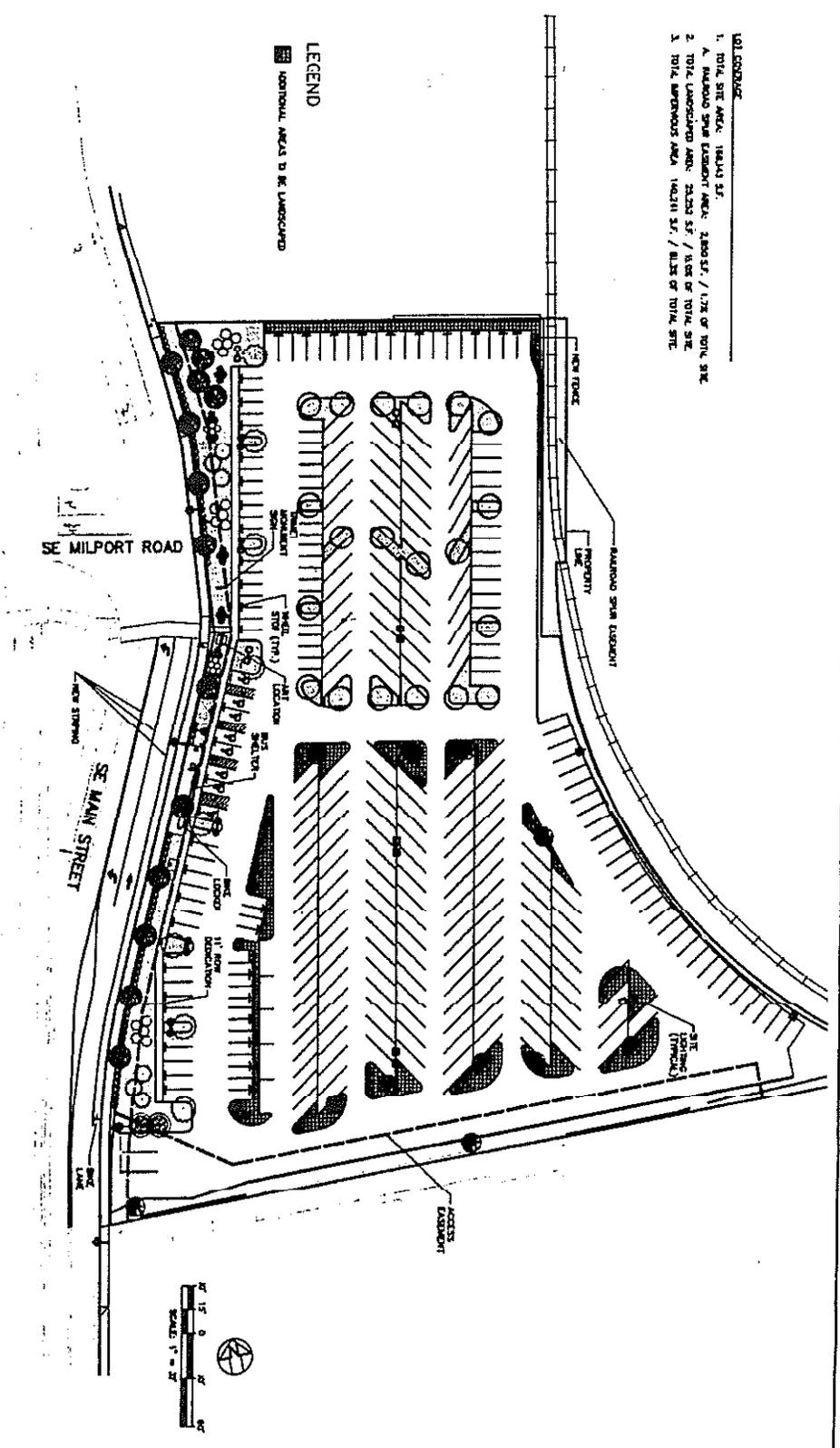
cc: North Industrial District property owners
Steve Abel, Stoel Rives LLP

1. TOTAL SITE AREA: 164,143 SF
2. TOTAL LANDSCAPED AREA: 24,200 SF / 17% OF TOTAL SITE
3. TOTAL LANDSCAPED AREA: 24,200 SF / 15% OF TOTAL SITE
4. TOTAL LANDSCAPED AREA: 164,143 SF / 100% OF TOTAL SITE

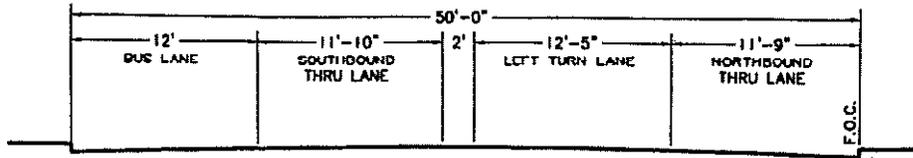
- LOT COVERAGE**
- TOTAL SITE AREA: 164,143 SF
 - LANDSCAPED AREA: 24,200 SF / 17% OF TOTAL SITE
 - TOTAL LANDSCAPED AREA: 24,200 SF / 15% OF TOTAL SITE
 - TOTAL LANDSCAPED AREA: 164,143 SF / 100% OF TOTAL SITE

LEGEND

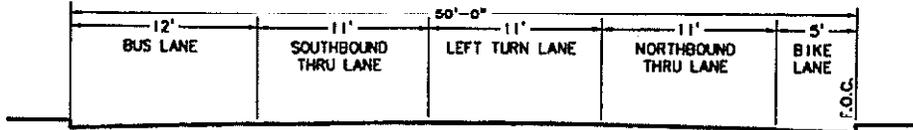
■ HORIZONTAL AREAS TO BE LANDSCAPED



<p>TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON</p> <p>TRI MET</p> <p>CAPITAL PROJECTS FACILITIES DIVISION</p> <p>1000 NE OREGON STREET, PORTLAND, OREGON 97232</p>	<p>M. WAINCE PARK & ROSE</p> <p>PLAN REVISIONS</p> <p>DRAWING 1</p>
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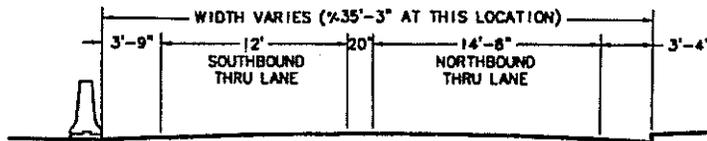


EXISTING

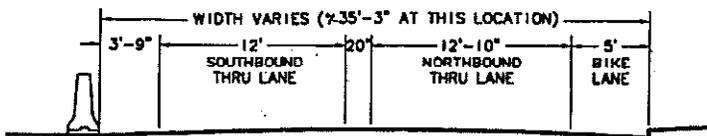


PROPOSED

SECTION AT SOUTH END OF BUS ZONE



EXISTING



PROPOSED

SECTION AT NORTH EDGE OF SOUTH DRIVEWAY

		CAPITAL PROJECTS AND FACILITIES DIVISION 710 N.E. HOLLADAY STREET PORTLAND, OREGON 97232		MILWAUKIE PARK & RIDE MAIN STREET SECTIONS	
DRAWN JHM	DESIGN KB	CHECKED	APPROVED:	DATE: 1-16-06	
SCALE: 1" = 10'	FILE NAME: SECTIONS		CONTRACT NO:	SHEET NO: DRAWING 2	

Attachment 4

Attachment 4

Garst, Jeanne

From: DuVal, Pat
Sent: Wednesday, April 05, 2006 5:03 PM
To: Garst, Jeanne
Subject: FW: Park and ride

I li, Jeanne -- are you planning to attach comments to the staff memo?

-----Original Message-----

From: Salyers, Tim
Sent: Wednesday, April 05, 2006 5:00 PM
To: DuVal, Pat
Subject: FW: Park and ride

-----Original Message-----

From: Cliff J. Brady [mailto:cjbrady@reliablecredit.com]
Sent: Wednesday, April 05, 2006 4:55 PM
To: salyerst@ci.milwaukie.or.us
Subject: Park and ride

I am in favor of establishing a park and ride in the old south gate theater parking lot. There is an enormous parking shortage in downtown Milwaukie and I will support anything that can help the current bad situation.

Cliff Brady
Local worker



Park & Recreation Board

PARB

Tuesday, January 24, 2006

6:00 PM to 8:00 PM

Regular Meeting

MINUTES

Attendees: Kathy Buss, Kate McCready, Ray Harris, Mart Hughes, Sonny Newson

Absent: Joan Young, Rob Gabrish, Sherri Dow

Staff: JoAnn Herrigel

Minutes: Harris motioned to accept minutes of December 27, 2005. McCready seconded and minutes were approved 5-0.

Kronberg Park Naming: Herrigel reported that Historic Milwaukie, Lake Road and Island Station neighborhoods had met and discussed the proposal to name a City-owned parcel near Kellogg Lake, Robert Kronberg Park. She noted that Historic Milwaukie endorsed the name. Lake Road NDA suggested that it be called just "Kronberg Park." And the Island Station NDA felt it was important to distinguish between the property deeded to the City by the Kronbergs and the adjacent parcels when applying the name.

Park Board members discussed various options and finally, Harris motioned to recommend that Council assemble the Kronberg property and the parcels north and south of it and call it "Robert Kronberg Nature Park". Newson seconded the motion and it passed 5-0.

Metro Bond Measure Report: Herrigel said she had sent out the staff report she'd forwarded to Council for their February 7 meeting. She noted that Metro Councilor Brian Newman would be at that Council meeting to present a summary of the upcoming ballot measure. She said she would take the proposed project list to the neighborhood leadership meeting the following evening for their input. February 21st she intended to take a resolution to Council regarding the proposed local share project list for the City.

IGA Discussion: The group renewed their discussion of the IGA between the City and the North Clackamas Parks and Recreation District. Herrigel said she would integrate the comments into the actual IGA text and get that back out to the group

City Project Update:

Nature in the Neighborhood Pre-apps: Herrigel reported that two pre-applications had been submitted for Milwaukie-owned park projects to Metro's Nature in the Neighborhoods grant program. One was for a technical evaluation and plan for Klein Point and the other was for path and wetland enhancement at Spring Park.

Minthorn North Damage: Qwest has completed some work near the Minthorn North site and has disrupted a wood chip path and covered up some plants on the site with solid from their project. Herrigel said she was working with Qwest representatives to either replace the plants and path or provide the City with funds to do so.

T-Shirts: The group reviewed the proposed layout for the PARB T-Shirts. Herrigel said she'd meet with the T-Shirt person that next week to go over the order.



Park & Recreation Board

PARB

Tuesday, February 28, 2006

6:00 PM to 8:00 PM

Regular Meeting

MINUTES

Attendees: Kate McCready, Mart Hughes, Sherri Dow

Absent: Ray Harris, Rob Gabrish, Sonny Newson

Staff: JoAnn Herrigel, Joan Young

Visiting: Ethan Young (observing for class)
Dan Zinzer, NCPRD Director

Minutes: January minutes could not be approved due to lack of quorum.

Dow noted that she could not have seconded the motion to approve the minutes from the January meeting since she was out of the country.

Work Plan: Herrigel said the PARB was due to meet with Council regarding their work plan for 06-07. She said she had sent the group the work plan they'd developed for 05-06. She handed out a list of accomplishments for this past year for all to review. The group agreed to review last year's work plan and this year's accomplishments and to discuss the 06-07 work plan at their April 25 meeting.

New PARB members: Dow asked what we were doing to advertise the Park Board opening. Herrigel said that the open position would go in the Pilot, the Friday memo, the City web site and would be posted all City Buildings.

IGA review: The group continued their discussion of the IGA between the City and NCPRD. Herrigel reviewed the list of Parks and facilities that are to be maintained and operated by NCPRD. The group also reviewed the maintenance levels and the descriptions of each level. Comments from the group included:

- Clarify what the Fire Admin./Historic Society facility is. If it is the former NCPRD offices – is NCPRD still maintaining it? What will happen with this building? PARB would like to have input on the sale of this property.
- Hughes suggested that there should be a new maintenance level that covered “special maintenance areas” and would include wetland areas of other sensitive environmental areas. He said that we should convey to the District that the District should support these areas.
- Dow said that the reference to wood chips from local Christmas tree farms be removed under the NCP Horse arena.
- Hughes noted that there had been a recent inquiry regarding the park restrooms being closed. With the City's passage of a law prohibiting public urination, he wondered if we should now have the restrooms open at NCP and the boat ramp all year long. The group agreed that perhaps the duration of restroom closure might be narrowed but felt that the District should use their discretion to avoid frozen pipes etc.
- Staff should look at maintenance schedules for other Park Districts.

Next steps on IGA :

- Ask City attorney to review the PARB suggestions

CUAB MEETING MINUTES
Wednesday, February 1, 2006
Johnson Creek Facility Conference Room
6101 SE Johnson Creek Blvd.

Members Present

Bob Hatz, Chair
Charles Bird, Vice Chair
Betty Chandler
Ed Miller

Staff Present

Paul Shirey, Engineering Director
Jay Ostlund, Civil Engineer

I. CALL TO ORDER

Chair Hatz called the meeting to order at 6:03 p.m.

II. INTRODUCTIONS—None.

III. CONSENT AGENDA

October 5, 2005, Minutes approved as presented.

IV. REPORTS

A. Wastewater Master Plan final review

Mr. Ostlund provided an overview of the Master Plan for the Board. The Board supports the need to incorporate the results of the N. Clackamas wastewater treatment plan in the City of Milwaukie Master Plan. Therefore, per staff recommendation, the draft revised Master Plan will be shelved until the County's plans are made public in October of this year. The Master Plan will need to be modified to incorporate the decision of the County and CCSD#1 regarding treatment at that time.

A question was raised concerning inflow and infiltration (I&I) testing and the need to keep a handle on this number to ensure that the City is not paying to treat groundwater that leaks into sewer lines. It was recommended that further I&I testing be conducted this next fiscal year.

The Board wondered whether the 2% portion of the Wastewater rate increase adopted last fall should continue in light of the collapse of the Clearwater Plan. Staff pointed out that this increase amount will be credited to reserves for future use. There was agreement that this is

appropriate for the time being but the Board is interested in keeping an eye on the size of reserves and is predisposed to considering a rate cut in the event that reserves exceed recommended levels.

The Board asked for a justification of the addition of a staff person to the Wastewater team. All agreed that the new person would be able to focus on a plan to mitigate I&I and reduce grease buildup in the collection system with a potential of reducing treatment costs.

B. 2006/07 Work Plan

The Board directed staff to prepare a work plan that includes the following:

- Streets funding project
- JCB annexation project
- CIP/Budget
- SDC updates for three utilities
- Wastewater Master Plan
- Stormwater Code update
- Well 8 replacement and CRW agreement

V. DISCUSSION—None.

VI. MATTERS FROM THE BOARD—None.

VII. OTHER—None.

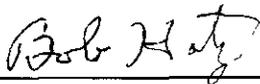
VIII. INFORMATION SHARING—None.

IX. FUTURE MEETING DATE/AGENDA ITEMS

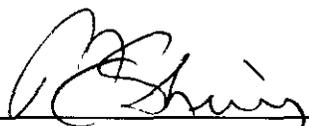
March 15, 2006, special meeting to approve 2006/07 Work Plan and CIP for Water and Wastewater utilities.

X. ADJOURN

The meeting adjourned at 7:46 p.m.



Bob Hatz, Chair



Paul Shirey, Scribe

CUAB SPECIAL MEETING MINUTES
Wednesday, March 15, 2006
Johnson Creek Facility Conference Room
6101 SE Johnson Creek Blvd.

Members Present

Bob Hatz, Chair
Betty Chandler
Ed Miller

Members Absent

Charles Bird, Vice Chair

Staff Present

Paul Shirey, Engineering Director

I. CALL TO ORDER

Chair Hatz called the meeting to order at 6:02 p.m.

II. INTRODUCTIONS—None.

III. CONSENT AGENDA—None.

IV. REPORTS

A. CUAB/Engineering Department 2006/07 Work Plan

Staff walked the Board through each of the projects on the 2006/07 Work Plan.

The work plan (attached) included the following:

- Streets funding project
- JCB annexation project
- CIP/Budget
- SDC updates for three utilities
- Wastewater Master Plan
- Stormwater Code update
- Well 8 replacement and CRW agreement

The Board had a comment regarding the Streets funding project. It was expressed that, while the need may be apparent, seeking funding for streets will compete for very scarce tax dollars. Staff commented that this

is well understood and felt it was conceivable that there may be little to no support/appetite for additional payment to government, no matter how great the constituency.

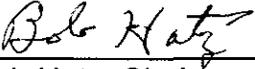
The Board was asked to attend the joint City Council-CUAB meeting scheduled for March 21, 2006.

B. Draft Capital Improvement Plan (CIP)

The Board reviewed and approved the Water and Wastewater sections of the CIP. They will review Streets and Stormwater at their April meeting.

V. ADJOURN

The meeting adjourned at 7:17 p.m.



Bob Hatz, Chair



Paul Shirey, Scribe