

# AGENDA

## MILWAUKIE CITY COUNCIL MAY 2, 2006

**MILWAUKIE CITY HALL**  
10722 SE Main Street

**1981<sup>st</sup> MEETING**

### REGULAR SESSION – 7:00 p.m.

- I. **CALL TO ORDER**  
Pledge of Allegiance
2. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
  - A. **Building Safety Week -- Proclamation**
  - B. **Workplace Safety Awareness -- Proclamation**
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.)*

### City Council Minutes of April 4, 2006

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

### None Scheduled

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

**6. OTHER BUSINESS, continued**

**B. Advisory Board Appointments (Mayor Bernard)**

**C. Council Reports**

**7. INFORMATION**

**Center/Community Advisory Board Minutes of March 10, 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.

## **PROCLAMATION**

**WHEREAS**, Building Safety Week was initiated in 1980 to recognize the importance of making homes and buildings safe places where people can live, work, and play; and

**WHEREAS**, Building codes and code officials play an important role in keeping our buildings safe; and

**NOW, THEREFORE**, be it resolved that I, James Bernard, Mayor of the City of Milwaukie, Oregon, do hereby proclaim the week of May 7<sup>th</sup> – 13<sup>th</sup>

### ***BUILDING SAFETY WEEK***

In the City of Milwaukie and ask all our citizens to join us in its observance by recognizing the importance of building safety so that we can all be safe in our homes, work, and play.

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James Bernard, Mayor

ATTEST:

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Pat DuVal, City Recorder

## PROCLAMATION

**WHEREAS**, the City of Milwaukie, Oregon OSHA and other organizations in Oregon recognize that ensuring safe workplaces in our state is a responsibility we all share; and

**WHEREAS**, Oregon's safety community has made significant progress in reducing worker deaths and injuries in the thirty years since the passage of the Oregon Safe Employment Act in 1973; and

**WHEREAS**, safe workplaces in Oregon result from business, labor and government collaborating to reduce the human and economic toll of workplace injuries and deaths.

**NOW, THEREFORE**, I, James Bernard, *Mayor* of the City of Milwaukie, hereby proclaim Wednesday, May 10, 2003, as

### ***Workplace Safety Awareness Day***

in Milwaukie and urge all citizens to recognize employers and workers for their important work and continued dedication to safety.

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James Bernard, Mayor

ATTEST:

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Pat DuVal, City Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
APRIL 4, 2006**

**CALL TO ORDER**

**Mayor Bernard** called the 1979<sup>th</sup> 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

Joe Loomis

Staff present:

Mike Swanson,  
City Manager

Katie Mangle,  
Planning Director

Gary Firestone,  
City Attorney

JoAnn Herrigel,  
Community Services Director

Stewart Taylor,  
Finance Director

Les Hall,  
Code Enforcement Coordinator

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS**

**CONSENT AGENDA**

It was moved by Councilor Collette and seconded by Councilor Loomis to approve the consent agenda. Motion passed unanimously among the members present. [3:0]

**A. City Council Minutes of:**

1. February 7, 2006 work session
2. February 7, 2006 regular session
3. February 21, 2006 work session
4. February 21, 2006 regular session

**B. Construction Bid Award for Lewelling Community Park**

**C. Contract Amendment with David Evans and Associates for Planning Services**

**D. Resolution 12-2006: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving a Transfer of Appropriations.**

**E. Resolution 13-2006: A Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the Mayor to Execute the Fourth Amendment to Personal Services Contract with Ramis, Crew Corrigan Establishing New Rates for Service Effective July 1, 2006 and Making Other Amendments.**

**AUDIENCE PARTICIPATION**

- Roz Girton, 13609 Beech Street.

**Ms. Girton** asked that the City Council approve the Milwaukie Garden Club's request for placing a Blue Star Memorial Marker in the Riverfront Park. She proposed that the marker be along the riverfront on McLoughlin Boulevard and next to a streetlight. She introduced Garden Club President Elizabeth Hollingsworth and Treasurer Roberta Mills.

**The group concurred that the Blue Star Memorial group should work with the Riverfront Board to identify an appropriate location.**

- **David Aschenbrenner**

**Mr. Aschenbrenner** announced the April 8 planting and cleanup party at Homewood Park and encouraged people to volunteer some time after the Council Coffee Hour.

### **Proclamation – POW / MIA Recognition Day Proclamation**

**Mayor Bernard** read a proclamation recognizing April 9, 2006 as *POW/MIA Recognition Day*.

**Mayor Bernard** welcomed **Katie Mangle** as the City's new planning director.

## **PUBLIC HEARING**

### **Measure 37 Claims Submitted by LeRoy and Chelsea Hummel (applicant) for the Properties Located at 4791 King Road**

**Mayor Bernard** called the hearing to order at 7:14 p.m. to consider the Measure 37 claims of Leroy and Chelsea Hummel for property located at 4791 and 4813 King Road. The purpose of the hearing was to establish if the Hummels had a legitimate Measure 37 claim regarding their property and, if so, whether to provide compensation or waive otherwise applicable land use regulations. Because the two properties were acquired at different times, each would be discussed separately. This was not a land use proceeding, so the rules applicable to land use hearings did not apply.

Site Visits: No Council members had visited the site but everyone had driven by it.

Ex Parte Contacts: None.

Conflicts of interest: None

Challenges: None.

Staff Report: **Ms. Mangle** reported this was the City's first Measure 37 claim. The applicants submitted two separate claims on November 3, 2005 for properties located at 4813 King Road (tax lot 5300) and 4791 King Road (tax lot 5100). Both properties were zoned R-5. The applicant purchased tax lot 5300 in 1989. It was zoned R-6 by the City when purchased by the Hummels. The applicant purchased tax lot 5100 in 1957. At the time it was in Clackamas County and not subject to any zoning regulations. The property was annexed into the City in 1962.

Under Measure 37, the applicant must prove two points – 1) whether land use regulations had been placed on the property that restricted the use of the property, and 2) whether those restrictions decreased the value of the property. For tax lot 5300, the applicants had not identified which regulations, if any, had changed to restrict the use of the property since the Hummels acquired it. For tax lot 5100, the applicants did not

provide information to allow the City to determine the difference between the value of their property when it was purchased and its value under current zoning regulations.

Based on the applicants' written statement and research conducted by the Planning Department and City Attorney, the City Attorney concluded that:

- The applicant had no grounds for a Measure 37 claim for the property purchased in 1989 and located at 4813 King Road.
- For tax lot 5100, the applicants did not provide information to allow the City to determine the difference between the value of their property when it was purchased, and its value under current zoning regulations.

**Ms. Mangle** concurred with the City Attorney's conclusion and requested denial of the applicants' Measure 37 claim. The planning department was sympathetic to the applicants' frustration with the perceived land limitations. Although past actions could not be changed, staff would like to assist Mr. Hummel in maximizing the development potential. Staff requested denial of the claim as described in the City Attorney memo. The Council may find the market value of the 4791 King Road property purchased in 1957 was reduced as a result of the City's regulations. If the Council made that determination, then the City Attorney recommended granting the applicants a waiver in lieu of compensation.

**Councilor Collette** asked the owners' intent for the use of the land as she understood it was dividable and that there was a street issue.

**Ms. Mangle** replied there was no proposal on the table, but she understood the intent was to divide and develop with residential houses. With the R-5 designation, there could be 8 to 10 units per acre, and she understood the intent was to develop it accordingly.

**Mr. Firestone** added there was a question of how many units could be added and whether the two lots could be developed into a certain number of lots. The claimants believed they should be able to get as many lots as the density allowed. Lot 5100 was long and relatively narrow, so that configuration limited the number of lots that could be developed under existing zoning regulations. Some of the lots would be towards the back, and there would need to be some type of street access. Lot 5100 was purchased by the Hummels before there were any regulations. The regulations requiring access in his view were public safety regulations that said one had to have roads that were safe for pedestrians, bikes, and vehicles. The question was how many lots could be developed on 5100, and the determining factor could be access. If someone came in with an application now subject to the regulations, the street area was not counted as part of the acreage for determining lot size and density. This property would need a long road to access the back. The standard street width would have to be at least 25-feet. It would also need to have "T" or bulb at the end to accommodate emergency vehicles. Measure 37 did not apply to safety regulations.

Claimants' Presentation: LeRoy Hummel, 4813 SE King Road.

**Mr. Hummel** had lived at that address or 4791 for the past 50 years, so he was not new to the area. He presented the history of the property when he put in his application. He was not exactly sure how to do this. He had been sitting back waiting for more

**CITY COUNCIL REGULAR SESSION – APRIL 4, 2006**

**DRAFT MINUTES**

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clarification of Measure 37 and attended several meetings. He also belonged to the Lewelling Land Use Committee, so he was involved in going out to check out property to see how it was developed. He also brought into the City offices on Johnson Creek a couple of plans that were rejected. He guessed people did not keep track of that kind of thing when they start making reports. His plans did not call for the drastic building of houses one on top of the other. Although every month he received a notice from a public housing organization or some other group that did the larger projects. He was sure if they bought the property they would get 10 houses per acre in some manner. They would not divide it up into lots. They would just put in a driveway and put a bunch of houses in there. The landowners around would not appreciate the jamming of houses. He proposed just to divide it up into a couple three lots and build three duplexes. That was his intent of getting permission, but he also questioned why the land was designated R-5 which meant it could be divided up into 50 by 100-foot lots, so 8 to 10 would be a good margin because the lot was 100-feet wide and 436-feet long. It could be divided into 8 homes without any problem at all if there was access. The idea presented here was that there was no access. What access was available was cut off. At one time he wanted to put a house on the north end of 5100, and that was at the time the other property was being developed on 49<sup>th</sup> Avenue on 2600, 2500, and 2400 were being divided. They put the road through and actually dedicated a road across the north part of 5300 which the Dieringers owned at one time. They sold the 5200 parcels that was actually three parcels at the time. There was one on 5200, one at the roadway, and another one for the property on the south side of it. He asked if he could build a house on the north end before there was a home on 5200 or 5100. He was advised he would be unable to build a home there unless he put the road through from 49<sup>th</sup> Avenue to Lake Road (White Lake Road). They said that was a necessity in the planning of the City to get that road through. He said he could not afford to build the whole thing and asked if other property owners would be subject to their part of that road. Staff said they would not. Mr. Hummel said originally when they put the 2500 lots in there the realtor asked Mr. Hummel if he would be willing to give them some of the property on the north end. That was just after he bought the property. He said he would give them the north lot and the 50-foot roadway if they fully-developed the road so he could use it. It turned out the sewers at the time went north on 49<sup>th</sup> Street to Logus Road. There was no sewer on King Road at the time. Then they dropped it, so he did not have any alternatives. Mr. Hummel came up with his own deal on the other, but he could not afford the roadway across the whole thing. That kind of fell by the wayside. After they told him they had to keep that area open they subdivided the north half of 4901 into two sections. 4901 and 5100 were all one unit – lot 30 of the original land claim. It was a two-acre parcel. They put the house on 5100 and put a street down the side and paved area in there for a turnaround for the fire department. Since then, it was fenced off and the gate was locked with motor homes and the like parked on it. He did not think the value of that was much now.

**Mr. Hummel** decided it was blocked on him so he would try to come up with something so he could get the property opened up for his own use. He decided the home on 5100 was on the east side of the property, so he thought about a 25-foot roadway up the west side of the property to a point where it would meet with the existing platted street that he could put a roadway up there and develop a turnaround right off the end of that road.

Then he could have a good lot up on the top part of 5100 and also a lot down the side. In addition to that about 150-feet out he could take a driveway and come across to 5300 and develop the back half of the property there that was isolated. None of it seemed unrealistic to him, but they told him he had no chance of dividing 5300 at all. There was no way they would let him do that. They said the only way he could get development on 5100 was to have two, 50-foot wide lots and 436-feet deep. That did not seem realistic to Mr. Hummel. He had seen a lot of houses developed using cul-de-sacs, and even if they were a nasty word to the engineering department they continued to be the only way to develop these long parcels of property. At the time they started the Lewelling Neighborhood Association, they asked people what they would do in the Association to improve the area to get good use of all the property. The first thing that came up was to put a road through Mullan Street from 49<sup>th</sup> to Stanley Avenue. That would open up all the properties. About half a dozen had gone in as cul-de-sacs, so there was no road at 49<sup>th</sup> either. The second was to develop Logus Road all the way through from 43<sup>rd</sup> Street to Stanley Avenue – widen it up and make it a better road. It was only dedicated a 30-foot road in most areas. That was inadequate. It carried bus traffic and school traffic. It was considered a couple of times to improve it, and it remained strong on the Lewelling agenda. It had been brought up several times. The thing that really bothered Mr. Hummel was that he lived there for about 50 years. The feedback from the Neighborhood Association leaders was that one of the drawbacks of developing property in Milwaukie according to standards was that the older people balked at all the regulations that kept them from developing their properties. If that was the attitude of the Neighborhood Association and the City Council, then he felt the City was in bad shape.

**Mayor Bernard** asked Mr. Hummel how long ago he talked to City staff about development.

**Mr. Hummel** replied less than a month ago.

**Mayor Bernard** asked if Mr. Hummel had submitted some proposals for the site.

**Mr. Hummel** came in with a development proposal, and they threw it out. He went to a meeting with staff to explain what he wanted to do and how he wanted to do it. They wrote him a letter and said he could not do any of it.

**Councilor Collette** asked if the meeting had to do with the Measure 37 claim.

**Mr. Hummel** said the meeting was about developing the property. It was one of several times he had been in there with an idea of how he would like to develop the property. They listened attentively but did not offer any changes. The City needed to have an infill count to present to Metro, so they took the area and said an acre of ground was 8 to 10 houses. His property was 1-1/2 acres and was a 15-house credit according to the Metro figures, but he could not develop any of it other than one lot. He did not think that was realistic. Every parcel adjacent to him has had some kind of change without any problems at all. That went with the church property north of 5100. It covered the area from the east side of 5100 for 200-feet and ended. That “30” indicated by 5002 was a driveway established when they built 5100 and was probably taken away from 5002. The church built the parsonage on the property just above the 5100. Then they divided the part that had the parsonage off, the southern part of the property, 100-feet of it.

They divided it off, and it was supposed to access onto Logus Road. In the process they cut it off and fenced it. They had no approval that he knew of to do that, but they did it. That was one of the many things that had gone on. As far as he was concerned everyone had been able to do some kind of variance or zone change. They got no help at from the City at all. They just tell him he can't do it.

**Councilor Loomis** understood Mr. Hummel had been trying to develop the property for years.

**Mr. Hummel** replied it was not something new. When Maggie Collins was there, he used to get on her when he attended meetings at the new fire station. They would put out maps on the board about new development in the City and never went west of 32<sup>nd</sup> Avenue. None of the maps showed anything happening west of 32<sup>nd</sup> Avenue. Finally they got around to going up to 42<sup>nd</sup> Avenue because the Dieringer's property was being developed. They go up that far, but still his area never received any concessions for development. The only thing the City did was put in a sewer, and everyone on the sewer line had to pay for it. It never cost the City a thing. They never did anything for them.

**Councilor Collette** understood from Ms. Mangle's report that the planning department was willing to work with Mr. Hummel to find some way for him to develop the property. She did not think the issue was that he could or could not develop it. It was a question of what rules could and could not be waived and how many parcels Mr. Hummel could get out of the property. She understood from his comments that he did not really care to get 8 to 10 dwellings on the site and was willing to do fewer.

**Mr. Hummel** said in accordance with the rules, he could not get that many. He could get one on the north end, and one along the east side before you got to the dedicated road, and one on the back of his other property at 5300. They would be big lots. They would be duplex-size lots.

**Mr. Firestone** asked Mr. Hummel how many lots total between the two properties could be developed.

**Mr. Hummel** said realistically if he sold the parcels and divided them that he could probably get 6 out of 5100 and 3 out of 5300 -- about nine total. If he did duplex size, that would cut down on the number of buildings. He assumed 6 single-family lots if he put access in.

Public Comment:

- **Art Ball, Current Land Use Chair for Lewelling Neighborhood Association and past Association Chair.**

**Mr. Ball** had heard this story from Mr. Hummel for a number of years and sympathized with him. It was a beautiful piece of land that was developable. He thought the Council was right in its thinking, although he was not familiar with Measure 37. A similar piece of land in the Lewelling neighborhood was developed, and Mr. Hummel's property could be developed in the same manner. There could be a road put in from King Road up to Mullan with a number of houses. That project was just completed about six months ago on 53<sup>rd</sup> Avenue. The homes were very nice. The street had room for a fire truck to turn around at the end, which would be a similar situation to the subject property. He did

sympathize with Mr. Hummel. He had a piece of property that was developable. He thought Mr. Hummel should work with the City to see if it could be developed. Being the Land Use Committee Chair and being involved in a lot of building that had gone on in the Neighborhood over the years, he had some experience. He knew for a fact that Mr. Hummel could develop the land. He felt the City and the property owners should agree to work together in good faith to get the property developed.

Final Staff Comments: **Mr. Firestone** said staff believed that the two lots could be developed but under current standards staff did not think there would be nine lots. Certainly staff believed it could be developed with six lots under current standards. The complicating factor was that there were two houses on those two lots. Those houses were in locations such that the access road would go through one of the two houses. Depending on the standards staff felt that six lots were possible with two on 5300 and four on 5100 with an access road. There were probably different configurations with an access road up east side or west side of 5100. If it went up the east side, it would run through a house, but it would allow road access to be provided to both lots based on existing zoning. Some provisions could be waived, adjusted, or varied. It was his understanding that Mr. Hummel approached staff at various times, so there was a history. He understood in recent history there had been no actual application. Mr. Hummel approached staff with some rough proposals at various time, but Mr. Firestone understood there were issues with each. He did not know what staff said and the extent to which they offered to consider other possibilities or showed Mr. Hummel other possibilities. He understood staff was willing to talk with him. There was some time left on the 180-day clock to make the decision, and the parties might be able to come up with something that was acceptable to both. One option was to continue the hearing and encourage discussion. He did not see the basis for a Measure 37 claim on lot 5300 for the simple reason it was zoned R-5 when the Hummels bought it, and it still had the same zoning. Lot 5100 was a different situation. It was totally unregulated at the time of purchase. The owners at that time could have done anything they wanted in terms of development. Staff did not feel the claimant established that the City's regulations would decrease the value of the property. If anything, the zoning increased the value. There was a statement to that effect in the documents the Hummels submitted. That was why staff did not believe there was a Measure 37 claim. Not that there have not been restrictions on the property, it was that staff did not believe the claimant established that the restrictions reduced the value. Staff was willing to find out if there was a plan that could be developed. Staff took the position that Measure 37 did not apply to health and safety regulations. That meant there had to be sewer, water, and safe access way to each of the lots. Safe did not necessarily mean 100% compliance with current minimum standards, but that meant that the engineer could look at it and say it was safe. The City's options were to continue to allow discussions between the Hummels and staff or make decision to deny the claim or to allow the claim. If the Council decided to allow the claim, it would have to decide whether to pay compensation or waive regulations. If it decided to waive regulations, then there should be specificity as to which regulations should be waived, and staff could assist with that.

**Mayor Bernard** felt the matter was simple. Under Measure 37 the initial issue was whether land use restrictions placed on the property reduced use of the property and decreased the value. In the communications with the City, Mr. Hummel admitted the

value of the property actually increased. He did not believe it was a Measure 37 claim, and he proposed denying the claim. At the same time he committed to the City's efforts to find a reasonable solution to this issue with the support of the Neighborhood. There were only two solutions to financial shortfalls in a community. One was to raise taxes or to increase the value of the community. He was committed to raising the value of the community. He thought this was a great project that could have been done years ago. He was committed to working to get it done.

**Mr. Firestone** said because there were only three Council members present, if the vote was not unanimous then it would have to be voted on at a future meeting. Those who were not at this meeting would have to review the record so they could participate at a future meeting. He further recommended that Mr. Hummel talk to those members.

**Councilor Loomis** was leaning toward continuing the matter in order to have a full Council discussion. It did seem black and white.

**Councilor Collette** thought it was clear this was not a Measure 37 issue in the sense that the property had not been reduced in value. On the other hand there were things that had made it difficult for Mr. Hummel to develop his property. She wanted him to be able to develop his property to the degree possible while ensuring safety. She suggested continuing the matter until the full Council was present and in the interim ask staff to sit down with Mr. Hummel on a proposal that would meet regulations.

**Mayor Bernard** thought that was against the premise of Measure 37. There was a lot of potential at that site, and it was too bad it was allowed to be chopped up. It was important not to create flaglots, and the City revised its standards to make sure flaglots were not the preferred development alternatives.

#### Council Deliberations and Discussion:

**It was moved by Mayor Bernard to deny the Measure 37 claim for tax lot 5300. Councilor Collette seconded the motion.**

**Councilor Collette** asked Councilor Loomis if he would vote for the motion if direction were given to staff to talk with Mr. Hummel. She did not see the claim as being valid. She did not care how the Council voted on the matter at this meeting as long as the City worked with Mr. Hummel.

**Councilor Loomis** was leaning toward continuing the matter on both lots.

**Mr. Firestone** discussed options for waiving regulations including street width and lot size dimensions. The Council could, for example, still require that the street provide safe access and if there needed to be a sidewalk.

**Mr. Swanson** guessed that if the vote were called now two would vote in favor of denying the claim and one opposed not necessarily because that person disagreed with denying the claim but because he wished a different action be taken. That was still a strong signal to Mr. Hummel that the Measure 37 had some potential weaknesses. There was a motion and a second. Staff heard from Council and the Neighborhood that this needed to be worked on and have some kind of solution reached. The decision could be set for a date certain within the allowable 180 days, and nothing would be lost if the decision were not made at this meeting. He understood the Measure 37 claim did

not have a lot of strength because of the admission that the property value had increased.

**Mayor Bernard** discussed transfer rights and what would occur if Mr. Hummel sold his property.

**Councilor Collette** understood the division of Mr. Hummel's property had nothing to do with Measure 37 and that he could sell off what he wanted based on R-5 zoning.

**Mayor Bernard** and **Councilor Collette** withdrew the motion and second.

**It was moved by Mayor Bernard and seconded by Councilor Collette to continue the hearing to April 18. Motion passed unanimously among the members present. [3:0]**

## **OTHER BUSINESS**

### **A. Amend Title 8 of Municipal Code to Include Clean-up Requirements for Properties Declared Unfit for Use – Ordinance**

**Mr. Hall** reported this code amendment had to do with properties declared unfit for use due to the presence of hazardous substances used in the manufacture of illegal drugs. He discussed the current process under which a property might sit vacant for up to six months yet remain a hazard. The proposed amendment would encourage timely and proper cleanup of the contaminated site, specifically address properties used for drug manufacture, and minimize citizen exposure to hazardous substances.

**It was moved by Councilor Collette and seconded by Councilor Loomis for the first and second reading and adoption of an ordinance amending Municipal Code Chapter 8.04.070. Motion passed unanimously among the members present. [3:0]**

The City Manager read the ordinance two times by title only.

The City Recorder polled the Council: Mayor Bernard and Councilors Collette and Loomis voting 'aye.' [3:0]

#### **ORDINANCE 1959:**

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING CHAPTER 8.04.070 OF THE MILWAUKIE MUNICIPAL CODE TO ADD PROPERTIES DECLARED "UNFIT FOR USE" DUE TO ILLEGAL DRUG MANUFACTURING CONTAMINATION TO THE LIST OF PUBLIC HEALTH NUISANCES.**

### **B. Amend Title 8 of Municipal Code to Address Inoperable Vehicles on Private Property – Ordinance**

**Mr. Swanson** announced this matter would be scheduled for a meeting at which all members would be present.

### **C. Council Reports**

**Councilor Loomis** announced Saturday Coffee with Council and Milwaukie Pioneer Cemetery and Homewood Park cleanups.

**Mayor Bernard** met with the Governor's office on economic development, ODOT, Metro, and toured the North Industrial area. He discussed the recent ODOT public meeting on Hwy 224 improvements.

**ADJOURNMENT**

**It was moved by Councilor Collette and seconded by Councilor Loomis to adjourn the meeting. Motion passed unanimously among the members present.**  
**[3:0]**

**Mayor Bernard** adjourned the regular session at 8:25 p.m.

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Pat DuVal, Recorder



To: Mayor and City Council

Through: Mike Swanson, City Manager  
JoAnn Herrigel, Community Services Director

From: Beth Ragel, Community Services Program Coordinator

Subject: Temporary Event Code Language Amendment

Date: April 5, 2006

#### Action Requested

Approve an ordinance that repeals Chapter 10.28 Article 1 "Parades" of the Milwaukie Municipal code and adopt Title 11 "Miscellaneous Permits." Title 11 "Miscellaneous Permits" will replace Chapter 10.28 Article 1 "Parades" in order to more fully define and regulate temporary events including special events, block parties, and temporary sales events.

#### Background

The City already has a temporary event policy including an application form (see attachment A ) and review process handled through the Community Services Department, but has no code to formalize this process. Title 10.28 Article 1 of the Municipal code contains language regulating parades but does not address other types of temporary events. Hence, more comprehensive code language is needed that will clarify and formalize the temporary event process that is already established.

The current process requires a temporary event permit for events that:

1. are staged on or impact public streets, sidewalks, or other public property;
2. require city services such as police, traffic control, or public works assistance;
3. interfere with normal vehicular or pedestrian traffic.

The proposed code language (attachment B) will support the process that is already in place and clarify when a temporary event permit is required by defining 3 categories of temporary events as follows:

- **Special Events** - Defined as temporary events or gatherings including, but not limited to, a parade, festival, exposition, show, concert or other similar activity that does not recur on a regularly scheduled basis within a year; is conducted wholly on public property or partly on public property and/or impacts public services; and/or is not a permitted use in the zone where it is occurring.
- **Block Parties** - Defined as a party or celebration that involves the closure of a limited portion of a single local public street, that has attendance of not more than 150 people, and does not include the sale or distribution of alcohol.
- **Sales Events** - Defined as those activities that occur on a seasonal or sporadic basis and involve the processing and/or sale of commodities and services such as produce, firewood, and fireworks.

The proposed code does **not** do the following:

- require the City to regulate or issue permits for events on private property that will not impact public property or services.
- establish fees or deposits for temporary event permits. Staff recommends that council not establish fees for temporary event permits. Generally the reason for establishing fees is to cover the cost of the service (in this case the staff time). If accurately assessed the fees would be prohibitive. The proposed code does give the City Manager the authority to establish fees and/or deposits at his or her discretion on an as-needed basis.

The proposed code contains the following exemptions:

- events that occur in parks that are maintained by the North Clackamas Parks and Recreation District. The North Clackamas Parks & Recreation District has a permitting process in place for city parks they maintain. Events sponsored by the City of Milwaukie will be covered by the City's code language.
- events sponsored or conducted by any school, religious, civic, fraternal organization, or league provided such events are held on premises

specifically designed or constructed to house the organization and its activities;

- funeral processions, which are already included in the Milwaukie Municipal Code;
- construction, maintenance, or repair of any dwellings or other structures;
- the moving of a house or other structure from one location to another;
- any event or activity that is otherwise permitted on the property under applicable zoning regulations.

#### Concurrence

Planning, Engineering, Streets, Building, Police, Community Services (Includes Code Compliance), Fleet and Facilities, and Clackamas County Fire District #1 concur with the direction of this ordinance.

#### Fiscal Impact

No fiscal impact.

#### Work Load Impacts

The new event categories established by this ordinance may result in a small increase in the number of events that require permits. This may increase the workload for the departments who are responsible for reviewing the applications. Community Services staff has already been processing temporary event applications even though no formal code language required this. Hence, additional work will likely be minimal.

#### Alternatives

1. Adopt the proposed code language.
2. Do not adopt the proposed code language but provide staff with guidance on modifications to the language

#### Attachments

Attachment A: Temporary Event Application for Permit

Attachment B: Title 11 Miscellaneous Permits

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REPEALING TITLE 10.28 ARTICLE 1 “PARADES” OF THE MILWAUKIE MUNICIPAL CODE AND ADOPTING TITLE 11 “MISCELLANOUS PERMITS” TO DEFINE AND REGULATE TEMPORARY EVENTS.**

**WHEREAS**, Chapter 10.28 Article 1 “Parades” of the City’s municipal code regulates parades but does not define or regulate other types of temporary events;

**WHEREAS**, the City of Milwaukie already has a written policy, application, and review process for temporary events but no formal code language to support this process; and

**WHEREAS**, more comprehensive code language that defines and regulates all types of temporary events is needed to clarify and support the temporary event process that is already in place;

**NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:**

Section 1. Chapter 10.28 Article 1 of the Milwaukie Municipal Code is repealed;

Section 2: Title 11 “Miscellaneous Permits” is adopted as shown in attachment A.

Read the first time on \_\_\_\_\_, and moved to second reading by \_\_\_\_\_ vote of the City Council.

Read the second time and adopted by the City Council on \_\_\_\_\_.

Signed by the Mayor on \_\_\_\_\_.

\_\_\_\_\_  
Jim Bernard, Mayor

ATTEST:

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

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

Attachment A

City of Milwaukie - City Hall  
Attn: Beth Ragel  
10722 SE Main Street  
Milwaukie, OR 97222  
(503) 786-7568 PH  
(503) 653-2444 FAX  
raqelb@ci.milwaukie.or.us



**Temporary Event Application for Permit**

*Permit, if issued, authorizes the applicant to conduct the temporary event that is described herein paying close attention to any conditions of approval that are attached.*

- ◆ At least two (2) months prior to your temporary event, mail your complete application to the above address.
- ◆ **Deadline:** An application submitted for review less than one (1) month prior to the event will be denied.

**I. Applicant Information**

Applicant Name: \_\_\_\_\_

Applicant Organization (If any): \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Day Phone: \_\_\_\_\_ Eve Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**II. Event Information**

This Event is a (check all that apply):

- Parade     Festival     Concert     Sales Event     Other \_\_\_\_\_

Name of Event/Purpose: \_\_\_\_\_

Description of Event: \_\_\_\_\_

Date/s of Event: \_\_\_\_\_ Starting Time: \_\_\_\_\_ Ending Time: \_\_\_\_\_

Estimated attendance per day: \_\_\_\_\_

List all streets that you propose to close (Attach additional sheets if needed):

**Note: You must provide a Site/Transportation Map clearly showing which streets will be affected and where barricades, signs, and traffic control personnel will be stationed. See the attachment for an example of a traffic control plan map.**

**List Street's Blocked/Closed:**

Street (Indicate cross streets also)	Closing Date and Time	Opening Date and Time
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Do you intend to use a city-owned parking lot? \_\_\_ Yes \_\_\_ No

If yes, please give the location \_\_\_\_\_

Is a county or state owned street or road affected by your event? \_\_\_ Yes \_\_\_ No

***If so, you must contact the Clackamas County Dept. of Transportation at 503-650-3452 and/or the Oregon State Dept. of Transportation at 503-653-3086.***

**III. Further Considerations**

1. Will food be served \_\_\_ and/or prepared \_\_\_ at your event?

***If so, you must obtain a Food Handler's License from Clackamas County by calling (503) 650-3659.***

2. Will alcoholic beverages be available at your event? Yes \_\_\_ No \_\_\_

***If so, you must obtain an OLCC (Oregon Liquor Control Commission) permit by calling (503) 872-5000.***

3. Will there be any live entertainment or music at your event? Yes \_\_\_ No \_\_\_

If so, what times will the performances take place each day?

Date	Start Time	Finish Time
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Note: Regardless of your plans for music or entertainment, you are required to complete a Noise Control Variance form, which is attached to this application, describing what you intend to do at this event. The Police Department will determine if a variance is necessary or not.**

4. Will additional electrical wiring be installed for your event? Yes \_\_\_ No \_\_\_

5. Will your event require restroom facilities? Yes \_\_\_ No \_\_\_

6. Have you arranged for security at your event? Yes \_\_\_ No \_\_\_

If so, who will be providing security: \_\_\_\_\_

Attachment A

7. Describe your plans for Emergency Medical Services: \_\_\_\_\_

At least one trained emergency services provider (Minimum Certification - Emergency Medical Technician 1) shall be present on-site throughout the temporary event.

8. Describe your plans for trash minimization and removal. Include information as to the number, types and locations of all trash receptacles, a schedule for monitoring and emptying trash receptacles, and plans for cleaning up debris not placed in trash receptacles. Include information on any persons or entities who will be providing trash related services. (Attach additional sheets if needed)

9. Does your event involve the use of a park? Yes \_\_\_\_ No \_\_\_\_  
If so, what is the name of the park and where is it located? \_\_\_\_\_

***Note: Please call North Clackamas Parks and Recreation District to inquire about the use of a park. They can be reached at 503-794-8002.***

**IV. Applicant is responsible for obtaining all additional permits, licenses, and insurance certificates required upon the issuance of this Temporary Event Permit. Please fulfill all of the obligations listed below before submitting this application. Once all of these obligations are complete you must place your initials in all of the designated areas marked with a ( ) and then sign and date at the bottom.**

( ) **CLEAN UP:** Applicant agrees to promptly clean up all paper or debris caused by applicant's use of the area and understands that if such clean up is not promptly undertaken the City reserves the right to do the cleaning itself and to charge the applicant for the actual time and expense incurred.

( ) **INSURANCE:** Applicant agrees to provide a policy of liability insurance. This insurance shall provide coverage for not less than \$1,000,000 for personal injury to each person, \$1,000,000 for each occurrence involving property damage; or a single limit policy of not less than \$2,000,000 covering all claims per occurrence. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon. This insurance shall be without prejudice to coverage otherwise existing and shall name as additional insured the City of Milwaukie and its officers, agents, and employees. The sponsor agrees to maintain continuous coverage for the duration of the permit.

( ) **INDEMNITY:** Applicant agrees to defend, indemnify and hold the City of Milwaukie harmless from and against all claims, losses, and liability arising out of personal injuries, including death, and damage to property which are caused by applicant, or arising out of or in any way connected with the activities conducted pursuant to this application. The last page of this application contains an agreement form that you must sign and date before this application is reviewed.

Attachment A

( ) **CITY CODES/PERMITS:** Applicant agrees to obtain all City permits and licenses that may be required, and shall comply with all other City laws and other conditions that the City Manager determines necessary. The Noise Control Variance form that is attached must be completed to fulfill this obligation. The Police Department will determine if such a variance is necessary after reviewing the variance application.

( ) **CONDUCT/NUISANCES:** Applicant understands that if the outdoor activity is conducted in such a way as to create a nuisance for any business or resident of the area, future permits may be denied for that reason alone. Applicant will be notified as soon as practical that the activity engaged in created a nuisance and may ask for a review of such determination.

( ) **SITE MAP: This application will not be processed unless a site map is included.** Indicate location of tents, stages, portable restrooms, fencing, food booths, alcoholic and non-alcoholic beverage booths, etc.

( ) **TRANSPORTATION PLAN MAP: This application will not be processed unless a transportation plan map is included.** Indicate where streets will be blocked and how they will be blocked including fencing, barricades, stages, tents, etc. *See the attachment for an example of a traffic control plan map.*

I have read all information contained within the City of Milwaukie's Temporary Event Permit Application Packet and agree to abide by the terms and conditions contained herein.

**Applicant's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**V. Indemnification Agreement for Temporary Event Permit**

**Note: All applicants must sign this Indemnification Agreement.**

Grantee acknowledges and agrees as follows:

In consideration of the City's approval of this application for a temporary event permit, applicant accepts responsibility for the event and agrees to indemnify, defend and hold harmless the City of Milwaukie, its officials, employees, agents, volunteers, and assigns from and against any and all claims, suits, liabilities and expenses (including but not limited to, damages, attorney fees, and costs) that may be asserted against the City of Milwaukie arising out of or in any way related to the temporary event for which permission is sought.

Applicant acknowledges that applicant has carefully read the foregoing and understands its contents. Applicant warrants that applicant is authorized to sign this document and does so freely and without reservation.

**Applicant Name** (print or type): \_\_\_\_\_

**Applicant Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**FOR OFFICE USE ONLY – Department Recommendations**

Name of Event/Purpose: \_\_\_\_\_

**Note: Please return a copy of this form to Beth Ragel (City Hall) as soon as you are done with your review of the application. You can send it by fax (503) 653-2444 or through interoffice mail.**

\_\_\_ This is a city-sponsored or supported activity. \_\_\_ This is an independent event.

**Building Department (If applicable)**

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_ Approved \_\_\_ Denied

Conditions of approval: \_\_\_\_\_

**Engineering Department**

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_ Approved \_\_\_ Denied

Conditions of approval: \_\_\_\_\_

**Facilities Department**

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_ Approved \_\_\_ Denied

Conditions of approval: \_\_\_\_\_

**Fire Department/Emergency Management**

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_ Approved \_\_\_ Denied

Conditions of approval: \_\_\_\_\_

**Planning Department**

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_ Approved \_\_\_ Denied

Conditions of approval: \_\_\_\_\_

**Police Department**

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_ Approved \_\_\_ Denied

Attachment A

Conditions of approval: \_\_\_\_\_

**Streets Department**

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_ Continued on next page...

\_\_\_\_ Approved \_\_\_\_ Denied

Conditions of approval: \_\_\_\_\_

**Tri-Met (If applicable)**

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_ Approved \_\_\_\_ Denied

Conditions of approval: \_\_\_\_\_

**Title 11 Temporary Events, Permits and Regulations****Chapter 11.04****11.04.010 Purpose**

The purpose of these regulations includes the following:

- a. To define Temporary Events as those which generally do not exceed more than twelve (12) hours in any one day and do not exceed thirty (30) consecutive days and not occurring on a regularly scheduled basis within a year.
- b. To allow the orderly and safe conduct of Temporary Events including Special Events, Block Parties, and Sales Events held on public and private property;
- c. To minimize the potential adverse impacts on affected neighbors and public resources of Temporary Events.
- d. To allow for Temporary Events that are otherwise prohibited by the Milwaukie Zoning Ordinance.

**11.04.020 Definitions**

Terms used in this chapter are defined in accordance with common and ordinary usage.

A. "Adverse impacts" mean impacts to property and its environs that could result from a Temporary Event including, but not limited to, access and circulation, setbacks, parking, noise, hours of operation, fumes, odors, dust, and traffic. Hazardous activities such as the use of pyrotechnic devices, black powder or smokeless powder, and the use of guns are included.

B. "Applicant" means a person who has filed a written application for a Temporary Event Permit.

C. "City Manager" means the City Manager of the City of Milwaukie or his/her designee.

D. "Permitee" means the person or organization to whom a Temporary Event Permit is granted pursuant to this ordinance.

E. "Person" means an individual, firm, partnership, corporation, association, or other legal entity.

F. "Reimbursable Costs" mean all costs and expenses incurred by the city for activities associated with staging of the Temporary Event, including, without limitation, the following:

- a. Utility services provided to the Temporary Event including all of the costs of installation, maintenance, connection, and removal
- b. Food services inspection
- c. Repair, maintenance and removal of facilities in the event of a failure of promoter
- d. Repair of streets, alleys, sidewalks, parks, and other public property
- e. Police protection
- f. Fire protection
- g. Emergency medical service
- h. Garbage disposal and cleanup
- i. Traffic control
- j. Other direct costs associated with the Temporary Event

## Attachment B

G. "Temporary" means lasting for a limited time, generally not more than twelve (12) hours in any one-day, not exceeding thirty (30) consecutive days, and not occurring on a regularly scheduled basis within a year. Garage sales, as defined in Section 5.08.110, shall not exceed 72 consecutive hours and shall not occur more than twice within any one calendar year.

H. "Temporary Event" is any Special Event, Block Party, or Sales Event defined as follows:

- a. **Special Event** – "Special Event" means a temporary event, or gathering, including, but not limited to, a parade, festival, exposition, show, concert or other similar activity that does not recur on a regularly scheduled basis within a year, is conducted wholly on public property or partly on public property, and is not a permitted use in the zone where it is occurring.
- b. **Block Party** – "Block Party" means a party or celebration that involves the closure of a limited portion of a single local public street, that has attendance of not more than 150 people, and does not include the sale or distribution of alcohol.
- c. **Sales Event** – "Sales Event" is a seasonal or occasional event involving the processing and/or sale of commodities and services. These activities include, but are not limited to, the sale of produce, firewood, fireworks, and Christmas trees. Garage sales are not defined as "sales events" and do not require a special event permit.

I. "Temporary Event Permit" means written approval from the City Manager to hold a Temporary Event.

### **11.04.030 Authority, Administration, and Enforcement**

- a. The City Manager is authorized to administer provisions of this section and to review and approve Temporary Event Permits based on following the procedures and regulations provided within this ordinance. The City Manager or designee may approve, approve with conditions, or deny applications for Temporary Event Permits in accordance with applicable approval criteria.
- b. The City Manager may adopt administrative procedures and forms that are deemed necessary to administer these regulations.
- c. City actions on Temporary Event Applications do not constitute land use decisions or limited land use decisions as defined by the Oregon Revised Statutes. Temporary Events that receive city permits are outright permitted uses and therefore not subject to land use review.
- d. The City Manager may authorize variances from the terms of this Chapter if the City Manager determines that granting the variance will not be contrary to the public interest or the general purpose of this Chapter.
- e. The provisions of this article are cumulative of all city ordinances or other applicable law. All other permits required by ordinance or other law for specific activities to be conducted in conjunction with or as part of the Temporary Events must be applied for separately in accordance with the application ordinance or law.

### **11.04.040 Exemptions**

The provisions of this article do not apply to:

- a. events that occur in parks owned by the City of Milwaukie and are maintained by the North Clackamas Parks and Recreation District with the exception of events that are sponsored by the City of Milwaukie;

## Attachment B

- b. events sponsored or conducted by any school, religious, civic, non-profit, or fraternal organization provided such events are held on premises specifically designed or constructed to house the organization and its activities
- c. funeral processions. Regulations and restrictions for funeral processions are contained in Section 10.28.060;
- d. garage sales or yard sales as described in Section 5.08.110;
- e. league play or tournaments by athletic associations in parks or recreational centers intended for such activities;
- f. any event or activity that is otherwise permitted on the property under applicable zoning regulations.

Exemptions to the provisions of this article as listed above do not exempt any event from other permits that may be needed according to Milwaukie's Ordinance or other applicable law.

### **11.04.050 Temporary Event Permit Application Submission Requirements**

- a. A person desiring to hold a Temporary Event shall apply for a Temporary Event Permit by filing with the City Manager or his designee a written application upon a form provided for that purpose. The deadline for the submittal of a Temporary Event Permit Application to hold a Special Event or a Sales Event is thirty (30) days prior to the start of the Special Event or Sales Event. The deadline for submittal of a Temporary Event Permit Application to hold a Block Party is no less than seven (7) days prior to the start of the Block Party.
- b. Only Temporary Event Permit Applications that are submitted at least two (2) months prior to the start of the Temporary Event will be eligible for appeal before City Council as described in Chapter 11.32.

### **Section 11.04.060 Application Process & Approval Criteria**

- a. Upon receipt of the completed Temporary Event Permit Application the City Manager or his designee shall forward a copy of the application to various City departments and other organizations who shall review the application and return it, with any comments, to the City Manager within five (5) working days of receipt. The City Manager or his designee may solicit comments from affected Neighborhood District Associations and immediate neighbors of the proposed event at this time and may require the submission of additional information by the applicant.
- b. The City Manager or his designee shall issue, issue with conditions, or deny the Temporary Event Permit based on the standards of this chapter. A Temporary Event Permit to hold a Special Event will be issued for a period not to exceed fourteen (14) consecutive days.
- c. The following criteria must be met before a Temporary Event Permit is issued:
  - i. **Structure.** All temporary structures shall be removed within five (5) days of the termination of authorized operation, leaving the site in the same condition as it was prior to the placement of the temporary use. All structures shall also fulfill Milwaukie Building Code and all Fire Safety Regulations of Clackamas County Fire District #1
  - ii. **Access and Circulation.** Provisions for access and circulation shall be reviewed and approved by the Community Development and Public Works Department and, as required, the following: Clackamas County, the Oregon Department of Transportation (ODOT), and Milwaukie Police Department.

## Attachment B

- iii. **Setbacks.** Setback requirements of the underlying zone shall apply to temporary structures.
- iv. **Parking.** Temporary events and structures in parking lots shall not displace or occupy required parking by more than ten (10) percent of the parking spaces.
- v. **Noise.** Noise levels generated shall not be in excess of levels allowable in the zone that the temporary use is located within unless a noise variance has been approved by the Milwaukie Police Department.
- vi. **Hours of Operation.** Temporary events or structures used for the processing and/or sale of commodities shall maintain business hours that are not disruptive to the normal use of adjacent residential properties consistent with Milwaukie's Noise Ordinance, unless a noise variance is granted by the Milwaukie Police Department. Block Parties may not be held before 7:00am or after 10:00pm.
- vii. **Fumes, odors, and dust.** Temporary events that create noxious fumes, offensive odors, or excessive amounts of airborne dust shall not be permitted or shall be required to meet applicable state standards regarding the control of such nuisances.
- viii. **Traffic.** A traffic management plan shall be required for events expected to impact surrounding properties. Permits shall be denied if the traffic management plan does not adequately address potential traffic impacts.
- ix. **Hazardous Activities.**
  - 1. The use of any pyrotechnic devices shall be prohibited on or in all City-owned property unless specifically approved in writing by a CCFD #1 Fire Marshall and Milwaukie's Chief of Police or his/her designee.
  - 2. Gun shows at which gun sales are to occur shall have all firearms, including antique firearms made inoperable through the use of locks, "zip ties" or other devices to prevent the firearm from being loaded or discharged at the gun show. Sales by licensed firearms dealers may be permitted if permitted by the applicant. Sales by person who have not been issued a valid Federal Firearms License shall not be permitted on City property.
- x. **Signage.** All event signs shall comply with Milwaukie's Sign Code (Title 14).
- xi. **Health Standards.** All events must comply with the FDA Food Code and all other applicable standards as set forth by the Public Health Division of Clackamas County.
- xii. **Other permit requirements.** The City may require proper insurance, indemnification, and hold harmless agreements as described in Chapter 11.24. Building permits, electrical permits, food establishment permits, alcoholic beverage licenses, permits to use parks, permits needed for impacts to county streets or roads, permits needed for impacts to state owned streets or roads and all other permits required by ordinance or other law for specific activities to be conducted in conjunction with or as part of the Temporary Events must be applied for separately in accordance with the application ordinance or law. No alcoholic beverages shall be permitted for

## Attachment B

sale or consumption at a Temporary Event without first obtaining a liquor license from the Oregon Liquor Control Commission.

### **11.04.070 Permit Fees and Deposits**

- a. The City Manager may establish fees as needed. Depending on the nature of the event, the City Manager may require fees to be paid prior to the issuance of a permit. The City Manager shall take into account the amount of staff time potentially involved with the event and potential for damage to any public property, including inadvertent damage. The City Manager may use the established fee list for the City, or other reasonable means to arrive at any required fees.
- b. The City Manager may require reimbursable deposits. Depending upon the type of event, the City Manager may require a deposit prior to issuing a permit.

### **11.04.080 Indemnification and Insurance Requirements**

- a. An applicant for a Temporary Event Permit must execute a written agreement to indemnify the city and its officers and employees against all claims of injury or damage to persons or property, whether public or private, arising out of the Temporary Event.
- b. An applicant for a Temporary Event Permit must have general liability and property damage insurance that protects the sponsor, the City, and the City's officers, agents, and employees from any and all claims, demands, actions and suits for damage to property or personal injury, including death, arising from the activities covered in the permits. Types of insurance that must be carried include Commercial General Liability, including Products & Completed Operations Liability, Auto Liability if applicable, Liquor Liability if applicable and Professional Liability if applicable. A certificate of insurance evidencing these requirements including an endorsement naming the City, and the City's officers, agents and employees as an additional insured must be presented to the City 5 days prior to the event. Failure to provide such evidence will result in the delay or denial of an application. The insurance shall provide coverage for personal injury to each person, coverage for each occurrence involving property damages; or a single limit policy covering all claims per occurrence. The limits of the insurance shall be no less than the following and are subject to review by the City Manager.

<b>Coverage</b>	<b>Limit</b>
General Aggregate	1,000,000
Products-Completed Operations Aggregate	1,000,000
Personal & Advertising Injury	1,000,000
Each Occurrence	1,000,000
Fire Damage (Any one fire)	50,000
Medical Expense (Any one person)	5,000

**11.04.090 Permit Denial-** The City Manager or his designee may deny a Temporary Event Permit if:

- a. a permit has been granted for another Temporary Event at the same place and time;
- b. it will occupy any part of a federal highway;
- c. it will unreasonably disrupt the orderly flow of traffic and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available;
- d. the applicant fails to adequately provide for the protection of participants, maintenance of public order in and around the Temporary Event location, crowd security, taking into

## Attachment B

- consideration the size and character of the Temporary Event, or emergency vehicle access;
- e. the applicant fails to comply with, or the proposed Temporary Event will violate a city ordinance or other applicable law;
  - f. the applicant makes a false statement of material fact on an application or other permits are required;
  - g. the applicant fails to provide proof that he or she possesses or is able to obtain a license or permit required by city ordinance or other applicable law for the conduct of all activities included as part of the Temporary Event;
  - h. the applicant has had a Temporary Event Permit revoked within the preceding 18 months;
  - i. the applicant has committed, within the preceding 18 months, two or more violations of a condition or provision of a Temporary Event Permit or this article;
  - j. the applicant fails to pay any outstanding reimbursable costs owed to the city for a past Temporary Event;
  - k. or the applicant fails to submit the required deposit and/or fails to agree in writing to reimburse the city for the estimated costs for the proposed Temporary Event.

**11.04.100 Permit Revocation** - The City Manager or his designee may revoke a Temporary Event Permit if:

- a. the applicant fails to comply with or the Temporary Event is in violation of a condition or provision of the Temporary Event Permit, an ordinance of the city, creates a hazardous condition, or any other applicable law; or
- b. the permit holder made a false statement of material fact on an application; or
- c. an unforeseen circumstance occurs prior to or during the event that greatly diminishes the safety and security of the proposed event. This could include, but is not limited to, inclement weather such as a snowstorm, flood, or windstorm, fire, or another catastrophic event.

### **11.04.110 Appeal from Denial, Revocation, or Approval of Temporary Event Permit**

The decision of the City Manager may be reviewed by the City Council upon an appeal by any person who disagrees with the decision of the City Manager. Such appeal shall be filed with the City Recorder within 5 working days from the date of the decision of the City Manager or his designee. The City Recorder shall schedule a hearing of such appeal to the City Council no later than the second regular session following the filing of the written appeal and shall notify the applicant of the date and time that he or she may appear either in person or by a representative. The City Council may grant, grant with conditions, or deny a Temporary Event Permit during such an appeal.

Ample time is needed for the City Recorder to schedule an appeal to the City Council, therefore, the option to appeal a decision is forfeited should a Temporary Event Permit application be submitted less than two (2) months prior to the date of the Temporary Event.

North Clackamas Parks and Recreation District  
**Milwaukie Center/Community Advisory Board**  
Minutes for March 10, 2006

**MEMBERS PRESENT:** Jim McCready, Katie Rudfelt, Chuck Petersen, Kim Buchholz Molly Hanthorn, Jane Hanno, Joy Estes, Ben Horner-Johnson, Ben Tabler, Eleanor Johnson, Carolyn Mills, Joan Staley, Kathi Schroeder.

**MEMBERS EXCUSED:** Joan Rowe

**STAFF PRESENT:** Joan Young, Cheryl Nally

**CALL TO ORDER:** Joan Staley called the meeting to order at 9:32 am. Molly moved and Kim seconded approval of the minutes of February 10, 2006, with two corrections by Joan Staley. The corrections state, "Mary Forrest from PSU Mediation Services will be guiding the committee" and "the Board of County Commissioners approved the May vote."

**GUESTS:** none

**CORRESPONDENCE:** Sharon Phillips sent her regrets concerning her absence from board meetings. She hopes to return soon. An article from the Oregonian newspaper was shared about Ben Tabler being chosen to receive the Andrus award as the volunteer of the year for Oregon.

**ACTION ITEM:** The budget committee met twice this week to finalize the budget recommendations. The committee presented operation and maintenance budgets for the Milwaukie Center, Nutrition and Transportation. They also presented an itemized list of capital improvement requests. The board reviewed the recommendations, which included some personnel changes. Jim moved and Molly seconded a motion to approve the 2006-2007 budget. The board passed the motion unanimously.

**BOARD/COMMITTEE REPORTS:**

**Executive report:** Molly, Kathy and Ben Tabler will represent the C/CAB on the Ad Hoc committee to review the IGA with the City of Milwaukie.

**Transportation Ad Hoc Committee:** Kim reported that the bus advertising has generated some revenue and hopefully new businesses will be advertising as early as June. A special event entitled "Fall Into Art" will take place on September 16-17 and the revenue will support the Nutrition/Transportation budgets.

**North Clackamas District Park Board:** A staff person from Metro came to explain to the board about the trees and shrubs that were removed from Mount Talbert to protect the oak stand. Roy Wall gave an update on the Parks District budget and reported that the Aquatic Park reduced its expenditures and increased its revenues. The Park Naming

Policy was recommended to go to the County Board of Commissioners for approval. The new spring Healthy Living Guide was reviewed.

**Nutrition/Transportation Pgms:** The annual rummage sale will be held Friday, March 31 and Saturday, April 1. On March 22 the Mayors of Happy Valley and Milwaukie, plus the Board of County Commissioners, will participate in advertising Meals on Wheels by driving that day. T-Shirts and bracelets are for sale to advertise the program. Bob's Red Mill and North Clackamas Community Credit Union are helping to sponsor the annual drive to support the Nutrition Program. There will be an Easter chocolate fundraiser between April 3-14.

#### **OTHER REPORTS**

**Friends of the Milwaukie Center:** The Spaghetti Dinner was very successful with 400 people in attendance. On April 8 there will be a Mystery Dinner & Silent Auction.

**Governor's Commission:** There was no meeting but one is scheduled for March 23. John Mullin, the head of Social Services, has announced he will retire in December.

**CENTER REPORT:** Joan Young reported that the Clackamas County employees formed a group A team to support the March for Meals. The Airing of the Quilts will be held March 24-25. Cheryl announced that there has been a volunteer here twice a week to help with the explanation of Medicare D, but sign-up has been slow.

#### **INFORMATION/ANNOUNCEMENTS:**

Katie announced that the North Clackamas Sculpture committee has met to discuss raising funds for a sculpture to be in place at the entrance to the park by May, 2007. Thank you to Katie for the decorations this month.

The meeting was adjourned at 10:45 am. The next meeting is April 14 at 9:30am.

North Clackamas Parks and Recreation District  
**MILWAUKIE CENTER DIVISION**  
Monthly Report for March, 2006

The first annual March for Meals campaign supporting Milwaukie Center Nutrition Program was a huge success. Joining with the Meals on Wheels Assoc. of America, mayors from City of Milwaukie and City of Happy Valley plus the three Clackamas County Commissioners all agreed to drive Meals on Wheels on March 22, along with hundreds of mayors and elected officials throughout the country. Piggybacking on this was a month-long educational and fund-raising effort supported by the Parks District facilities, Clackamas County A-Team employees, Clackamas Community Federal Credit Union Milwaukie branch, and Bob's Red Mill. The A-Team also hosted two employee breakfasts to raise more funds.

The Transportation Program, besides bringing in people to the Milwaukie Center for recreation, learning socialization and nutrition, is also a primary means of transport for many Center volunteers. We transport volunteers with jobs ranging from reception to greeting to dishes and many points in-between. This relationship not only benefits the people who get the rides but also greatly benefits the Center as a whole.

In a workshop sponsored by the Friends of the Milwaukie Center Rose Garden Committee, Master Gardener and Portland Rose Society aficionado Rich Baer shared the secrets of pruning roses with a large and interested crowd on Saturday, March 4. Some of the attendees become Rose Guardian volunteers, keeping the rose beds clean and beautiful during the growing season.

The Friends of the Milwaukie Center Rose Garden Committee added four benches in the Sara Hite Memorial Rose Garden that were installed with support from the Parks District Maintenance crew. Four final benches will be purchased and installed at a later date. Anyone interested in purchasing and dedicating a bench may contact the Friends of the Milwaukie Center.

In 2006, Medicare added a new health benefit, prescription drug assistance, through Medicare Part D. The Center joined with state Representative Linda Flores in hosting a Medicare Part D Seminar in conjunction with the Senior Health Insurance Benefits Assistance Program, Clackamas County Social Service Division; providing information and clarity regarding the many plans and programs to choose from. This new benefit has intricacies that make it difficult to locate which health plan will provide the most benefit for older adults on Medicare.

A total of 361 people registered for nearly forty winter term classes at the Milwaukie Center. Classes in a variety of fitness, dance, writing, language, computers and art options ran January through mid-March for the term. Spring term classes start up April 3.

The Friends of the Center hosted the "Vineyard Vikings" in a rousing game of Bean Bag Baseball at the end of March. This easy and fun game to play drew a big crowd and was enjoyed by everyone.

Over 800 people enjoyed beautiful quilts at the 12<sup>th</sup> Annual "Airing of the Quilts" show on March 24 and 25 at the Milwaukie Center. One hundred twenty three community quilts – a record number – were displayed this year. Quilt shop owners nominated some of the best quilting instructors in the area to enter quilts in the event's "Instructor Showcase". Dozens of volunteers helped with planning, coordinating, set-up, quilt acceptance, show registration, raffle quilt ticket sales, after show take-down and quilt returns. Margaret Ruhlman of Sherwood was the winner of the 2006 raffle quilt, a beautiful Irish Chain quilt that was donated by Sharon Skates and the Friends Quilting Group.

The travel program is hopping with its great array of new day trips. St. Patrick's Day was celebrated a few days early at the famous Kell's Restaurant in downtown Portland. Another trip ventured to Izzy's restaurant and the newly refurbished World Forestry Center.

North Clackamas Arts Guild co-sponsored an Explore the Arts Workshop, Professional Portraiture with Anna Lancaster. Participants learned the special techniques over two sessions, March 11 & 18.