AGENDA

MILWAUKIE CITY COUNCIL
JUNE 5, 2007

MILWAUKIE CITY HALL **2007th MEETING**
10722 SE Main Street

REGULAR SESSION – 7:00 p.m.

I. CALL TO ORDER
Pledge of Allegiance

2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

National Safety Month 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.)*

A. City Council Minutes
1. **April 3, 2007 Work Session**
2. **April 3, 2007 Regular Session**
3. **April 17, 2007 Regular Session**

B. OLCC Application, The Tartan & Thistle – 11050 SE 21st Avenue, Change of Ownership

C. Well #8 Reconstruction Contract – 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.)*

2007 – 2008 Budget Hearing (Mike Swanson)

1. **Resolutions Regarding State Revenue Sharing**
2. **Resolution Adopting the Budget, Adopting the 2008 – 2012 Capital Improvement Plan, Making Appropriations, and Declaring and Categorizing Taxes for Fiscal Year 29007 - 2008**

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. Adoption of Proposed Financial Policies – Resolution (Mike Swanson)
B. Council Reports

7. INFORMATION

A. Park and Recreation Board Minutes, April 24, 2007
B. Center/Community Advisory Board Minutes, April 13, 2007

8. ADJOURNMENT

<u>Public Information</u>

- Executive Session: The Milwaukie City Council will meeting in executive session immediately following adjournment pursuant to ORS 192.660(2)(h) to consult with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

  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, the City of Milwaukie, Oregon, The National Safety Council, and other organizations across the United States during the Month of June will participate in the 11th Anniversary of National Safety Month, and

WHEREAS, the City recognizes that preventing accidental injury and death by educating and influencing people to adopt and maintain safe and healthy practices and behaviors in all aspects of their lives benefits everyone, and

WHEREAS, throughout the month, 2007 National Safety Month activities will address safety risks and include injury prevention tips applicable to the workplace, driving, the home and community.

NOW, THEREFORE, I, James Bernard, Mayor of the City of Milwaukie, hereby proclaim month of June 2007, as

National Safety Month

In Milwaukie and urge all citizens to adopt and maintain safe and healthy practices and behaviors in all aspects of their lives.

_____
James Bernard, Mayor

ATTEST:

_____
Pat DuVal, City Recorder

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION

APRIL 3, 2007

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, Community Development/Public Works Director Kenny Asher, and Engineering Director Gary Parkin

Board and Commission Interviews

Council interviewed Jeff Klein and Charmaine Coleman for vacant positions on the Planning Commission, and Jeremy Ferguson and Melissa Arne for vacant positions on the Budget Committee.

Harmony Road Project

Mr. Parkin introduced Ron Wineman who served along with him on the Harmony Road Project Management team, which kicked off last fall.

Mr. Wineman spoke about the regional significance of the project. He passed out a draft of a newsletter that will be going out in the next few days that invites people to a scoping meeting on May 9, 2007 to get people interested in the project. The newsletter shows information about what the project is, the schedule of the project, and an idea of some of the reasons why it is an environmental impact project. He explained the project area as going from 82nd Ave. to Hwy 224. They will also be looking at the Sunnybrook extension, and part of what they are doing is looking to see if that is a needed project in this area. The extension would be extending Sunnybrook and hooking up to Harmony Road somewhere around where the existing light is for the Aquatic Center using that same road. He explained that there are lots of issues within this area. The management team considers this a regional road and a major arterial in the system. It has 18,000 trips per day, and it could go up at least 60% with the expected growth and population increases. One of the reasons why the project has been instigated now is because the OIT/Clackamas Community College area is in the process of doing a Master Plan. They are looking at a 20,000 square foot Allied Health Sciences Center as a starting point, and are also in the process of looking at how to fit in other buildings and other programs within this area. There is a need to identify access issues and what needs to be fixed. He pointed to a map to show Council where there are a lot of congestion issues. The main areas of congestion are from Harmony Road to Sunnybrook and at the Linwood intersection. They have found that there are at least 25 trains per day going through that intersection sometimes going 60-80 mph. They need to fit the roads in with the high-speed railway and determine what the impacts will be to the neighborhoods. He also pointed out to Council that part of the area is in a flood plain, and there is a potential to have a recreation area. All of those factors made it an environmental impact and was why they are going through that process. There was a 25-member Project Advisory Committee made up of community members, business representatives from the project area and technical representatives from affected agencies and service districts. The

Policy Review Committee is comprised of policy level representatives that will give advice on issues that surface from the study.

Councilor Barnes said the City has concerns about the railroad noise in the area and is looking for ways to mitigate some of the noise by changing the railroad crossings. The cost of improving the crossings is about $1 million. She would like to make sure that the City did not waste taxpayer dollars at those crossings. She would like to see any changes at the Linwood crossings tie into any potential quiet zone improvements.

Mr. Wineman was not sure how it would be done, but was sure it could. They were just beginning the environmental impacts work that included noise, but he was not sure how to fit in the other.

Mr. Parkin added that the quiet zones could be implemented at the three crossings to the north of the project area and provide some safety measures. There were no plans for the Linwood crossing at this time because of the difficulty and not having more information on the proposed Harmony Road improvements. The quiet zone plans to the north would not be affected by this project.

Mr. Wineman said the study group will look at noise throughout the neighborhoods and there could be a potential for some sort of noise wall or improvements within the residential areas. They would also look at Cedarcrest access.

Councilor Collette asked if the group would be looking at the impacts of the Sunrise Corridor. She has heard no impacts were anticipated.

Mr. Wineman responded that the Sunnyside and Sunrise Corridor would have impacts on each other. They would look at how the Sunrise Corridor and Harmony fit together, and what the impacts were on one another. The initial findings were that on Hwy 224 up to roughly Lake Road there is a major impact from the Sunrise Corridor by a 20% jump in traffic. Traffic dissipates towards Milwaukie to an increase of 2%. One of the things people talked about as related to how everything fits together is that they don't want more traffic on Harmony. They want something done with 82nd to force the traffic to Hwy 224, and that is part of the package they will be looking at. Alternatives will be evaluated and will be moved into the environmental impact study (EIS).

Mayor Bernard said that this project was a hot issue in 2001 when he ran for Mayor and made a few suggestions.

Mr. Wineman responded those were the kinds of ideas he hoped to hear at the scoping meeting. Harmony Road was a major east/west road and that the next major east/west road was King Road and then Johnson Creek. Those roads can be affected by what is done on Harmony Road. It is a balancing act, and all of the factors need to be considered.

Councilor Stone asked if there is any way to throw improvements to Railroad Avenue into the EIS. She would guess that Railroad Avenue would have some impacts with the redesign.

Mr. Wineman said they would be studying Railroad Avenue to Stanley.

Councilor Stone asked if needed improvements to Railroad Avenue could be accomplished by combining it with this project.

Mr. Parkin responded that a good portion of Railroad Avenue was affected by the project and would be part of the project design. Data as being gathered to help identify the kind of project needed.

Mr. Wineman added they will be modeling the entire area, but they are going to do a detail intersection level analysis through Stanley Avenue.

Councilor Stone said that County/City jurisdictions start and end right about there. She would be hesitant to have repairs done only to a section of the road and not the entire road.

Mr. Parkin responded that was a good point, and that the City is always looking for an opportunity to get projects funded like that.

Councilor Collette had spoken with County Commission Schrader last week, and one of the things that she suggested was to do a community-sensitive solutions process. She has worked on other transportation projects and suggested it might be of value in a controversial project such as this.

Mr. Wineman replied there would be several workshops for scoping to give people an idea of what is going on and to get ideas. There would be an open house in June where people would work in to come up with ideas.

Councilor Collette said her concern was that a lot of the times when there is an open house, people come in, and pictures were shown and they learned what is going to be done. It was not usually a give and take process. This project was huge for the community and needed a solutions-type of process.

Mr. Wineman said people would be given general information as a starting and base for multiple ideas.

Downtown Bus Layover Area

Mr. Asher said that Phil Selinger from TriMet had done a lot of work on this proposal since the meeting with the Historic Milwaukie Neighborhood District Association. (NDA) and the North Industrial business owners.

Last fall staff began working with TriMet to dissolve the transit center around City Hall in valuable right of way property. There are buses dropping off and picking up passengers and allowing them to make transfers, and there are buses that were just parked because they are at the end of their route. They are making up time or the drivers are taking their breaks. Staff believed that the transfer function needed to happen downtown because that was where the commerce was, and the Downtown Plan supported that. They were not so thrilled about the buses parking on City streets because they were taking up parking spaces and not providing any service and were a little unsightly. It as worth looking for another place for bus layovers. That is what staff and TriMet talked about in December that resulted in four ideas about where that might occur: keep the status quo, park the buses on the railroad right-of-way behind Milwaukie Lumber, use the Lake Road triangle that is also mostly railroad right-of-way at the south end of downtown, or use part of the Southgate park-and-ride. All of those locations were close enough to where the buses were making the transfers to be viable. Those options were presented in December and his recollection from that meeting was the idea had merit, and the Council was most interested in what stakeholders would have to say about those options. Those stakeholders were the Historical Milwaukie Neighborhood and the North Industrial property owners, and meetings were held with both groups. Approximately 40 people attended the Historic Milwaukie NDA meeting, and they voted for the Southgate park-and-ride option because the others encroached on the neighborhood. The same week,

staff and TriMet met with the North Industrial stakeholders who thought it might work because the buses would not be traveling through the Milport intersection, which had been that group's main concern. So they seem to have the beginnings of a solution.

Staff has not changed its position that transit riders needed a high level of service in the downtown. The current configuration was not working today and needed to change. Secondly, TriMet cannot actually fix this problem without Milwaukie, and specifically without this Council nor can the Council fix it without TriMet. Thirdly, we should do this as soon as possible and put the issue to rest. It was easy to become entangled in larger issues about transit and light rail planning, but the factors around this bus layover question and downtown transit service do not necessarily need to become entangled in the larger projects. His opinion was that this project does not need to wait. In regards to the specific siting decision, staff did not necessarily have a recommendation. Staff was pleased to see there might be some consensus in the community. He pointed out that if this did indeed happen at Southgate, then there are costs involved. Those costs would be born by TriMet by in large, because it was going to be more expensive to run buses to Southgate. That is a real impact for TriMet. He said there would be impacts no matter what was decided. The most important thing was to try and get to some resolution and then see if we can live with the impacts and work to the ultimate solution. He introduced Phil Selinger to go over the progress report and then he could answer any questions. They would still have to find money to make these improvements, but he would hope to get clear direction coming out of this work session. Any resolution here would be extremely helpful in advancing all of our ongoing revitalization transportation objectives.

Mr. Selinger explained why TriMet was concerned with any change that increased operating costs. TriMet was running efficiently and getting the biggest bang for it buck, but there was not a lot of slack. They are already implementing Phase I of the South Corridor project, and that was why the dollars are important to TriMet. He has had two briefings to date with the TriMet top management on this subject, so he now had a sense of direction. TriMet was okay with continuing to focus on the Southgate site as a location for layovers. He explained the changes to the layover site at the park and ride property. One of the changes they would need to make was to get the buses off of the easement next to the property. The property at the back of the park-and-ride was leased for trucking storage. They also needed to come up with an operator/break room. The number of buses that needed to layover has been reduced to four plus one spare. The challenge for TriMet at this time was what to do about the operating costs. He presented in December the operating costs to be in the mid-$200,000 range, and assumed in that calculation was that the Line 40 would sometime return to the downtown. It had to do with the Sellwood Bridge issue, so he took that out of the operating costs. He presented the four service options that would help mitigate the annual operating cost of $219,000. The first and easiest option to get from six buses to four was to take the Line 31 Estacada bus and the 32 Oatfield bus and force those layovers at the other ends of their routes. Those routes would just pass through Milwaukie and immediately head back in the opposite direction. The second option that they talked about was taking the Line 33 and 99, which were the main line McLoughlin routes and have those buses make their stops on McLoughlin for the northbound direction only. That would not require pedestrian crossings on McLoughlin Boulevard in that scenario. That would save $25,000 per year and would take a lot of buses out of the downtown. The challenge was that that option would require carving out a pullout on the newly rebuilt McLoughlin Boulevard. The logical place to do that would be at the

Texaco/TOD project site that would impact the right-of-way. The cost of that pullout was estimated at $181,000. Also, in the southbound direction they could look at keeping the 33 and 99 on Main Street. A bus stop on Main Street would eliminate the need to circulate around City Hall and reduce traffic and operating time. Riders would save time by not having to detour into Milwaukie on their way to work. The third option was to take the Line 70 bus, which runs from the Rose Quarter directly into the layover location across Milport and terminate at the park-and-ride. That would save an additional $48,000 over the existing operating costs. It was worth $125,000 annually to have that deviation. A major issue with that was that ODS, a major employer, would no longer have direct bus service, and they paid for an improved bus stop in front of the Plaza. TriMet only counts eight riders boarding per day at that stop, so the ridership was not that great. The riders would have to walk 1/4 mile through downtown Milwaukie to make a connection. Another factor is that TriMet has 318 daily riders that board Line 70 including those boarding at the transit center. Those riders could still connect with 30 series bus routes at the park-and-ride assuming they actually wanted to continue south, but if there destination was to one of Milwaukie's other routes such as the 28, 29, 152 or if there destination was to downtown Milwaukie they would have to transfer for that last quarter mile stretch or walk. While that is a fairly logical and cost efficient approach there are some impacts. The TriMet General Manager was not quite comfortable with that option, so it would be given more thought. The fourth option, and the least desirable, that TriMet looked at was Line 75. It was a frequent service route that runs every 15 minutes almost all day every day. It runs down 32nd Avenue into Milwaukie past the Public Safety Building (PSB) and then continues down Harrison into the downtown. The scenario there would be to terminate at PSB and the Milwaukie Marketplace, and not continue to downtown Milwaukie. That is significant because then there would be a major cross-town route that almost gets to Milwaukie but not quite, if you define getting to Milwaukie as the downtown. It would also strand a lot of riders with a fairly poor bus connection at that location because it would not connect with the 30 series buses, which are the backbone of the bus service in this quarter. TriMet has put that option aside and did not consider that option further. He said if you took those top three options that he mentioned and packaged them together they could erase all but $19,000 of the new annual operating cost increase of putting the layover at the park-and-ride. The first two options no-brainers if Line 33 stopped on McLoughlin. The Line 70 option was more questionable, and the Line 75 option was off the table as far as TriMet is concerned. The General Manager was still uneasy about losing 40 parking spaces with this configuration, but he recognized that they needed to figure this out together with the City. In talking to TriMet operations during the last briefing they talked about concentrating the bus stops at Jackson Street, and dissolving the super bus stop, have a handful of disaggregated bus stops with signage that would direct riders to make their connections, which is common in other places. The issue with Jackson Street is that it forces round the block circulation. By disaggregating the bus stops it would minimize the amount of bus traffic. If you combined all of the first 3 options that would take 30% of the bus trips out of downtown Milwaukie because the 70 would no longer pass through the downtown and the 33 and 99 northbound would no longer pass through the downtown.

Councilor Collette commented that the trade-off for that would be that there would be some inconvenience for the 318 riders of Line 70.

Mr. Selinger responded that the 33 northbound bus riders would also be waiting for the bus on a much busier street than they did today.

Councilor Collette observed that might be a benefit in that people would not be congregating with nothing to do.

Mr. Selinger noted that the dominant boarding activity comes from the 33.

Mayor Bernard commented that if we are looking at the big picture and light rail came into Milwaukie then some of these stops might go away, and everyone wanted to do something permanent if possible. In looking at the big picture he thought this was the way to go. As a small business owner he had never thought twice about paying TriMet taxes even though none of his employees ride the bus. This was a great opportunity for the City of Milwaukie to split up the buses and do something permanent while looking at the big picture.

Mr. Selinger appreciated the Mayor's comments, and from his perspective at least losing the 40 parking spaces at the park-and-ride was not a big deal.

Councilor Collette appreciated TriMet's being creative about this problem. She was glad that they listened to the Neighborhood, which was a critical piece for Council. There were opportunities with the other options, but this was so much better than having buses laying over in downtown. It would make the downtown a lot less congested. She agreed the number one option is a no-brainer, and she really liked the second option of the 33 and 99 stopping on McLoughlin. She did not know how to carve out the space for the pullout but if there is a way to do it without disturbing our lovely new downtown McLoughlin Boulevard that would be great. It made sense not to have all the stops in one place where people sat around and litter and cause trouble. The Line 70 option was more difficult because of the number of riders although a transfer was not the end of the world if things are moving smoothly and quickly.

Mr. Asher said that if there was support in this group, and then staff could start talking about implementation. That was another hurdle because there was a capital cost to making these improvements. He reminded Council that was not just the vision to find a new layover spot for the park and ride buses. It was also to improve the overall experience of waiting for the bus downtown because the current shelters are insubstantial. Part of the Transportation System Plan called for an upgrade of those facilities including new shelters, artwork, benches and trash receptacles. Mr. Selinger looked at that whole package and came up with a number of about $1.3 million.

Councilor Stone said that out of all of the options that have been discussed in the past this one made the most sense. The community spoke, and she was supportive of moving it forward.

Councilor Loomis wanted to have those options written down so he could look at them.

Mr. Selinger provided a staff report outlining the options. He said that if it turns out that they cannot do option 3 with the Line 70 bus the other approach would be to look at individual trips on all of the lines that may not have a lot of ridership. Maybe late evening trips or thinning that they can do elsewhere to come up with the difference.

Councilor Collette noted that implementing Option 3 would reduce their operating costs.

Mayor Bernard wanted to ensure Chief Kanzler and the Milwaukie Police Department would be involved in the process.

Mr. Selinger responded that Milwaukie was part of the TriMet Police and that there will be CCTV monitoring at the park-and-ride.

Councilor Loomis asked if there is an intergovernmental agreement of MOU between TriMet and the City because safety was an issue when light rail was discussed in the past.

Mr. Swanson said the Chief's point was if the agreements did not speak of more basic issues such as trash and collection receptacles. They were later amended to include the two-minute limitation on engines. He thought what Chief Kanzler was talking about was that as TriMet and the light rail system matured a lot had been learned. The Chief has been in contact with the Hillsboro police chief and talked about approaches to dealing with crime. It was important that the Chief and Department be part of the process. They needed to be involved so they can come back with recommendations on what they need.

Councilor Loomis said if we go down this road would this be a new MOU.

Mr. Swanson said we would probably want to put something in writing because the old agreement would go away. The one thing that he wanted to add was that in January this issue surfaced after a great deal of discussion mostly between Mr. Selinger and Mr. Asher, and then he was brought into the picture. They spent an evening with Historic Milwaukie and a morning with the North Industrial area. He knew that Mr. Selinger had a number of discussions with TriMet's General Manager. He knows that Mr. Selinger has advocated and has listened to the community and has taken those ideas and concerns back to TriMet. He personally would like to thank Mr. Selinger and TriMet because the relationship with the City could often be characterized as rocky, but he saw a real partnership and attentiveness. In this case TriMet certainly listened, so now the City's challenge was to make it a reality.

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

_____

Pat DuVal, City Recorder

CITY OF MILWAUKIE
CITY COUNCIL MEETING
APRIL 3, 2007

CALL TO ORDER

Mayor Bernard called the 2003rd meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Council President Susan Stone and Councilors Deborah Barnes, Carlotta Collette, and Joe Loomis

Staff present: City Manager Mike Swanson, Operations Director Paul Shirey, Engineering Director Gary Parkin, Civil Engineer George MacGregor, Community Development/Public Works Director Kenny Asher, Planning Director Katie Mangle, Assistant Planner Brett Kelver, Human Resources Director Mary Rowe

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Recognize Juli Howard for Her Outstanding Action by Saving a Life

Juli Howard, Administrative Specialist in the Records and Information Management Department, was recognized for saving the life of Sally Ackley at a recent Ardenwald Elementary School fundraising event. Ms. Howard and Starbuck's employee Aaron Dillman administered CPR to Ms. Ackely and kept her alive until EMS arrived.

B. Recognize Tony Hough for Meritorious Service to His Country and Community

Tony Hough, Utility Worker in the stormwater division, was welcomed home from his tour of duty in Iraq. The Council expressed its thanks for his service to his community and country and welcomed him back to work.

CONSENT AGENDA

It was moved by Councilor Barnes and seconded by Councilor Collette to approve the consent agenda that consisted of:

- **A. City Council Minutes of the February 6, 2007 Regular Session**
- **B. Resolution 20-2007: A Resolution of the City Council, City of Milwaukie, Oregon Authorizing the City Manager to Execute the Sale of Three Surplus Properties Located at the Corners of Highway 99E and Jackson Street and Harrison Street That Were Acquired as Part of the McLoughlin Boulevard Improvement Project**
- **C. Resolution 21-2007: The Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the City Manager to Sign an Engineering Services Agreement for the Design of a Replacement Well and Appurtenances at City Water Well No. 8**

D. Resolution 22-2007: A Resolution of the City Council of the City of Milwaukie, Oregon, Requesting Approval of a Contract with Shiels Obletz Johnsen for Development Services Associated with the Disposition and Development of the Milwaukie Town Center Site

Motion passed unanimously. [5:0]

AUDIENCE PARTICIPATION

- **Jeff Klein, Milwaukie**

Mr. Klein thought it was important to recognize the employees of the City. Last week Mr. Swanson defended an employee when an editorial was written about him. Milwaukie had a great staff that was perhaps better than it deserved.

- **Kirin das Bala, Milwaukie**

Ms. Bala asked for help in locating her ex-husband.

PUBLIC HEARING

Removal of 11022 SE 37th Avenue (The Bertman House) from the Historic Resources List – Final Order for HR-07-01

Mayor Bernard called the public hearing on the removal of the historic resource located at 11022 SE 37th Avenue designated as "unrankable" to order at 7:30 p.m.

The Planning Commission considered the request at its March 13, 2007 meeting, and the Commission recommended that the Bertman House be removed from the local list of historic resources. This was a de novo hearing, and all parties wishing to speak were recognized.

Mr. Monahan reviewed the hearing procedure.

Mayor Bernard and Councilors Barnes and Collette had visited the site. No member of Council declared any conflicts of interest, issues of bias, or ex parte contacts. There were no challenges to any Councilmember's jurisdiction.

Correspondence: No additional correspondence had been received other than those included in the packet.

Staff Report: **Mr. Kelver** stated the house, located at 11022 SE 37th Avenue, was owned by the City since at least the early 1970's. The Milwaukie Fire Department and more recently the North Clackamas Parks and Recreation District used it for office space. City Well #7 was located on the property. The house was situated in an R-5 residential zone across the street from a large vacant property zoned Residential-Office-Commercial (ROC) and adjacent to the Milwaukie Museum.

The City had a list of 45 historic properties that was created through an evaluation process in 1988. The list was split between significant properties and contributing properties. At the time the inventory was done, six properties including the Bertman House were designed considered but not ranked. It was not decided at the time whether these properties should remain on the list or not. This request was being made in anticipation of a new tenant moving into the house and the possibility of some refurbishing, renovation, and repair. The municipal code said that a property had to be out of this unrankable, limbo category before any exterior alterations were made. Knowing there might be a new tenant, the planning director hired an expert to complete the evaluation so the City would be ready to handle future requests. The consultant

used the same evaluation criteria as in 1988. The City went into this process without any predetermined notion of what the determination would be.

Councilor Stone asked why 1988 criteria were being used and if the City had more current criteria.

Mr. Kelver said the planning director would address that issue in the applicant presentation. The evaluation addressed three primary categories: historical association, architecture, and the overall environment of the structure. The Bertman House scored 34 out of 88 possible points. Under historical association it was noted that the Bertman family was important in the early development of Milwaukie, but the house was not deemed to be a significant historical property. The architecture had been modified over time. Windows had been replaced, and there were a number of exterior air conditioning units. The shed housing the well facility was T1-11 siding. The overall environment had been changed from the original farmhouse setting. It was considered to be a good example of that architectural style but not spectacular. If this house were removed from the list, then it would become just like any property in Milwaukie. The windows could be changed and exterior modifications would be made, or the house could even be torn down with no further process or review. There were varying levels of review for structures ranked contributing and significant before certain things could be done. At the same time, the house could be restored and re-evaluated. Later on the agenda the Council would consider a lease agreement for use of the building; however, there was no connection with this application and the agreement other than the timing. The application came forward as a proactive attempt to clarify the property's status. This application was not a proposal to tear down the house. One of the aspects of the lease agreement was that the new tenants would refurbish and restore it.

This was a major quasi-judicial process and involved hearings before the Planning Commission and City Council. Comments were solicited from the community, and Hector Campbell Neighborhood Chair Aschenbrenner and Milwaukie Museum Curator Madalaine Bohl asked about the process and consequences. Jeff Burgess, 3746 SE Washington Street, received the public notice mailing and asked for information on the application process. He discussed the decision-making criteria. The code defined a contributing resource, and the Bertman House had less than the minimum number of points. According to those criteria, it did not merit continued appearance on the historic resources list. The Planning Commission recommended that it be removed.

Applicant's Presentation

Ms. Mangle addressed Councilor Stone's question about using the 1988 criteria. All the code said was that the planning director had to devise some process for going through this. She hired an independent consultant with whom she worked previously to do an affordable and thorough evaluation using the same criteria used in 1988. She chose to use the 1988 methodology partly because it included a qualitative analysis of the property according to its historical, architectural, and social aspects. The code definition of significant and contributing resources was based on a point system related to the 1988 methodology. It was consistent with the manner in which the other evaluations were done. The consultant thought it would be a fair process and included all six of the unranked properties. The consultant completed the evaluation forms and prepared a memo to the Planning Commission on each property. She recommended that two of the six properties be removed from the list, and when the time came she recommended that the other four be added as contributing properties. This was an evaluation based on the standards with no anticipated outcome. The consultant, staff, and Planning Commission did not think the house met the standards set by the City for historic properties.

Councilor Stone was unsure about the 1988 criteria and asked if there were newer ones.

Ms. Mangle replied the evaluation form used in 1988 was also used for the Clackamas County historic property survey. The point system was outlined in the code, and a structure had to get a minimum of 50% of the points to be a contributing resource as defined by the code. All of the structures on the unrankable list were evaluated with this form. All of that information had been missing before.

Councilor Stone noted two points on the 1988 evaluation form. For rarity it said the Bertman House was the only remaining, or one of the few remaining, properties of a particular style, building type, design, material, or method of construction. It was rated as one of several, and she wondered why it was not rated as one of a few or one of a kind. As a visual landmark, it was rated as conspicuous/well-known in the neighborhood. She asked if it could be rated as well-known in the community because it was on a visible street.

Martha Richards, URS Corporation consultant, replied she simply did not just look at the form and the numbers. She stepped back and looked at the structure in the broader context. Doing the quantitative assessment was an outdated methodology, but since it was in the code it made sense to use it. She used the quantitative assessment to meet code requirement and applied the current preservation practice standards by assessing its significance and looking at it in context. In terms of rarity, as far as she could tell, it was an owner-built house, which was a common practice in the 1920's and 1930's. People did not necessarily hire an architect or buy a set of plans. It was fairly common to sketch it and build it. As far as she could tell Mr. Bertman was a carpenter, so that made sense. In that context it was unique in that it was the only house that looked exactly like that, but it was common at the time for people to do that sort of thing. One would find a number of houses in Milwaukie that had similar massing, proportions, detail, and a similar history of owner-construction. In that respect it seemed like it was not quite unique enough to be one of few and was probably one of several. She would probably have given it a 4 or 5.

Councilor Stone asked if there were examples in Milwaukie that were like that house or similar. It had always seemed so unique to her.

Ms. Richards was more familiar with the architecture in the greater Portland area, but she thought if one toured the neighborhoods quite a few could be found. Ms. Bohl had nothing striking to note. She addressed Councilor Stone's landmark question. It was a landmark in that it was a two-story house across the street from a vacant lot on a busy street. In that respect it was something that was noticed. It was not a striking house that necessarily stood out in the residential area. It was a question of how one assigned numbers to a concept.

Councilor Loomis said it was recognizable but not necessarily known as the Bertman House.

Councilor Stone was pleased to learn that Ms. Richards had looked at current methodologies in addition to the 1988 criteria.

Ms. Richards first looked at the house in terms of her understanding of what should be considered historic and then she completed the form.

Councilor Collette pointed out that part of this action was to create an opportunity to somewhat restore the structure and make it more significant. It was not being downgraded by the act of removing it from the historic resources list. She considered this a positive step, and the building would not be torn down.

Councilor Stone asked if there were any restoration guidelines when a house was not listed as a contributing historical structure. She hoped it would be kept in the time period.

Ms. Mangle understood that was the intent of the project. The City's historic resources code really only had specific guidelines for significant properties which was about half the list and included City Hall, the Waldorf School, and Ardenwald School. Historic resource reviews were not required for exterior alterations of contributing resources, and the City only got involved if someone wanted to demolish them. She understood in this case the intent was to restore the house.

Councilor Stone understood there were still some living members of the Bertman family and asked if they were made aware of this process.

Ms. Mangle replied staff went through the normal notification process.

There was no testimony in support, opposition, or neutral.

It was moved by Councilor Barnes and seconded by Councilor Collette to close the public testimony portion of the hearing. Motion passed unanimously. [5:0]

It was moved by Councilor Barnes and seconded by Councilor Collette to approve the removal of 11022 SE 37th Avenue from the local list of Unranked Historic Resources as recommended by the Planning Commission. Motion passed unanimously. [5:0]

OTHER BUSINESS

A. Lease Agreement between the City of Milwaukie and New Century Players for Property at 11022 SE 37th Avenue

Mr. Asher reported the proposed resolution would authorize the City Manager to execute a lease agreement with an IRS- recognized 501C3 performing arts organization for renovation and use of City-owned property known as the Bertman House. He discussed the matter from three angles – art, economic development, and public work operations related to facilities maintenance and asset management. He introduced several people in the audience associated with the New Century Players as well as Planning Director Katie Mangle and Building Official Tom Larsen. He commended Ms. Mangle for completing the unfinished business related to the historic designation for the home. Mr. Larsen did a thorough job on evaluating the condition of the house. The City owned the property since the 1970's, but it had been vacant for several years. The last user was the Parks District, and he suspected the District had not gone through a lot of land use regulation oversight or permitting. The property had a history of office use and in that case for a government agency. The house was experiencing disrepair and decline, and it was not being maintained. In September 2006 the City received a proposal from New Century Players (NCP) offering to restore the property in exchange for its use as an office and storage area for the theater group.

Kelly Marchant, New Century Players Managing Director, said the group had been looking for space in the City for a number of years. It was offered space in Oregon City and Clackamas, but the group wanted to be in Milwaukie. The Bertman House was beyond NCP's wildest dreams because it had character beyond warehouse or office space. Her home had been NCP's office for three years, and props were stored in various places. NCP would be able to apply for grants for refurbishing the building, and there was a contractor on the board of directors who had offered to help with the effort. In response to Councilor Stone's concerns, NCP was very interested in refurbishing the house back to any exterior or interior look. There had never been any ideas of completely changing things. NCP was also interested in the idea of creating a cultural

corner in partnership with the Museum. NCP was in the middle of its second full season of shows and did its first musical in the fall with an audience of over 1,200 people. The first audience in summer 2004 was 275 total for the entire two weeks. NCP was gaining a reputation and had a mailing list of over 500 people. It was producing an interactive murder mystery dinner theater and partnering with the Milwaukie Center, the Schellenberg Culinary Program, and the Milwaukie Elks.

Mr. Asher said staff had asked for Council direction at a work session in November. It was acknowledged that strong arts programs made for stronger communities, and there was clear evidence that people chose to live in places that had cultural amenities. This was very much a part of the economic development vision for the community. The City had no plans for an alternate use of this property or any plans to demolish the property nor was there any significant funds available to maintain it. This proposal gave the City a means for maintaining the property. He noted after additional inspections in the past few months, carpenter ants were discovered. The City purchased several properties and was stretching its maintenance means more and more thinly, so this was a creative way to take care of at least this one house. Staff and NCP had worked on a five-year lease during which time NCP would contribute sweat equity to the property in lieu of cash rent in a manner that was identified in the lease on a schedule. This would be done on a schedule and according to the City's Building Official's best analysis. The tenant would be expected to repair the entry ramp and install a code compliant handrail, replace the window on the landing with tempered glazing, hire an electrical contractor to permit and repair all electrical deficiencies, engage an HVAC contractor to service the existing furnace, refurbish the interior first and second floors, refurbish and clean the basement, make structural alterations required to maintain upkeep, maintain the landscape, and make office, meeting, and wall space available to other artists, art organizations, and the City. The NCP would provide an annual report on what had been accomplished. In years two and three all blocked attic and floor vents would be repaired, pest control addressed, and insect damaged wood would be repaired. Additionally, the roof would be repaired, dry rot repaired, and the chimney stabilized. In the last two years the windows would be replaced. These projects were structured in a way to allow NCP to get on its feet. Mr. Asher had spoken with Ms. Bohl, and she was supportive. Incidentally, she had spoken with the Bertman family and they had little if any concern. He also talked with Hector Campbell Neighborhood Chair David Aschenbrenner who indicated his support and believed NCP would be a good neighbor. The City had several things to benefit from this arrangement. The building and grounds appearance would be improved, property values in the immediate vicinity would be stronger, and there would be enhanced theater offerings. The company would enjoy operational efficiencies resulting from this non-traditional lease structure. It was in keeping with Citywide plan for vibrancy with a multitude of offerings. The well site was addressed in the lease.

Mayor Bernard understood the work would be inspected, but NCP was not required to restore it to 1930 standards.

Ms. Marchant replied the house would have to be removed from the list in order for the Players to afford to do the work.

Councilor Loomis asked what the arrangements would be if some space were subleased. Would the City determine the lease price per square foot? It would seem fair if the revenue went into some fund that NCP could draw upon to make repairs.

Mr. Asher replied the City would want approval rights if some entity were to become a co-tenant. It might be more of an issue for NCP. This would meet the City's needs for the next five years to bring the house back. He would think about the details if the house became an attractive office space.

Mr. Monahan added this lease was structured so that the entire facility was leased to the NCP, and the City had co-tenant approval. If any co-tenant came in during the first five years of the lease, then the arrangement would be that the NCP would receive whatever the co-tenant was willing to give. Ideally that would be additional sweat equity or contributions of materials to further the improvement of the facility. At the end of five years the deal would be renegotiated and might include some compensation. At that time there could be a discussion of whether it would be a rent arrangement. The idea was to give the tenant the opportunity to make those structural and systems improvements necessary to maintain the City asset. At some point, the facility might be restored to bring it up to some level of historic designation. In the future, the City might want consider some outside resource to advise the City and NCP on what it might take to bring the house up the contributing status, and then the City might want to give direction on the types of improvements. The agreement was somewhat loose so staff and NCP could work out what could be reasonably done. If the City Council did adopt the resolution, staff would like to make a couple of tweaks to the lease agreement.

Councilor Collette talked with another art group that was interested in having an office. She guessed it would be desirable for that group to help with restoration efforts, and she thought it set a good model for a complementary group wishing to share the space.

Mr. Asher agreed it was an opportunity to bring the house back to life and see where the concept of a cultural corner went. This could be the start of something more inclusive and community oriented.

Councilor Barnes was concerned how this City property got to such a state of disrepair and asked what had happened while the last tenant was using the building.

Mr. Asher would provide as much information from the documentation that was found.

Councilor Loomis thought once a property was left to sit it deteriorated quickly. Once people put in sweat equity it became ownership and rightfully so. What NCP was offering to do was of great value to the City, but he did not want to see a situation in which only a few people did all the work. If there was space, he thought it should be rented for a reasonable amount and go into the pot of money to buy materials. He thought there would be problems down the road if NCP let others in. Everyone was happy at the beginning, but when it came time for the work party people would have other commitments. There would be a core group of people that did all the work. That was his fear and concern. This was really a great idea and working model, but he could see problems.

It was moved by Councilor Barnes and seconded by Councilor Collette to approve the resolution authorizing the City Manager to execute a commercial lease agreement with the New Century Players for the City-owned property at 11022 SE 37th Avenue. Motion passed unanimously. [5:0]

RESOLUTION NO. 23-2003:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT WITH THE NEW CENTURY PLAYERS, AN IRS RECOGNIZED 501C3 ARTS ORGANIZATION, FOR RENOVATION AND USE OF CITY-OWNED PROPERTY AT 11022 SE 37TH AVENUE.

B. <u>City Manager Performance Review and Compensation</u>

Ms. Rowe summarized for the record that Mr. Swanson was doing an excellent job and his performance exceeded in all areas. Input on his strengths was provided by his

direct reports and the City Council. This past year he received the Herman Kehrli Award for outstanding public service from the League of Oregon Cities. It was noted Mr. Swanson was a fine steward of the City and staff, and one of his greatest skills was his ability to hire good people, manage them creatively, and sustain their spirits through difficult times. His political/public insight and ability to think strategically along with his high ethical standards were also strengths. Some goals for the upcoming year were to continue work on the decommissioning of the Kellogg Treatment Plant, downtown development, transportation options, resolving downtown parking issues, annexation, Transportation System Plan, and delegating more work to avoid burnout. Comparable agencies were reviewed with regards to both base wages and total compensation packages. The compensation package Council landed on would put the City Manager's salary within 1.5% of the market average.

It was moved by Councilor Collette and seconded by Councilor Barnes to provide the City Manager an increase to base pay of $3,149 per year, cell phone allowance of $50 per month, and a 2.67 hour per month increase on vacation accrual.

Councilor Stone said the employment agreement extension document did not list increase to the base pay in the amount of $3,149. It listed the base salary. She was curious about that because all the other dollar items like the cell phone and the automobile allowance were listed.

Ms. Rowe explained it was just another way of expressing it. The $3,149 increase did bring it to the amount in the agreement.

Councilor Stone had figured that out, but it did not list the dollar amount. She thought maybe it should be listed and noted that his salary was brought up to $120,500.

Mayor Bernard was satisfied that it addressed the actual salary.

Ms. Rowe added each extension was built on the previous agreement, so the language was consistent.

Motion passed unanimously. [5:0]

Mayor Bernard thanked Mr. Swanson, and the Council and employees were proud of his excellent service to the community.

Mr. Swanson commented on the board and commission interviews and found it exciting that a local government had high-caliber people including Jeff Klein, Charmaine Coleman, Melissa Arne, and Jeremy Ferguson who were interested in serving the community. Others like David Aschenbrenner were always there supporting the City. Juli Howard and Tony Hough were daily heroes in their service to the community. Milwaukie had incredibly high-quality employees who made the choice to work here.

<u>Commission Interviews</u>

Mayor Bernard asked if there were consensus to appoint those applicants interviewed during the work session.

Councilor Stone asked that Council consider re-interviewing someone else for the Planning Commission position. The Council interviewed Ed Brown in September, and he may still be interested.

Ms. DuVal had tried to contact him about various board and commission vacancies since his interview in September, but Mr. Brown had not responded.

Councilor Stone had heard he was still interested, and he might still be interested. She was fine with the reappointments, but she would like to find out if Mr. Brown was interested in the Planning Commission vacancy.

Councilor Loomis agreed the Budget Committee appointments should be made.

Mr. Monahan assumed that Planning Commission Chair Klein's position had expired on March 31, so he was not qualified to lead the meeting next week unless he was reappointed. He suggested if the Council were satisfied with Mr. Klein's work, then it might want to vote on his reappointment. Otherwise the Planning Commission may have a quorum problem.

It was moved by Councilor Barnes and seconded by Councilor Collette reappoint Jeff Klein to the Planning Commission. Motion passed unanimously. [5:0]

It was moved by Councilor Collette and seconded by Councilor Barnes to appoint Charmaine Coleman to Planning Commission and reappointment of Jeremy Ferguson and Melissa Arne to Budget Committee.

Councilor Stone still wanted to interview Mr. Brown, and she did not feel it would do any harm. She asked staff if it had tried to contact him about this opening.

Ms. DuVal had e-mailed or called Mr. Brown about various board and commission vacancies since his interview in September, but he had not responded. After a certain point she did not wish to be annoying.

Councilor Stone had not talked with him but had heard he was still interested. She pulled his application and liked him.

Motion passed unanimously. [5:0]

C. <u>Council Reports</u>

Councilor Loomis announced the North Clackamas Park ballfield opening on April 21. The sculpture would be unveiled at April 11 a.m. and the fields would open at noon. He had talked with a scout troop working on its badges and had suggested they attend a work session and sit at the table and ask Council questions. He was impressed with Juli Howard's commitment to keeping Tony Hough in touch with his community while in Iraq.

Councilor Stone announced the Ardenwald Secret Garden Tour on June 30. The Site Selection Committee meetings would begin this week to look at site for the wastewater treatment facility.

Councilor Collette attended Mr. Taylor's going away party. She among others was interviewed by the facilitator for the Sewage Treatment Governance Committee. She met with Historic Milwaukie Neighborhood officers Dion Shepard and Ed Zumwalt to discuss light rail and their other issues. She had suggested the Neighborhood do an historic home and garden tour to give people an idea of the concerns. She met with Metro Councilor Brian Newman and Clackamas County Commissioner Martha Schrader regarding the Metro planning process. She spoke with Mr. Swanson on the budget and discussed the idea of an Arts Committee or Commission. There was a lot of community interest in the arts, and some people were interested in a 1% for the arts development fee.

Councilor Barnes attended Milwaukie Police Officer of the Year dinner. She met with Rosemary Crites and discussed a new business that offered French pastries. She participated in the SERT exercise and toured Electronic Design Controls, Inc. as part of the City's ongoing economic development efforts. She would attend the Harmony Road PRC meeting on April 11.

Mayor Bernard was training for a marathon and would walk every street in Milwaukie. He encouraged people to talk to him if they saw him in their neighborhood. Riverfest was being planned for July 28 and would not include a parade this year. He and the

Chamber sponsored a breakfast for Congresswoman Darlene Hooley and Congressman Earl Blumenauer. He and other mayors in the area were filming "Mayors' Minutes." He urged Council to think about looking for an alternative wastewater treatment provider that might mean talking with Happy Valley and Damascus about partnering. He felt it was time to put pressure on those responsible for making the decisions. He read a number of announcements.

Mayor Bernard announced the Council would meet in executive session immediately following adjournment pursuant to ORS 192.660(2)(d) for labor negotiator consultations.

ADJOURNMENT

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

Mayor Bernard adjourned the regular session at 9:00 p.m.

_____

Pat DuVal, Recorder

CITY OF MILWAUKIE
CITY COUNCIL MEETING
APRIL 17, 2007

CALL TO ORDER

Mayor Bernard called the 2004th meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Council President Susan Stone and Councilors Deborah Barnes, Carlotta Collette, and Joe Loomis

Staff present: City Manager Mike Swanson, Operations Director Paul Shirey, Engineering Director Gary Parkin, Community Development/Public Works Director Kenny Asher, Human Resources Director Mary Rowe

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Earth Day Proclamation

Mayor Bernard read a proclamation recognizing April 22, 2007 as Earth Day.

B. Recognize Off-going Board and Commission Members

The Council recognized Catherine Brinkman and Randall Welch for their service to the community by volunteering for appointed advisory boards. Ms. Brinkman was appointed to the Planning Commission in March 2005 and served until her term expired the first of April. Mr. Welch served on the Design and Landmarks Committee from December 2004 to April 2007.

C. Recognize Ed Zumwalt for His Service to Community

The Council thanked Ed Zumwalt for the many hours he spent in coordinating community events including the Riverfest and various neighborhood activities.

Mr. Zumwalt appreciated the many volunteers who had helped with the Riverfest, Centennial Committee, 9/11 fundraiser, and the Scott Park summer concert series.

D. Recognize Bob Hatz for Lifelong Achievement of Volunteerism to the Community

Council recognized lifelong Milwaukie resident Bob Hatz. He was born in Sellwood 88 years ago and was a member of the 1936 Milwaukie High School graduating class. Mr. Hatz was a WWII veteran who fought in the Battle of the Bulge on the German/Belgium border during the winter of 1944 and 1945. He worked for the Charles H. Lilly Co. until his retirement in 1984. He was a lifelong supporter of his community. He, along with Tracy Cook, went through all the hoops to get official Council recognition of the Linwood Neighborhood District Association in 1995. He served as a member of the Land Use Committee and was active with the Association for many years. A number of years ago, he applied for a position on the Riverfront Board. However, when he learned he had not been appointed -- like the true servant leader he is -- Bob said, “I’ll take anything!” That was in 1996, and since that time Bob has been a member and is the current chair of the

Citizens Utility Advisory Board. He and the other members of the Board have thoughtfully guided the City through many decisions about how to fund and maintain the public infrastructure. Most recently the Board made some tough recommendations to Council about a plan to maintain the City's deteriorating street system which would not have been an easy task for most of us. With great admiration the Council recognized Mr. Hatz for his lifelong contributions to his community and looked forward to many more.

E. Milwaukie High School Student of the Month Alicia Tallman

Alicia Tallman was recognized as the April 2007 Student of the Month. Ms. Tallman was a strong athlete with many strong qualities and accomplishments during her four years at Milwaukie High School. She was known as a highly motivated and articulate young woman. She currently ranked 19th in her senior class of 329 with a GPA of 3.88 that included many college placement courses. She was awarded the prestigious Leslie Peake Award last year for being the top female athlete in her class. She was also active and volunteered in numerous school programs including Habitat for Humanity and the National Honor Society. She was active in the Tech Cadre an academic program that designed and supported web pages and technology projects for schools and local businesses. Her most compelling project was her production of a dynamic, interactive display entitled 'Faces of the Fallen' that recognized the names, photographs, and information about every American soldier that paid the ultimate sacrifice in Iraq and Afghanistan. She planned to attend a university and major in environmental studies with a career goal of being a park naturalist in a state or national park.

Shirley Huyett, Milwaukie High School, congratulated Ms. Tallman on her award and was confident she would continue to represent Milwaukie High School well after her graduation in June. She discussed the planned construction for Milwaukie High School based on the recently passed School District bond measure that included improvements to the gym and fine arts building. The athletic field would be updated with a turf field, new lighting, and an 8-lane track.

CONSENT AGENDA

It was moved by Councilor Barnes and seconded by Councilor Collette to approve the consent agenda that consisted of:

A. City Council Minutes of
1. **February 20, 2007 Work Session;**
2. **February 20, 2007 Regular Session;**
3. **March 6, 2007 Work Session; and**
4. **March 6, 2007 Regular Session**

B. Resolutions Making Appointments and Reappointments to Various Advisory Boards and Commissions
1. **Resolution 24-2007: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Melissa Arne to the Budget Committee;**
2. **Resolution 25-2007: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Jeremy Ferguson to the Budget Committee;**

3. **<u>Resolution 26-2007</u>: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Jeff Klein to the Planning Commission; and**
4. **<u>Resolution 27-2007</u>: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Charmaine Coleman to the Planning Commission**

C. **<u>Resolution 28-2007</u>: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving the Award of Contract for the Construction of 37th Avenue Waterline Replacement (King Road to Harvey Street)**

Motion passed unanimously. [5:0]

AUDIENCE PARTICIPATION

PUBLIC HEARING

A. <u>Denial of Liquor License Application for Eric's Market</u>

Mayor Bernard called the public hearing on the change of ownership application for Eric's Market located at 8410 SE 32nd Avenue to order at 7:30 p.m.

The purpose of the hearing was to consider written and oral evidence regarding the application followed by a City Council decision based on the criteria set forth in Milwaukie Municipal Code Section 5.40.060. The Council action was not final. The Council was responsible for making a recommendation only to OLCC for the final disposition. If the recommendation were adverse, the Council would adopt findings of fact that would be forwarded to OLCC.

<u>Correspondence</u>: No additional correspondence had been received.

<u>Staff Report</u>: **Police Chief Kanzler** responded to the application for a liquor license requested by Mr. Dennis Kim. As the city manager's designee he was obligated to bring forward facts he felt were pertinent to the Council's decision of whether or not to recommend OLCC approval or if there were conditions Mr. Kim would have to meet in order for him to obtain the Council's recommendation. One of the considerations was the past history of the applicant and the fact this was an ongoing business. This was a change of licensee at this location. During the course of his investigation Chief Kanzler looked at Mr. Kim's history of use and/or management of liquor around youth and how he managed his responsibilities as outlined in municipal code and Oregon Administrative Rules. His testimony was couched around those criteria. He found that Mr. Kim had been convicted of three alcohol-related offenses. On April 30, 2001, Mr. Kim was convicted of driving under the influence of intoxicants. He was convicted on August 6, 2001 of giving liquor to a minor, and on July 5, 2005 he was convicted of driving under the influence of intoxicants. Mr. Kim's application showed he presently held a liquor license for Dennis's Market and has done so for the past six years.

The recommendation was that Council deny the liquor license application of Dennis Kim for Eric's Market. To support his recommendation he submitted an evaluation of Mr. Kim's application compared to the application review process identified in Milwaukie Municipal Code (MMC) Chapter 5.40. The Code stated that the criteria for recommendation that the city manager or designee took into consideration when making an unfavorable or conditional favorable recommendation. It was consistent with the Oregon Administrative Rules (OAR) and listed OLCC license refusal reasons related to the applicant's qualifications. The OLCC will deny a license unless an applicant showed good cause that overcame criteria as identified in subsection 4, alcohol or

controlled substance history or record of the applicant. The applicant had a record of use of a controlled substance or excessive use of alcohol beverages in that Mr. Kim had been convicted twice in the last six years of driving under the influence of intoxicants and most recently in July 2005. That conviction came with a two-year probation lasting until July 2007. The applicant had a record of violation of criminal law and ordinances connected in time, place, and manner with liquor establishment owner that demonstrated a disregard for the law. Mr. Kim was convicted August 6, 2001 of providing liquor to a minor. His application for the license showed an individual history that included a response that he was convicted of selling beer to a minor six years ago. Mr. Kim was fined for that offense. At a minimum Chief Kanzler believed the conviction demonstrated Mr. Kim's disregard for the law. The public health, safety, and welfare of the Milwaukie community could be at risk if a license were granted to Mr. Kim. The police department, as the city manager's designee, recommended that the Milwaukie City Council deny the liquor license renewal of Mr. Dennis Kim based on the alcohol-related convictions he described.

Chief Kanzler could provide any number of 'what-if' scenarios that would characterize Mr. Kim as a villain if someone were hurt after Mr. Kim either sold or provided liquor to an underage person or was involved in a traffic accident after purchasing alcohol from Mr. Kim. The responsibility to monitor the consumption and distribution of alcohol rested with the Milwaukie Police Department and the OLCC approved licensees. Mr. Kim's track record did not warrant such a risk for the Milwaukie community. Mr. Kim's history and conviction of furnishing alcohol to a minor was particularly disturbing to the police department in that it suggested Mr. Kim's judgment was suspect. Underage drinking was a major contributor to traffic accidents and personal injury to our children. Placing Mr. Kim in a position where he had to assess the legal distribution of alcohol potentially placed the community in jeopardy. Mr. Kim's track record did not support his adherence to following the laws. Subject to the Council's recommendation he would provide alternatives and find that the applicant met the criteria of MMC 5.40.060 and recommend to the OLCC or find that the applicant did not meet the criteria of MMC 5.40.060 but make a favorable recommendation with a letter of warning.

Applicant's Presentation: Neither Mr. Kim nor a representative were present.

Testimony: There was no testimony in support or opposition or any neutral testimony.

Questions from Council to staff: **Councilor Collette** asked Chief Kanzler to describe the relationship between driving intoxicated and selling alcohol at a business.

Chief Kanzler replied it was non-compliance with the law. If he knew what the law was, which he did as a licensee, and he abused alcohol himself, then what would prevent him from selling to someone who was already intoxicated and let them drive away and crash. There was a correlation between the violation of driving under the influence and having a disregard for the liquor laws.

Councilor Stone asked if Chief Kanzler had any reason to believe the Mr. Kim partook of alcohol while he was at work.

Chief Kanzler did not have anything that led him to believe that Mr. Kim drank at the same time he was selling alcohol. He did believe that Mr. Kim had a disregard for laws related to use, consumption, and distribution of alcohol. To allow him to have a license would be allowing that conduct and history of bad behavior into the community where it could influence those in the community.

Councilor Stone asked that because if he was partaking of alcohol at work he would be showing bad judgment and potentially selling alcohol to a minor or maybe to someone who was already intoxicated. That was why she asked that.

Chief Kanzler replied he had shown bad judgment because he furnished alcohol to a minor.

Councilor Stone asked Chief Kanzler if he knew the circumstances. Did the minor have false ID?

Chief Kanzler replied from the history of the record, Mr. Kim was cited for selling alcohol to a minor. He did not know if it was a decoy operation, or it may be someone who was apprehended afterwards that was intoxicated and perhaps got into an accident. That person may have identified that he purchased the alcohol at Mr. Kim's location, and subsequent investigation showed that to be the truth.

Councilor Stone said that was six years ago, and there had been no more recent infractions of selling alcohol to a minor that Chief Kanzler knew of.

Chief Kanzler replied the most recent conviction was in 2005 where Mr. Kim was driving under the influence.

Councilor Stone noted that was not selling alcohol to a minor. She was curious because she understood Chief Kanzler to say that he felt like Mr. Kim knew the law. She was sure that any person looking to get a liquor license did not have the intent to sell to a minor. Some may, but clearly Mr. Kim had this one conviction that was six years ago. It was not like it happened six months ago. As far as his two convictions of driving under the influence went she was leaning with Councilor Collette. She did understand Chief Kanzler's point of view that this was a disregard for the law, but obviously people did do that. It was not a good idea. Irregardless of having a liquor license or not he could still do that – drinking and being intoxicated while driving. She asked if Mr. Kim had any type of plan in place for rehab or was working in some type of program to help him with his alcohol abuse.

Chief Kanzler knew Mr. Kim was under probation as a condition of his post-conviction relief.

Mr. Swanson explained the City Council's function in these licenses was a recommendation, and OLCC would do its own investigation. Whether of not Mr. Kim drank in his place of business was not relevant. He did not know if there was a law that disallowed drinking in one's place of business. The municipal code provided that the city manager or designee may make an unfavorable or conditionally favorable recommendation based on a number of criteria. The first was that the applicant had a record of violations of state alcoholic liquor laws, a record of use of controlled substances or excessive use of alcoholic beverages, and the applicant had a record of violations of criminal law or ordinances connected in time, place, and manner with a liquor establishment or which demonstrated a disregard for law. During his time with the City, Mr. Swanson only recalled an unfavorable recommendation twice. Staff had not used its recommendation authority in any way to be overly cautious. The recommendation was based on a record of violations, excessive use, and a record of violations that demonstrated a disregard for law. If the City made a recommendation to deny, OLCC had the final authority and would in fact follow up based on the presumption that the City had some interest in the area. This was not a determination by the Council that the license would not be issued, but it was recommendation to OLCC where the final determination would be made.

Councilor Barnes noted this was only the second time that Chief Kanzler recommended denial since she had been a member of Council. For him to recommend denial was sufficient for her, plus Mr. Kim was still on probation. She would not wonder why he would not be given a license to sell alcohol if he were on probation. Chief Kanzler's recommendation made sense, and Mr. Kim should not be given the

opportunity to sell any liquor to any minor at any time in the community. She agreed Mr. Kim did not have a good track record.

Chief Kanzler said this was only the second denial recommendation in his eight years as Milwaukie Police Chief.

Councilor Loomis asked how Kimmy's Market had worked out.

Chief Kanzler believed ownership had changed.

Councilor Loomis was conflicted on this matter. He understood Chief Kanzler was saying that this person had a history of making really poor decisions that were life threatening to the community. He was having a hard time because Mr. Kim had a store for six years. His last conviction was in 2001.

Chief Kanzler explained the Council could put some conditions on a favorable recommendation. Those conditions could be that he received no further driving under the influence arrests or have no further violations that would cause him to lose his liquor distribution license. Being specific would let Mr. Kim know what the end result would be. The problem was that there was still a risk. For that violation to occur, there had to be a breach of the criteria. If that breach included the sale or delivery of alcohol to a minor, then the minor might end up in an accident. About 75% of the accidents involving youth were alcohol related. He felt there was enough risk without adding to the burden. If the Council wanted to make a favorable recommendation, it could be done with conditions.

Mayor Bernard understood the code addressed the conditions under which the Council would recommend denial. Mr. Kim was in violation of these conditions, so it seemed straightforward to him. He knew OLCC would approve the license. The code required the Council to do certain things, so he saw no choice but to deny.

Chief Kanzler had a moral and ethical responsibility to point out issues so the Council could take the moral high ground. If something happened, at least the City Council would be on record that it made the right decision and attempted to deny the license that went to a higher licensing authority that granted it. The Milwaukie Council would be on record as trying to do what it could to prevent failure of the system. Chief Kanzler wanted to point out to the Council that there were risks involved.

Mr. Swanson said the next normal step in the process was going to OLCC, so this did not require any extraordinary action on the part of the applicant. OLCC would be happy to point out if it felt the Council was wrong.

Mayor Bernard understood Mr. Kim had been notified of the hearing and had the opportunity to address the issues.

Chief Kanzler confirmed that Mr. Kim had been notified of the hearing.

Councilor Stone asked if Mr. Kim spoke English and if he could come before the City Council.

Chief Kanzler replied that Mr. Kim wrote his application in English and signed it.

Councilor Stone said if Mr. Kim did indeed write it. He signed it but that did not mean he wrote it. She wondered if Mr. Kim was able to testify. She asked counsel what the City's liability would be if the Council applied conditions.

Mr. Monahan believed placing such conditions showed the community's concern and raised OLCC's awareness. The Council could make a recommendation that the individual not have further legal issues such as Chief Kanzler described or suggest that Mr. Kim undergo some kind of training or counseling to make sure he was aware of the concerns. The Council would assist in the liability matter by going on record showing

concern. Ultimately, however, the Milwaukie City Council was not the approval authority, and OLCC would be subject to the exposure.

It was moved Mayor Bernard and seconded by Councilor Barnes to recommend denial of the change of ownership application for Eric's Market located at 9410 SE 32nd Avenue.

Councilor Stone would still like to consider putting on some conditions. Mr. Kim's track record was not good, but selling to a minor happened many, many years ago. He was still under probation for the DUII violation, so she would not recommend a license be granted until that was over and that the license be revoked should any further violations, either a DUII or selling alcohol to a minor occurred. In addition, she would recommend that Mr. Kim receive counseling for his alcohol abuse. She based that on the length of time elapsed since Mr. Kim sold alcohol to a minor, and no one seemed to know the circumstances. She also knew that these little stores in terms of their business thriving made a lot of money on alcohol sales. She was not promoting the sale of alcohol, but she was promoting business. Mr. Kim had a current license at his other store. She did not know the background and if Mr. Kim had further rehab or training. She would make a recommendation with conditions that the liquor license be granted to Mr. Kim.

Councilor Barnes did not think the community needed anyone selling alcohol who had a track record and was still on probation that had sold to a minor. She did not see the benefit of the Council's doing this, and she did not want to be responsible. This man had been convicted for selling to a minor. Why should he have another chance to sell to another minor in the community? She did not want that on her shoulders and did not see a need for it.

Mayor Bernard agreed.

Councilor Stone said it had been six years.

Councilor Barnes did not care how long ago it was. He was convicted of providing alcohol to a minor, so why would the Council want to give him another chance to do that?

Councilor Stone replied that people make mistakes. She was trying to look at this broadly. She was not condoning selling liquor to a minor, but people made mistakes. She wanted to know what kind of game plan Mr. Kim had to make sure it did not happen again.

Councilor Barnes asked if that were the case then why would Mr. Kim not be present.

Councilor Stone did not know the circumstances.

Councilor Collette understood Mr. Kim could resubmit if the recommendation were not favorable. If the conditions that caused such a recommendation were remedied, then how would the City verify the conditions were remedied? Mr. Kim made a mistake, so could he reapply for a liquor license?

Chief Kanzler explained his violation was not significant enough to revoke the current license, but it was significant enough to put him on probation for driving under the influence. His experience was that the OLCC did not review an applicant's history until renewal appeared. If Mr. Kim did not have a renewal at his current location from 2005 until now, then OLCC would not know of his second DUII conviction. It would not be known to OLCC until Mr. Kim reapplied. When he worked in Portland this was an ongoing problem because the violation would not be noted until the owner applied for renewal. OLCC may not be made aware of that until he reapplied for renewal.

Mr. Swanson said the next step was OLCC, so he may not need to reapply. The application was submitted to OLCC on March 12, 2007, and it had 90-days in which to act. The matter would be moot if OLCC approved the application, and Mr. Kim would not have to reapply. If OLCC did not find Mr. Kim's arguments valid, then Mr. Swanson thought according the MMC 5.40.120 the application could be resubmitted in less than six months from the date the Council made its unfavorable recommendation only if the conditions which caused such recommendation had been remedied. There was no evidence from the applicant that those had been remedied. He thought Mr. Kim's most direct remedy was to pursue it with OLCC, which may well grant it. Coming back to Council in that case was a moot question.

Councilor Stone said the last time this issue came before the Council the OLCC allowed it. Would it be in the Council's best interest to make it conditional and state several things she spoke about earlier? Would OLCC be obligated to take those into consideration and incorporate that if it granted the license? Would conditions help the City's case, and would the OLCC adopt the conditions if it granted the license?

Chief Kanzler did not believe OLCC had the obligation.

Mr. Monahan thought if the Council did decide to recommend denial, it was responsible through the code to state the reasons for its major concerns. Those findings could be used by OLCC if it chose to grant the license and tell the applicant the reasons that he needed to do better. OLCC might make some recommendations. He was not sure if OLCC would grant a conditional approval. He felt the Council could make the same statement with more force with a denial than it would with a conditional recommendation.

Mayor Bernard added the burden was on the applicant who had an opportunity to appear at this public hearing to speak on his own behalf. Mr. Kim was sent a notice of this public hearing but did not take advantage of speaking about the staff recommendation. Now the findings would be forwarded to OLCC, and it would be the Commission's burden to ensure Mr. Kim followed the laws, which he had not in the past.

Mr. Swanson said the code required that the City Council make its recommendation and in the case of an adverse recommendation the Council needed to make findings. He suggested that the motion include reference MMC 5.40.060.A, B, and C, which were the reasons for recommending denial.

Mr. Monahan suggested that the response to OLCC include the staff recommendation and a copy of the applicable code sections used in deliberations.

As maker of the motion Mayor Bernard accepted the recommendation by the City Manager and City Attorney as did the seconder Councilor Barnes.

Councilor Loomis commented he was not as tough as Councilor Barnes and was more in Councilor Stone's camp of forgiveness. Mayor Bernard made the point that Mr. Kim had the opportunity to speak before Council but did not appear. For that reason, Councilor Loomis would support the denial.

Motion passed unanimously. [5:0]

B. <u>Motion to Consider Continuation of Amendments to Milwaukie Municipal Code (MMC) Sections 19.321.7 and 19.321.3</u>

Mr. Swanson provided the staff report. This was a code amendment that would declare the Kellogg Treatment Plant a nonconforming use and require that it cease operations as of December 31, 2015 and imposed heavy civic penalties. The City was continuing this month-by-month as the stakeholders wended their way toward a

solution. In the past it was the sense of the Council when it became necessary that it would not hesitate to enact this. He recommended continuing the decision.

It was moved by Mayor Bernard and seconded by Councilor Barnes to continue the matter to May 15, 2007. Motion passed unanimously.

Mayor Bernard thought it might be appropriate to consider a Council recommendation that the City look at other providers of sewer services outside Clackamas County Service District #1 and indicate it wished to talk about partnering with Damascus and Happy Valley. He closed the public hearing.

OTHER BUSINESS

A. Local Gas Tax and Street Surface Maintenance Program Start-Up – Ordinance, second reading

Mr. Swanson read the ordinance for the second time by title only.

The City Recorder polled the Council: Mayor Bernard and Councilors Barnes and Collette voting 'aye' and Councilor Loomis and Stone voting 'no.' Motion passed 3:2.

> **ORDINANCE 1970:**
>
> **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CREATING AND IMPOSING A TAX ON MOTOR VEHICLE FUEL DEALERS; PROVIDING FOR ENFORCEMENT, ADMINISTRATION, AND COLLECTION OF THE TAX; AND AMENDING THE MUNICIPAL CODE BY ADDING A NEW CHAPTER 3.40.**

B. Project Management Group Recommendation for Development of the Town Center Site – 10700 SE McLoughlin Boulevard and 10721 SE Main Street -- Resolution

Mr. Asher stated the action requested was that the Council direct the Town Center Project Management Group to enter a 60-day exclusive negotiation period with Main Street Partners on a memorandum of understanding (MOU) for developing the Town Center site. He introduced the members of the advisory committee that worked on this request. He acknowledged the members of the project management group (PMG), Jeanne Garst, consultant Kim Knox, and those present from Main Street Partners.

He would address the concept design and feasibility, and he noted design was 25% of the recommendation weighting. Ms. Knox would discuss qualifications, financing capacity, and the business offer. Committee member Charmaine Coleman was selected by her peers to address Council. Ms. Mangle would address parking, and Mr. Whitmore would speak about the Transit Oriented Development (TOD) Committee that took action on this matter last week. Finally, Mr. Asher would discuss the considerations taken into the MOU negotiation if the Council approved the action.

Mr. Asher reported three proposals were received for this site: Costa Pacific Homes, with The Architects Office PLLC and Saco Construction Corp.; Main Street Partners, with KemperCo, Myhre Group Architects, and R&H Construction; and Winkler Development Corporation with LRS Architects and R&H Construction. He summarized the proposal and noted figures and distinguishing characteristics of the projects. The projects were similar in a number of regards. They were all mixed use projects as requested with residential over retail and/or office with hidden parking. All three were

quality proposals meaning they were presented by firms that had largely done this kind of work before. All were professionally submitted and met the criteria of the request for proposal (RFP). All three were interviewed and invited to the open house.

Costa proposed 71 housing units with 9,500 square feet of retail with 12,500 square feet of office. The retail was on the Main Street side, and office was proposed for the McLoughlin Boulevard side on the ground floor. The Costa proposal included underground parking with 117 spaces with a parking ratio of 1.65:1. The floor area ratio (FAR) was the ratio of the size of the building as compared to the size of the site. This site had a code requirement of 1:1 minimum. This was a 3.1:1 FAR. There was no land payment on this project. Hard costs were about $13 million, and soft costs were $8 million. He recommended that Council keep that ratio in mind because it was a high ratio of material and construction costs to engineering and design. The total cost was $21 million making it about $257 per square foot. The proposal assumed sales of $260,000 per unit with an assumed lease rate of $32 per square foot for the retail space and $19 per square foot for the office space.

Councilor Stone asked for a table with this information.

Mr. Asher noted the distinguishing characteristics were underground parking with a lot of active uses on ground level since parking was below grade. It had a gateway element on northwest corner that was like a half rotunda announcing the project to those traveling south on McLoughlin Boulevard. It was brick and stucco with some stone veneer. This project proposed expanding the sidewalk on Main Street to 15-feet. The PMG and community liked the materials, underground parking, and consideration of public space at the ground level. The last consideration in this category of design was feasibility, and that was where this project ran into trouble. There were two ways to think about feasibility when evaluating these projects. One was if one believed the project could be built for the kinds of costs that were in the proposal. On the flip side, did one believe it could be sold or leased at the rates being proposed? The equation had to balance to make a project feasible. They believed this project was challenged on both fronts. The costs appeared low for this kind of project particularly with underground parking, and the lease rates seemed high. The PMG scored the project high on design but low on feasibility.

Winkler proposed 63 units with 9,217 square feet of retail and no office. It had 72 parking spaces with a ratio of 1.1:1, and the FAR was 2.5:1. It was an L-shaped, four story project. There was no proposed land payment. The hard costs were $13.4 million and soft costs were $2.8 million for a total of $19 million. The cost per square foot was approximately $300. The assumed sales per unit was $330,000 assuming a higher price point although there was a greater range. The developer was aiming some of the units at a lower income, and some of the units were at a much higher price point. Winkler proposed to sell the retail along Main Street rather than lease it. One was seeing that in Portland. The price point there was $225 per square feet. This design took all of its cues from the City's development code, so everything in the rendering could be built without any variance requests. While he thought the PMG and Advisory Committee appreciated the spirit of that approach, this design got the lowest marks as being the most boring. The design team would say it had not yet given it flair. Some liked it while others felt it should have happened in the presentation. The parking was at the ground level and was screened by a trellis with greenery. The surface parking was separated from the pedestrian environment by a green screen. The positive attributes were sensitivity to the code and a sense of permanence with a stolid look using brick. There was a unit mix for diverse incomes which people felt was favorable. They brought an adaptable approach to design. On the cost side this proposal seemed feasible. Winkler scored medium on design and high on feasibility.

Main Street Partners was the recommended proposal. It was 76 units and had the most housing of the three proposals. It had 15,500 square feet of retail and no office called out. It had commercial space on both Main Street and McLoughlin Boulevard. It had 80 parking spaces which was a parking ratio of 1.1:1 and an FAR of 2.6:1. Land payment in this proposal was $250,000 and was the only proposal that offered payment to the agencies. The hard costs were $14.3 million, and the soft costs were $4 million. The cost per square foot was $289. This proposal identified condominiums on the McLoughlin Boulevard side and town homes on Main Street. Condos were estimated at $239,000 and town homes at $281,000. The assumed lease rates on the commercial space were $16 per square feet. This was the only proposal that took a bifurcated approach to the site, so there were two buildings or masses. There was a three-story element on Main Street, and on the McLoughlin Boulevard side there was a larger mass with four and potentially five stories. All of that was on top of a podium, which hid the parking and the interior. The commercial presence on McLoughlin Boulevard was a distinguishing characteristic. The PMG appreciated the team's effort in trying to fit the scale of Main Street and attempting to respond to City Hall. There was a lot of discussion about whether or not that was successful in this proposal. In the presentation they heard that the building took a lot of its cues from City Hall. It had a symmetrical façade with an entry in the middle. Whether one bought that or not, the effort was made and was viewed as a positive. This project more than the others created a presence on McLoughlin Boulevard both in terms of the building fronting McLoughlin Boulevard and also having commercial happening on that side. The cost assumptions and lease and sale assumptions appeared feasibile. This project scored medium on design and high on feasibility. The basis for the recommendation was how well the project responded to development objectives stated in the RFP; that was 25%. The development team qualification was 35%. The ability to raise the financing was 20%, and the business offer, or what the City would get in addition to a beautiful building, was 20%.

Kim Knox, Shiels, Obletz, Johnson (SOJ), discussed three criteria that Mr. Asher had discussed briefly. The development team qualifications was weighted at 35% because the developers had been asked to do a lot of work in a short period of time in terms of the development concept. They wanted to make sure the teams had experience in doing this before. In looking at the three teams they had all done good projects and had good reputations in the Portland area. They had all done mixed-use projects. The Kemper team ranked the highest in terms of other comparable buildings. That was not to say they had more experience overall, but they specifically related to what was wanted on this site. They wrestled with similar issues on several projects and had done well. Main Street Partners and Winkler did that in a context of an urban infill situation such as this where there was a lot of sensitivity from the community about design, process, and public involvement. Both teams stood out in that regard. She discussed financing capacity. An independent third party reviewed the confidential financial statements of the three proposers. They looked at it from the perspective of a lender. All proposers were in similar range of financing capacity. There were some nuances in the ways they got their money, but none of them had deep pockets like California PERS nor did they get their money from payday lenders. They were all considered strong in that capacity. The opinion of the third party was that Main Street Partners provided the most complete package of information of the three proposers. All companies had pending projects in 2007 and 2008 that would affect their cash flow. In terms of the capacity Costa Pacific submitted the highest budget with substantial developer management fees. The Winkler team did not break out the developer fee, and Main Street Partners' development fee was considered reasonable and within industry standards. Financing capacity was 20% of the overall. The business offers were what one might expect in the process. Main Street Partners offered a $250,000 payment for

the land while the others proposed a zero land payment. All three offered a share of the profit at the end in varying amounts, and the details would have to be fleshed out.

Ms. Knox discussed the public open house on March 13 that was the night before the interviews to keep the integrity of the competitive process intact. It allowed the public a peek at the proposals mid-stream and an opportunity to provide comments. Over 100 people attended the open house, and 21 people filled out comment cards. The comments were summarized and given to the Advisory Committee on the day of the interview with a verbal summary. It was a helpful exercise for the development teams, and some of the teams adapted their presentations and how they were thinking about the project. She felt there was a good understanding of the Milwaukie community, and this was an important exercise in the middle of the process.

Mayor Bernard asked how many parking spaces were in the Costa proposal.

Mr. Asher replied there were 117 spaces proposed.

Charmaine Coleman, Advisory Committee, commented on the elements the group felt were unique to the Main Street Partners' proposal of the two options that ended up being deemed feasible by the PMG. The Committee felt that Main Street Partners and the architect that represented the design at the open house had a clear vision of what they wanted to build, and that was seen as a unique feature. They were flexible but confident and firm in their beliefs that they designed a building that would suit the needs of the area in multiple ways. She believed that confidence bred confidence and having the belief this could be a project that was appreciated and used. It was good to have people who believed in what they were doing. The Myhre architects walked the Committee through its design choices. It was interesting that the architect's name was McLaughlin. She noted their reasoning behind many things that were design elements, and she was impressed by that. Unique features included a non-L-shaped building to evoke a sense of shelter and community. The other two proposals had L-shaped buildings with two sides facing the water. Initially, people saw those as being more appealing because of the riverfront views. This design evoked a sense of shelter and sense of community. The feeling was that if one were exposed to the south and west, one would feel just that -- open and exposed with a lot of west wind coming in. In this instance there was a garden space for an interior view as well as riverfront view on the McLoughlin Boulevard side. Initially, the Committee was concerned about retail on the riverside with a lot of cars going past and no parking on McLoughlin Boulevard. The traffic going through downtown Milwaukie was slow, and it was not going by at 50 mph. Looking at retail was more interesting than looking at screened parking or some other alternatives. The Committee noted later with retail on the riverside people could enjoy sitting outside in the late afternoon sun. It also drew people into town. She particularly appreciated a non-domineering design on the northwest corner of the building. His efforts were to create a building that said welcome to Milwaukie rather than looking like a fancy building. Her opinion was somewhat different from other members of the group. To her the sense of a massive building in small town made her nervous. She liked the fact that the Main Street Partner design was broken up a little. There was a three-story maximum height on Main Street in order not to dwarf City Hall, and Main Street Partners were adamant about that. They did not want to tower over City Hall on the other side of the street and wanted to respect other nearby buildings.

The Myrhe and KemperCo were good salesmen, which she thought that was a good thing. The community was a notoriously hard sell and slow to come to consensus on many issues. She thought it was good to have a group that believed in what it did and could evoke that sense of confidence in others. They did a good job at the open house. The team had worked in Milwaukie before, so they had an idea of what they were getting into. The Kemper proposal offered nothing she had envisioned but almost

everything that she was actually looking for. She found she had to refocus her attention from the picture she had drawn in her mind of the future building to what she wanted to accomplish with the building. She wanted a pleasant and accessible Main Street side with a pedestrian-friendly design. People talked about what it would look like for residents, but most people would not be buying units but would walk by it every day or visit the businesses on the ground floor. That was her primary line of questioning. Parking in this design was embedded in the middle with ingress on one side and egress on the other. This was the most efficient use of space for parking. The design had people talking. The PMG and the Advisory Committee ranked it medium in design because they knew it was edgy. People around here liked brick and things of permanence. Change made us nervous. She thought it was important to remember love it or hate it the community had more to say about the Kemper proposal than the other two proposals combined. There were more questions, more discussion, and more disagreements. Basically, there was more excitement about this design. She thought it was the shot in the arm that Milwaukie needed. This design was the biggest community hotbed and did not look like anything else in town. The architectural style was a departure from anything in the downtown area and much more so than either of the other two proposals. It was met with more polar opinion. At first she feared polarization but then saw it as a strength. She made an analogy to *The Pirates of the Caribbean* movie where Captain Jack Sparrow was told he was the worst pirate he had ever heard of, to which Jack replied, "Ah, but you have heard of me." In the end she would rather have someone talking about her building either for good or ill, rather than saying they don't mind it because it blended with what we already had. The City needed buzz. One of the main goals of the RFP was to create a cornerstone development, and one that would inspire future development in Milwaukie. The unique features of the Kemper development were in her mind critical features. One of the largest community concerns and one that she strongly shared was the potential fifth story. One rendering showed a fifth story, and she would encourage it. When she first looked at the project, she did not notice there was a fifth story. She saw potential for residents to put trees and plants on the terrace, and suddenly there was greenery on the top floor which she found appealing. The top floor would go for a lot of money and would give the architect and contractor more license to put that money back into the building. She was initially opposed to the fifth story, but the proposer respected the three stories on the Main Street side. She was no longer afraid of the McLoughlin Boulevard side and thought it would be appealing.

Mr. Asher said there was clear consensus on this proposal. It did not mean there were not minority opinions on certain elements. One Committee member felt just the opposite about the mass on McLoughlin Boulevard, and he found it intimidating and overbearing. It was not unanimous, but there was certainly consensus on this proposal. The Advisory Committee talked a lot about parking and the fifth story issue and prepared a statement: The Advisory Committee realized that parking was a key community issue in the downtown area and was not something that could be solved by a single development such as the Town Center project. The Committee noted that downtown Milwaukie's transitioning to support more activities and reasons to be downtown and that the ongoing Transportation System Plan (TSP) parking strategy should ensure this issue was addressed. He wanted to make sure the City Council and community heard that loud and clear. Parking needed to be defined and managed.

Ms. Mangle provided an update on the TSP parking chapter. Working groups were addressing the modes and issues, and one of those was downtown parking. Last week the first of two specific workshops were held on downtown parking. There were only about 15 attendees, which surprised her because of the amount of concern that was expressed. There were Historic Milwaukie residents as well as downtown residents along with several business owners and representatives including Wind Horse Coffee,

Advantis Credit Union, Dark Horse, Reliable Credit, Bernard's Garage, and the Ledding Library. The first workshop focused on existing conditions, and the group was briefed on the parking plan and the guiding principles for parking management already in use. There was an open discussion about short-term changes that would better manage parking now. The group talked about prioritizing on-street parking for the street level uses and specifically for retail and restaurants. The City needed to improve its marketing and communication with the downtown employees to get them to use the permit system and expand opportunities now by making 2-hour spaces into 4-hour spaces. The discussion about short-term changes provided her with direction. The next day she received follow-up calls from the business owners indicating their appreciation and offering more ideas. The next workshop was at the end of May and would focus on the City's role in providing parking, what would be done to replace parking as surface lots were developed, and if that would be something in which the City needed to invest or was it something to require of the developers. There were certain things not addressed in the 2003 Downtown Parking Plan such as residential parking and planning for parking over time. The 2003 Plan would be updated and adopted as the downtown parking chapter of the TSP. This would be an ongoing parking management plan that included utilization studies and actively managing change. The goal was to have a clearer strategy.

Mayor Bernard liked the Costa proposal and the underground parking element. He figured that number of parking spots would cost $3.5 million, which was a huge cost to the project. The parking consultant said it was not really feasible in downtown Milwaukie at this stage. That was his biggest problem with the Costa proposal.

Mr. Asher thought the PMG and Advisory Committee had come to the same conclusion. Despite the fact there was a lot of discussion about parking, no one thought it was better to have surface parking on that block instead of transitioning to one of these developments. People were excited about something on that lot that was brighter and better even if it meant having to figure out something else for parking.

Phil Whitmore, Metro, said this did not fall out of the sky; it was because the City marshaled its resources to help change the community in a big way. All three of the RFP responses were wonderful, and all three were signature projects that would create a gateway. Three good proposals spoke well of the Milwaukie City Council as well as the site itself. Three developers thought it was a good idea albeit there were two public agencies. The Council can present itself well in the community, make decisions in a timely manner, be aware of what was possible and ask for it, and recognize what it cannot get. The City's professional staff was an important factor. The Metro Council had a Steering Committee comprised of representatives from the Governor's Office, five state agencies, Portland Development Commission (PDC), Metro, and TriMet. If one Metro Council member did not like the recommendation, then it would be brought before the Council. Neither Metro Councilors Newman nor Liberty would ask for a full Council review. Mr. Aschenbrenner and Ms. Coleman both spoke before the Steering Committee, and the members were impressed with the process and how well the two Citizen Advisory Committee (CAC) members represented the community. The Steering Committee heard reports from Ms. Knox and the CAC and looked at the PMG recommendation. They voted unanimously to enter into negotiations with Main Street Partners. Councilor Liberty thought this was a model process and should be used more often. It was called the Milwaukie model that included public site control, an enlightened council, a professional staff, and an outstanding citizens advisory committee that helped champion the projects.

Mr. Asher sought authorization to begin negotiating with Main Street Partners on an MOU over a period of about 60 days then coming back to Council. An MOU was a legally non-binding agreement that stated the developer's intent and would proceed

toward a Disposition and Development Agreement (DDA) which was a legally binding document. The conditions would include sidewalk area design, building height on McLoughlin Boulevard, exterior materials, second level connection to the street, semi-public spaces, architectural style, green building, McLoughlin commercial, parking, and the schedule. The developer said in the interview that the team was willing to work with the PMG on design development, and he intended to ask the developer to evaluate the architectural elements that were being shown including the roof lines, the articulation of the individual units on Main Street, materials against market conditions, community concerns, and the site context. Mr. Asher discussed the issue of a green building. The developer said in the interview that the project could be built in an environmentally friendly way with or without LEED certification, and the MOU would help clarify that. They also wanted to ensure the McLoughlin Commercial was built. Main Street Partners would be asked to take an active role in advising on new parking policies that would take shape during the TSP process. Finally, the MOU would firm up the schedule commitment for Main Street Partners which was to acquire the site in September 2007, file for permits in one year from now, and begin construction July 2008. It would open August 2009. The resolution also followed the CAC and PMG recommendation to begin immediate MOU negotiations with the Winkler Corporation in the event negotiations broke down with Main Street Partners during the 60-day period.

Councilor Stone noted in the presentation it was stated that Main Street Partners offered a land payment of $250,000, and no other developer offered that. Was that typical and was that expected?

Mr. Asher replied it was more typical to get an offer of $0. On a project like this there was recognition that the cost of the building because of the mixed uses and untested market there were risks and costs that would stretch the developer. A large land payment would result in stripping other things out and perhaps not getting a project at all. In his experience, they were thrilled to get any offer for the land. He was not convinced at the end of the road that the $250,000 might not have to be poured back into the project for something the community wanted such as public space. Metro and the City were glad to have it, and the other proposals that offered $0 were more typical.

Councilor Collette appreciated the CAC's work. One point she would like to see added related to a potential bus stop on McLoughlin Boulevard which may make the McLoughlin Boulevard storefronts more attractive and help solve some transportation problems.

Councilor Loomis stated one of his biggest gripes while being on Council was that he did not know what was going on. It was having constituents or neighbors calling him with questions he could not answer. That was embarrassing and tough. This process was disappointing to him because the Council was not more involved. He was glad Mr. Asher introduced the Committee, but the Council had never met them personally in a work session where they discussed and Council heard how they came to their decision. The Council never met with them. That part was disappointing. Ms. Coleman had a lot of good input, but he would have liked to hear that from the other members. When he went to the open house, this was his least favorite proposal. He heard that from other people. It would have been helpful to him to hear directly from the other members of the Committee. He was disappointed that he read it in the newspaper and had not been notified as a Councilor.

Mr. Asher was disappointed when he read the headline too because it was erroneous. He wanted the Council to be as informed as it needed or wanted to be. The Committee was given a charge that clearly said it was to provide input to the PMG on a recommendation to be presented to the City Council. It had not occurred to him that

there should be some intermediate step to make sure the Council was abreast of the progress. That would be an improvement to make the next time.

Mr. Swanson added that it had not occurred to him because of the way the process was set up. The open house was one night, and the Committee met the next. The open house was first time that the public or any of the Committee members had seen any of the proposals. He would be the first to apologize if in fact something else was expected. Things were constructed in a way that followed the process and what had been anticipated. He had not read the newspaper and was not sure what the headline was.

Mr. Asher thought Ms. Knox would add that they tried to keep the City Council from this process so it could hear the full recommendation that had the backing of the PMG and the CAC and to have taken that process from open house to this meeting in a compressed timeframe so the developers were not waiting.

Councilor Loomis felt the decision needed discussion and input and thought there should be more than just a presentation. Ms. Coleman said she had been against a five-story, and it took some time and discussion for her to come to her conclusion. The Council was being asked to make a decision at this meeting, and he was not prepared to do that.

Councilor Barnes did not wish to slow the process, but she was looking at a PowerPoint presentation. She deliberately did not attend any of the open houses because the Committee was selected to make the recommendation. The Council was ultimately responsible, but its not a clear picture for her. When the Council got the press release she was taken aback. She was uncomfortable that the decision had been made and the City Council was not part of the picture until tonight. She understood the process and why staff did what it did. She did not know how the line of communication broke down to where the public information officer sent it to the newspapers before this meeting.

Mr. Swanson explained the TOD Steering Committee and the PMG received a recommendation from the CAC to forward to Council. The Milwaukie City Council's decision had not been made. An MOU was a document that said let's go to the next step and see if we can work out an acceptable issue after issue with the developer. The Council would still have to approve the MOU. The Council decision had to do with taking the next step and talking with the designated developer and deciding if the outstanding issues were the correct ones. He apologized if someone jumped the gun and sent out a press release. This decision did not finalize for all time a plan; it was just to move to the next step to determine if an acceptable plan could be developed to move forward with one of the three proposers.

Councilor Barnes noted there were still a lot of open spaces in North Main. She asked Ms. Coleman if the group had discussed marketing space in the second building when the first one was not fully occupied. She was concerned about the occupancy rate. What sense did the Committee have about those issues?

Ms. Coleman felt the CAC understood the first building was where the growing pains were felt. She was the demographic that people were seeking to draw in, and she and her husband moved to Milwaukie from Sellwood because they saw the opportunities here. As density occurred Milwaukie was the next logical step as long as it was attractive. It was a balance of residents supporting businesses and businesses that attracted residents. The first group needed to come in. The Committee agreed it was not filling up as quickly as everyone in their dreams would like, but once the density happened due to the urban growth boundary she felt it would take off.

Mr. Asher said Mr. Kemper was present and could respond to questions. He was completely comfortable with any action the Council took including an additional step to deliberate more with whomever. The PMG and CAC had arrived at a recommendation, and now Council could indicate its position.

Mayor Bernard was excited about something someone said today. When looking at the downtown he saw something very inviting. North Main pulled in other elements like the Masonic Lodge, the credit union, and the McLoughlin Boulevard project. The next project would offer other opportunities and draw people in. It was Kemper who was taking the chance, and he was an experienced developer. People knew they would have to give away a lot on the first project and less on the second. On the third project people would beg to develop in Milwaukie. That kind of mentality drew people in. People liked driving down McLoughlin Boulevard and seeing the changes and were curious. The Masonic Lodge looked great next to North Main Village, and now it was being rented out. He commented on the Milwaukie Community Center on 42nd Avenue. One could feel it happen. Downtown Milwaukie will be unique, and it would never be a Hawthorne or NW 23rd. He suggested putting something in the MOU that asked for help with transitioning the Farmers' Market and putting in some art. He was disappointed when he read the article in the newspaper. Council had taken the time to appoint people committed to finding something unique that the citizens of Milwaukie could support. He was comfortable supporting the Committee's decision to negotiate with Main Street Partners on an MOU.

Councilor Stone thanked Councilor Barnes for addressing a question she had about the North Main businesses that were not filled in. She wanted to believe it was the trend that North Main was the first project that would take a little longer and the second one would take off. She had some huge reservations about the parking situation. If we were planning to put more and more people in the downtown it would take more than just managing the current spaces. She thought the cart was in front of the horse, and it needed to be turned around. She tended to think along the lines of Councilor Loomis. She was not sure she was ready to make the decision tonight. She would not mind sitting down and having a dialogue with people to discuss concerns. She was also concerned about going higher than four stories, and that had been raised before. She was not wild about the look of the building, but she imagined that was something that could always be altered. The other big thing that stuck out for her was interest by all the developers in pursuing the vertical housing tax abatement. She thought that needed to be part of the MOU as well. She had a hard time with taxing citizens – the Council just put another tax on them and did it in about 30 seconds or less -- and let a developer go for 10 years with tax abatements. Somehow that did not seem to be fair. She wanted more discussion of that. She was not sure she could confidently make a decision about this tonight without further discussion.

Councilor Collette had a similar reaction when she got the e-mail about the decision's being made. She appreciated what Council was trying to do at this meeting. It seemed as if the Council was saying it wanted to have the next set of conversations with Kemper and possibly with Winkler as a backup to address all of the issues raised at this meeting including parking and a fifth story. She hoped tax abatement would be addressed in the MOU. The Council was not deciding to build this but rather to have a conversation. She had complete trust that the Committee did a fine job of asking questions, having the conversation, and bringing the Council a recommendation. These things were done in stages, and tonight's stage was not breaking ground. It was about beginning to negotiate the MOU, and the issues were identified. She did not see any reason given the Committee's recommendation to go a step back. It was clear the City could move forward with this developer and have the issues brought forward.

Councilor Stone asked Councilor Collette if Winkler would be the backup.

Mr. Swanson replied Winkler would be the backup if things did not work out with Main Street Partners. He expressed his deepest apology if someone jumped the gun as it was not the intention. Mr. Swanson would accept whatever happened, but he advocated for going to the next step. Councilor Collette was right. This was not putting a shovel to dirt. It was designating one of the three developers to enter into negotiations and come up with some clarity on a number of issues. He was always asked why North Main was not full. Mr. Kemper did not build it so it would be empty. He and two other proposers saw an emerging market in this City even though there were vacancies at North Main. He knew Mr. Kemper was working on some real possibilities at this time. He watched the Committee process and he was quite impressed. A number of the Committee members felt as Councilor Loomis did after the public open house. It was important to them to make something happen. He was concerned about losing momentum. If the City Council did say to go ahead with an MOU at this point, he and Mr. Asher would come to the Council often during that 60-day period to talk about what was going on. The Council would not finalize a 'deal' with anyone. The Council would be resolving issues with the person the CAC felt most comfortable with, and it was important to start the process as soon as possible. The processes were multi-year, and this was the beginning of a fairly long journey. It was not his intention not to inform the Council and apologized for that. He felt there were issues that needed to be discussed and resolved so someday a shovel would be put to dirt, but that was not the outcome of the decision before Council at this time.

Mr. Asher understood a courtesy call was missed, and he apologized. Having Metro as a partner put the City into a different process than if it were doing the project on its own. He regretted the news of the CAC and PMG recommendation came as a surprise and was stated in a way that sounded like the decision had already been made. He did not wish to confuse that with bad process, and he felt compelled to say something about the process. He would do the process the same way but would make sure that Council got that courtesy call. In setting up the PMG, the CAC, and the process, Mr. Asher believed staff was directed to make a recommendation. That was what was done. To have pulled the Council into the process of getting to that recommendation would have confused the roles as he had seen happen in Milwaukie in the past. He acknowledged Councilor Loomis's concern about being uncomfortable when he did not have information to give the public. He suggested solving that another way. He would want to discuss how Council got information without being central to an advisory committee process and while discharging some responsibility. For him keeping those lines clear and keeping the decision-making role clear was critically important to the success of the project. Reflecting on what could have been done differently, there should have been a courtesy call before the press release went out. He did not think a different sort of involvement on the Council's part up to this point would have made a lot of sense.

Mr. Swanson thought Mr. Asher was right. He did not want to confuse the apologies with the substantive decision that had to be made. The Committee put the City in a position where it was ready to do some good work. One piece was missed, and staff would learn from that. He thought the important thing was to move to that next step.

Mayor Bernard noted the Council rarely knows about Planning Commission decisions unless they were appealed. In a sense it was the same with this Committee.

Councilor Barnes understood what Councilor Collette and Mayor Bernard were saying. She believed in the Committee and its recommendation, but she did not feel she had enough of the meat to make a decision. She understood the next step of the process, and she was not second-guessing it. For her personally, she was voting on negotiating the MOU and not saying Mr. Kemper had the project. That decision for her had to be made based on an educational process. She had not done any research because that

was not her job. She did have some trepidation in saying 'let's move forward' when all she had was a staff report and a PowerPoint.

Councilor Stone understood this was an exclusive MOU with Main Street Partners, so essentially the developer was chosen.

Mr. Asher replied the Council would be directing staff to begin an exclusive negotiation with Main Street Partners for 60 days and move toward the MOU that would come back to the City Council for approval.

Councilor Stone asked if that necessarily meant Main Street Partners would be the developer who got the project.

Mr. Asher said the MOU was a milestone, and even at that point there was a DDA that took much longer and was binding. Only after the property was sold would this deal end. He hastened to add that these projects were difficult, and typically one would not go into exclusive negotiation without every intention of favoring that team and wanting to see its success.

Councilor Stone said based on what Councilor Barnes said the way it came across was that Main Street Partners may not be the developer. She interpreted an MOU to mean that that was the group being most seriously considered.

Mr. Asher said it was a selection to move forward with that team and not the two other teams. Milwaukie and Metro still owned the property, so it was reversible if Council did not wish to proceed beyond that point.

Councilor Stone noted the staff report said if the Council rejected or delayed the recommendation that it would have serious repercussions for Metro. She asked what the repercussions would be. What would that entail for Metro if the decision were delayed?

Mr. Whitmore recommended that the City Council be as deliberative as it wished. Staff never tells Council how to make a decision. Staff wished it would make the decision to move forward into a MOU so that this part of the process could be done. Staff hoped to resolve all the issues and get into the DDA.

Councilor Stone read from the staff report that, "Council can also reject the recommendation altogether, though this would have serious repercussions for Metro."

Mr. Whitmore noted when going into the partnership there was not that much discussion of what would happen if the two councils disagreed. He thought about it a couple of times but had not come to a conclusion. There was strong consensus in the PMG and CAC so it was thought Metro and the City would reach agreement on selecting the same developer. There was no process in the IGA for what would happen if there were disagreement. Obviously if there were an impasse, then the partnership would be dissolved and each would do something with their property. Those were the serious ramifications he could think of and were not meant to be a threat or to put the City Council in a difficult position of making the decision at this meeting. He hoped Council would make the decision tonight, but that was Council's prerogative.

Mayor Bernard recalled two years ago Council was ready to give an exclusive negotiation with another developer who came in without going through the public process. He attended the open house and listened to comments, and he was excited about what he had heard. He personally had not chosen Main Street Partners because he liked the other building better. He thought the underground parking was impossible and would cost about $3.5 million. It was not feasible, so that threw the Costa project out.

Mr. Whitmore added the PMG and CAC thought it was between Winkler and Kemper for that reason. In the interview the developer said he had a $4 million gap, and it might be more than that.

Councilor Stone asked if it were delayed could it be discussed with staff and the CAC at the next work session.

Mr. Asher did not know what questions had not been answered. He heard process questions, and Councilor Barnes said the Council had not gotten enough of the raw material. It would help him to know what would be discussed. The Committee and PMG worked hard at getting all the issues into a report. Attached to the staff report was a 24-page PMG recommendation report that included every comment from the open house. It was as exhaustive as possible in giving the issues as they were understood. The whole team was present to answer questions.

Councilor Loomis did not have a problem being removed from the Committee's and PMG's decision making. His issue was that when the decision was made the Council should have met in a work session with the Committee and PMG to interact and understand how the decision was made. They studied it and talked about it. The Council needed a better picture. This was a huge project for the City. This was a gateway location, and he did not think any of them were good enough. He wanted to hear from some of the Committee members. Ms. Coleman said the same thing, but after having a discussion she saw it. That was where he wanted to be because he was making the decision. People will ask why that one was picked, and he would have to respond the PMG and Committee said it was great. People would say, "why do you think that, Joe?" He would have to say he did not like that one. Then they would ask him why, and he would have to say because he agreed to a process. It sounded like there was great discussion and consensus on the Committee. The comments were in the staff report, and he had read most of them. The comments did not seem to reflect that they liked this one.

Mr. Asher agreed Council deserved that discussion. The way the process was laid out, they were prepared to have that discussion tonight. That was what he believed tonight's deliberation was about. That was why the staff report was given out a week ago. The whole team was present. He believed that was what the Council item was about. If there were another step and a work session would have been a better place to do that, then he had not realized that.

Mr. Whitmore thought one of the things the Council could not see in reading the report was that the Committee and PMG had a big change after the interviews. In the interviews, they saw clearly that this team had the expertise and knowledge and thought along with the feasibility. He thought there was a huge swing from the public open house to that conclusion made by the Committee and eventually the PMG. He was not sure how to recreate that. He saw a transition in attitudes following those interviews, and there was a substantial transition on the Committee.

Ms. Coleman noted the various types of people in the group. They all tried to be open minded, but people had their favorites coming in. She thought she, like a lot of City residents living in the downtown area, was looking for things that reminded her of the old buildings with brick, etc. She was able to look past what she saw as a blah rendering from the Winkler Corporation and knew there could be articulations with brick and ingress and egress. It would be much more attractive than the basic rendering. Throughout the process people wished there had been a video because there would always be complaints about the decision. They would have liked for people to have watched the process. Playing it safe, she was one of the few who liked the Winkler proposal. She was one who could not stand the Costa proposal. Main Street Partners' proposal was different and kind of scary. She liked it but did not know how it would fit

into the City. Throughout the process and all the things that needed to be taken into consideration they wished everyone else could see the process because there was no way to recreate it and adequately share how the group arrived at a very clear decision. Clearly this was the first selection. It was through the process that the Committee arrived at consensus. People had various opinions. There were so many elements going into it. Many appreciated the design, but in watching the teams everyone felt Main Street Partners were excited about Milwaukie and would get the project done. The other groups showed some timidity and uncertainty. It was not that they would be poor second or third choices, but confidence bred confidence. She would not sink an extra $18 million into a second project if she did not think she would do a good job. It was through a lot of different things that the decisions were made.

Councilor Loomis heard there was no vote, but he heard Ms. Coleman refer to a vote.

Ms. Coleman replied at the end people talked about their first, second, third choices. This project had the most 'ones'. Costa had a lot of threes because of the feasibility issue. Winkler had some ones, and people were comfortable with Winkler as second alternative. Either would work out, but they were more excited about Main Street Partners.

Councilor Loomis asked if the group was really excited about the proposal. Was it a project that would make people say, "we're in Milwaukie." This was something really different.

Ms. Coleman replied Councilor Loomis would have to ask individual members. She personally found it to be the most exciting proposal. For one thing there was momentum, and it would be lost if the City did not act confidently. If the City were not confident then why would anyone else? The success of North Main relied upon the next development. She was excited about this and thought it would be an attractive building. The way it was used on the block was appealing. There were a lot of great minds involved with this, and she felt it would work out.

Mayor Bernard requested comments from the other Committee members in the audience after a five-minute break.

Mary King said initially this development was her last choice. After looking at it and hearing the presentation, she felt the Main Street Partners team was right on. They knew where they were going and how to get it done. She particularly liked the height of the building and how it could with the right façade blend in with downtown Milwaukie. She felt when the team got done people would like it better. It costs a lot of money for the City to issue RFPs and for the developers to complete the RFP. The Committee felt very lucky to have three proposals. They were all very high quality, and the Committee was delighted. She sensed the biggest problem was that the Council felt out of the loop, and she understood and felt sorry about that. Either party could get out of this non-binding part of the process. She suggested that the Council put checkpoints into the MOU. She felt the Council needed a full presentation so it knew what was going on and what the Committee had asked for because they were pretty specific. She thought perhaps there could be a Council representative on the final committee because there needed to be more communication. The Committee worked very hard, and she was pleased with the recommendation.

Councilor Barnes said for her this was the hardest decision she has had to make while on Council. She trusted those appointed to the panel. If the Committee said this was the right thing, then she assumed they did the hard work for the Council. She was used to having to do her own research. She would ask Mr. Kemper a few questions. This was a hard decision for her because normally she would have studied something for a long time. Tonight she was taking this recommendation on blind faith and was

struggling with that. She did not know why it was so hard for her to say yes or no, but she believed everyone on the Committee. If they were willing to say to her as a group that they were willing to stand behind this because they believed in it enough, then she would go ahead with the MOU with conditions.

Ms. King agreed. This was the point at which the City Council got back in charge. Where the Committee charge ended, the Council's began.

Gary Klein was the person who had the problem with the fifth floor because he would be able to see it from his house. At first glance this was also his last choice. His first was the Costa development, but after looking at it more closely it was not feasible. He liked the L-shape because from his perspective there would be a better view of the river. Two architects came up with the same idea. At final vote of the eight members, only two did not vote for Kemper. That happened in groups. For him Kemper was at the bottom to start with and moved up to second. His first choice was Winkler. He liked it because it did not have any zoning problems; however he was not happy with the way it looked on Main Street. It did fit all the height requirements both on McLoughlin Boulevard and Main Street. There were no issues going into it, but there were on the other two. He thought it would have more vistas of the river because with the two sides more people would be able to see the water. After looking at it more closely, Costa dropped to the bottom. The biggest issues he had were mentioned including parking. None of the three proposals would solve that problem. The only way it would be resolved for some people in Milwaukie was to turn the site into a five-story parking structure, but he did not think anyone would really want to do that. He liked the idea of building something on the site that would be helpful and good for the City. Kemper ended being his second choice. The other issue he had was the size on McLoughlin Boulevard, but it was said that McLoughlin Boulevard was a larger street so it would not look as large. That was why he moved his third choice up to second.

Ray Bryant also chose Winkler as his first choice. The issues noted in the MOU were the same ones he personally had, so there was a chance to work on them. During the interview process the Kemper team did very well, and he saw people's opinions and minds change. He had concerns about the fifth story, the tax abatement, and parking. It was a good thing the building had retail space on McLoughlin Boulevard, but that also added more parking demand. He was not convinced people would want to live right on McLoughlin Boulevard.

Alice Rouyer was honored to be a citizen of Milwaukie and even more honored when she was appointed to this Committee. She felt inspired by the process. The Committee was a broad cross section of the community, and the Council chose the members well. Everyone had different views, and everyone was thoughtful. In going through the process, she saw minds change. She and Mr. Kemper had worked together before, and she grilled him at the open house. She made it clear to him that she did not like the design and wanted to know if it was adaptable to address some of the concerns and issues. Within 24-hours his team came back with an outstanding presentation. The designer gave an outstanding presentation and convinced her it was a good design. She admitted she was not a big fan of modern architecture. After she heard the explanation, Ms. Rouyer was convinced this was the most respectful presentation on Main Street of the three proposals. Can it be modified? Can it be made better? Absolutely. The two things that mattered most to her about this team was the confidence it exuded. She felt confident that Main Street Partners could get it done. Secondly she felt they would be adaptable. Winkler was number 2 for her. Winkler was thoughtful, and she sensed they would be adaptable. She was not confident at all that there was chemistry on the design team, and that was a problem for her. She sensed dissention between the two architects present and the project manager. It just did not feel right. She sensed a lot of confidence in the Kemper team and thought it would

deliver. The Council had a big process ahead of it, and all the questions could and should be tested.

Tom Kemper thanked the Council for the opportunity to speak, as it was hard to sit in an audience and be talked about. KemperCo and Main Street Partners poured their hearts and souls into the work and have done some amazing projects. He believed North Main Village was an amazing project. They took on a deal that was broken and created something really great for the City of Milwaukie. While there were concerns about the design architecture concept that was put on the table, the team believed it was absolutely the right concept. First of all, the Main Street scale was very important. They did not want a building that overpowered City Hall or Main Street. They thought a lot about what Main Street was about and what it should be. Milwaukie would change dramatically in the next 5 – 10 years, and the issue was what it should look like. Main Street Partners did not want a giant building overpowering Main Street. The concept was to do town homes over retail and keep the scale down and keep it to a three-story building. The density was loaded on the McLoughlin Boulevard side where there was a great opportunity to take advantage of the views. That was the reason for coming up with the concept of putting a large building on that street. There were many opinions about architecture. He believed what the Myhre group had done was great architecture and would be a great addition to the City of Milwaukie. They spent a great deal of time arguing about what it should look like and getting the concept that was actually put on the table. Main Street Partners was committed to being flexible in term of moving forward on how it might eventually look. A lot of people felt adverse to modern architecture like Ms. Rouyer. He had an argument with her because he thought she was wrong. They were grilled on this point in the interview. He said then and would say now that Main Street Partners was flexible but urged the Council to remember it was hard to get group consensus on architecture. He pledged that Main Street Partners would try to reach a consensus on what the architecture ought to be and go forward with that plan. His personal view was what they put on the table was great architecture, and it was a great concept. It was the best concept of the three proposals for the particular problems that existed in respect to that block and how it was used and how it related to the river and to the downtown.

He discussed North Main Village. Over 90% of the rental units were leased, and there were nine units for sale. Five units were sold in the last month despite a slump in the housing market. Things were picking up, and things were coming back. He was confident the residential would be sold in the next few months. He addressed Councilor Barnes's questions about the retail. There was a signed LOI for a 2,000 square foot space for a restaurant, and he expected the lease to be signed in the next week or two. He was negotiating with a second restaurant for another 2,000 square feet. In his mind he was at 45% leased. Once you get that critical mass, it should be finished fairly quickly. He anticipated a slow rental because he built Class A retail space in a town and on a street that did not really have it at this point. He recalled when the Pearl District started, all the units were sold but all the storefronts were empty. Now it was a vibrant retail place. There would be a lag; this was a new area. They were pioneering, so this was reality. The retail would go slower than the Council wanted, but he was confident he could pull it off. He would not be sitting here and committing his financial resources and his balance sheet with lenders to pull off a second transaction if he did not think he could do it. The team felt it was the right concept and notwithstanding some of the comments it was also the right architecture. He addressed the issue of the fifth story on McLoughlin Boulevard. He went back to North Main Village. In order to do that a special zoning district had to be created. This new project would require a code amendment. He did not believe in this context that it was a major deal given the fact it was carefully designed so it did not look like a five-story building except from far away. There were four penthouse units on the fifth story that were pulled back and would

create some tremendous terrace opportunities. He hoped a high price point would create something in terms of image for the City of Milwaukie. Image right now was very important when talking about redevelopment. He was not afraid of going through some zone changes. It was clear in the proposal that the fifth story was not an absolute requirement, but Main Street Partners would strongly prefer it. The same team would come together that worked on North Main Village. They took a deal that was broken and put something together that was amazing for the City of Milwaukie. He felt that way, and he hoped the City Council did too. Main Street Partners was resolved and committed to do it again on this block. They frankly believed it would be much better than North Main Village.

Councilor Stone asked if this project could be built without pursuing vertical tax abatements.

Mr. Kemper replied the simple answer was 'yes' and asked if he could lower the land purchase price. He was trying to get value. From the developer's standpoint it was very difficult to build a project like this because there was not much of an established market. It would be a very expensive building to build. To the extent he could find financial ways of getting more money on the sales side, which was what he was trying to do by getting a vertical housing exemption, he would try to do that. If the Council told him it did not want him to do that, then he would ask for flexibility on other things. He and Mr. Asher would duke it out over what the building would look like, and most of the issues would have to do with the exterior materials as one went through the process. He thought with what was being proposed was more of the design and articulation of the building structure itself than the materials that would make it an award-winning building. He expected this would be an award-winning building. He could live with it, but he wanted to make the point that there were consequences. Main Street Partners felt this was the right concept, and it was a great team. They were anxious to get started.

Councilor Loomis said it was a pleasure to work the Mr. Kemper on North Main Village. He was glad he was holding out for a high retail square footage at North Main to bring in some quality stuff. He had a lot of faith in Milwaukie and that it would take off as soon as one person moved in. That property was valuable, and Mr. Kemper would make a lot of money and help Milwaukie grow. His concern was the modern architecture did not appeal to him. That was his biggest concern. As people came up, they said it was their least favorite, so that would take time and discussion throughout the process. That was the difficult part for him. People talked about keeping the momentum going. He reflected on the last Council session where TriMet threw out options for the bus layover. They came up with a better option finally when the Council said "no, that's not good enough." TriMet went back and figured out a great idea. He was hoping that was what would come out of this. To him this was not good enough, and through discussions hoped they would come up with what was.

Mr. Kemper said one of the most interesting architectural experiences was the development of the 34th & Hawthorne building. People had strong reactions one way or another. They really like it, or they really hated it. Most people liked it. When he took it to the neighborhood association, they went nuts. They did not think it fit into the Hawthorne district. It was too modern and did not fit into the architecture. He photographed every block to show the diversity. There was no consistent architecture on Hawthorne. The 34th & Hawthorne building was an awesome building, and it was awarded the 2004 Eagle Award for the best building in the City of Portland that year. It was a great building, and most people like it. They negotiated significantly and added brick and a green roof. The neighborhood came back and asked KemperCo if it would be interested in doing another building on Hawthorne. That was 180 degrees from the

first meeting where there was an intense outcry. His company was good at working through the process, and he was confident they could pull it off here.

Councilor Barnes thought for her the process was ready to go. She heard the Committee members talk to her, and she heard Mr. Kemper's passion. In Milwaukie there were a lot of conditions that would have to be attached to that passion in order to work in this community. There were high expectations. Right now the architecture was not her main concern. Her main concern was making sure there was a place where those high-end restaurants could go. She understood Councilor Stone's concern about the long-term tax abatement. She wanted to make sure people would come it were built. She would go along with this because there would be tough discussions as it went forward which Mr. Kemper understood. People were passionate, and she trusted Ms. Rouyer's assessment of the matter.

Mr. Kemper replied he had been through it before. North Main Village was likely more difficult than this proposal. Main Street Partners was very confident that it could pull it off.

Mayor Bernard discussed artwork that was brought to the downtown area when he was the Milwaukie Downtown Development Association president, and that really got people talking. The artwork initiated conversation, and people started noticing that Milwaukie had a riverfront and downtown. To what was this being compared? The Chopsticks block? People loved the corner buildings at North Main Village. He thought the Council needed more information on the vertical housing issues. He met someone who had worked with Mr. Kemper and said she would never work with anyone else because he could get it done. He inspired people and got things done. He looked forward to negotiating the MOU.

Councilor Collette commented if had there were 10 pictures of buildings, there would 10 different opinions about the Milwaukie look. She would like to see something creative with a solid, sensible of space and materials rather than seeing someone trying to imitate an old-fashioned town. She did not want Disney does Milwaukie. She wanted a building that had strength and permanence and long-term character. Her first reaction was that there were parts she liked and did not like. She did not know that much about tax abatement. This decision was about continuing the process, and she had confidence in members appointed to the Committee. She felt they had been thorough. Mr. Kemper had gone through one process with the City and was pleased he was back at the table.

Councilor Stone was not a fan of modern architecture and wanted to put that on the table right now. She would like to see a design that spoke of the past while going into the future. It had to incorporate some elements that made it inviting and warm. Her big issues were parking, and she did not know that this development or the other two with possibly the exception of the one that had the underground parking had allocated enough in terms of a ratio for parking. That was a big concern. She had heard that businesses were hesitant to locate in the North Main Village project because they did not see a lot of parking available. It was her experience she cannot even park in the Spring Creek parking lot because it was full. She ended up parking in front of North Main Village. She did not have a problem walking. That was a concern and a reality that all needed to look at. The other big thing for her was the tax abatement issue. It was hard for her to sit back and tax citizens knowing that developers were getting tax abatement. She would like the MOU to address that and how it could be realistically done or not done or what the options were. She would like to know how much it would cost in terms of tax revenues to have a 10-year tax abatement.

Mr. Kemper replied the City would get more tax revenue than the City currently had.

Councilor Stone said it would really help her to understand that by spelling it out and showing her the map, so she would know it was a good thing to support. She asked if there would be periodic executive sessions during the 60-day MOU negotiating period. She asked how often that would be.

Mr. Asher recommended meeting in two weeks for a full discussion and report on the issues. He explained the vertical tax abatement was a benefit to future homeowners and not the developer. The Committee was asked to do some hard work on the Council's behalf to get to this point. Hopefully, the Council had heard enough and seen enough now to be able to make a decision about this stage. Council was integral on how this was to proceed, and there would be a discussion of how and when it wanted information. For the record, Donald Hammang, David Aschenbrenner, and Brad Olson had not been able to attend the meeting and would have liked to address the Council. All three of them were pretty strong supporters of this proposal.

Mr. Swanson added the process that was followed was the process that was first formulated and presented to the Council, and he thought understood. He did not want to leave with anyone thinking that the staff and Mr. Asher in particular took a lot of abuse. He understood and was sensitive to creating a process that was deliberative and involved citizens. He followed it though. He wanted to make sure that was said and if it was not understood he would take responsibility. As he followed the process and wove in and out of it, it was exactly what he understood it was going to be. Mr. Asher was the gatekeeper to make sure the process did not fall short on any of the various steps that were to be taken. The purpose was to get as much input as possible. He would watch in the future if he thought there was any point at which where process did not adequately inform the Council. This was the right process, and it was followed religiously. He would not send Mr. Asher into negotiating an MOU with anything but an understanding that what was done up to this point was absolutely correct. If it fell short, Mr. Swanson took responsibility.

It was moved by Councilor Collette and seconded by Mayor Bernard to approve the resolution directing the Town Center Project Management Group to enter exclusive negotiations with Main Street Partners on a memorandum of understanding for development of the Town Center Site at 10700 SE McLoughlin Boulevard and 10721 SE Main Street.

Councilor Collette wanted to add the potential for a bus stop at that site, a discussion of tax abatement, and ensuring the Council has regular updates.

Councilor Stone suggested adding that the existing trees would be saved.

Mr. Asher said the tree matter would be discussed.

Mayor Bernard understood the process and was satisfied, but he suggested the drawings might have been more powerful than the PowerPoint.

Councilor Barnes wanted to clarify that she understood the process as well.

Councilor Loomis commented the process was fine, and the Committee was fine. In the future he wanted a work session on a project of this magnitude and an explanation of why the decision was made.

Motion passed unanimously. [5:0]

RESOLUTION 29-2007:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DIRECTING THE TOWN CENTER PROJECT MANAGEMENT GROUP TO ENTER EXCLUSIVE NEGOTIATIONS

WITH MAIN STREET PARTNERS ON A MEMORANDUM OF UNDERSTANDING FOR DEVELOPMENT OF THE TOWN CENTER SITE (10700 SE MCLOUGHLIN BOULEVARD AND 10721 SE MAIN STREET)

D. Labor Contract Negotiations

Ms. Rowe said the City had been bargaining with both unions and requested that Council move to authorize the Mayor and City Manager to enter into three-year agreements with AFSCME and MPEA as discussed in executive session.

It was moved by Councilor Barnes and seconded by Councilor Collette to authorize the Mayor and City Manager to enter into 3-year agreements with AFSCME and MPEA. Motion passed unanimously. [5:0]

D. Intergovernmental Agreement Authorization for the South Corridor Phase 2 (Portland-Milwaukie) Light Rail Refinement Study and Supplemental Draft Environmental Impact Statement – Resolution

Mr. Asher reported the action requested was to authorize the City Manager to execute an intergovernmental agreement (IGA) with Metro for the purposes of completing a refinement study and supplemental draft environmental impact statement (SDEIS) on the South Corridor Phase 2 light rail project. The IGA committed the City to contributing $200,000 toward a $1.9 million pool of local match money enabling Metro to secure and expend approximately $2 million of Federal Transit Administration (FTA) funds on the studies. This had been budgeted in the general fund. He provided information on the SDEIS timeline and discussed the downtown amendment.

It was moved by Councilor Barnes and seconded by Councilor Collette to approve the resolution authorizing the City Manager to execute an IGA with Metro for the purpose of completing a refinement study and supplemental draft environmental impact statement on the South Corridor Phase 2 Light Rail Project.

Councilor Stone understood the local share for both County and City were the same and asked why the County's was not larger.

Mr. Asher replied the County's share was $200,000 greater than it was about four months ago.

Mr. Swanson replied the people at Metro and TriMet both asked if County would weigh in with any contribution to this phase of the project. He called Mantay and asked as a personal favor if the County would pony up an equivalent amount, so that was what was budgeted. He did not believe this alignment went through any unincorporated area and was $200,000 more than the County planned to contribute to this phase of the project.

Mr. Asher observed the County identified strongly with Phase 1 and had no problems in coming up with funds to serve the area near the Clackamas Town Center. It seemed as if the City had to work hard to remind Clackamas County that County residents would be using light rail and that Milwaukie was in the County as well. The County has been coming around lately, so the City was pleased to have them as a partner.

Councilor Stone asked if there was anything in the IGA that Mr. Asher had to cover.

Mr. Asher referred to page 2 of the staff report that said Metro would provide overall project management on behalf of the City along with schedule and budget management, consultant and work product management, FTA relationship, committee staffing, technical assistance, public involvement lead, and decision-making management. The City agreed to attend project meetings, participated in related project events, be a contact person for Metro's project manager, monitor and coordinate the

work of the consultant team, and review and approve deliverables produced and submitted by the consultant team. He provided the staffing that kept the Council connected to the project and to provide briefing so Council could make its decisions at the appropriate time. Milwaukie was one of many partners.

Mayor Bernard added he was on the South Corridor Committee and a member of the Joint Policy Advisory Committee on Transportation (JPACT)

Mr. Asher added that Mr. Swanson was a member of the Project Management Group (PMG), so there were three layers where Milwaukie had representation. There was also the Citizens Advisory Committee (CAC) that was part of the process and would be formed later in the month.

Councilor Barnes was concerned about the workload and availability of staff resources for anything else until summer 2008.

Mr. Asher replied the City could still respond to a public works situation. Between this and the Town Center project his time was gone. Ms. Mangle was doing long-range planning on the Transportation System Plan (TSP), and the engineering department was working on a variety of projects. There was no more staff capacity, so it would not take on any projects of its own choosing for some time. The City would not have any problems with emergency situations.

Councilor Loomis said regional transportation was Metro's job, and he thought Milwaukie was being generous. There was a pot of money from taxes that came in for regional transportation, so that was who should be doing it. He appreciated staff was keeping an eye on it. Metro should be thankful the City was putting in $200,000.

Mr. Asher said Metro was appreciative. This kind of project needed the resources Metro could put behind it.

Motion passed [4:1] with the following vote: Mayor Bernard and Councilors Barnes, Collette, and Loomis voting 'aye' and Councilor Stone voting 'no.'

> **RESOLUTION 30-2007:**
>
> **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH METRO, FOR THE PURPOSE OF COMPLETING A REFINEMENT STUDY AND SUPPLEMENTAL DRAFT ENVIRONMENTAL IMPACT STATEMENT (SDEIS) ON THE SOUTH CORRIDOR PHASE II PROJECT.**

Councilor Stone was opposed because the $200,000 was coming out of the general fund. This was a project that had never been referred to a vote of the people. The April 1 *Oregonian* article said the project was not funded, but officials did not expect to seek a tax increase. She had always believed this was something all taxpayers should vote on and not just people in Milwaukie but also in the region. It was all of our money. At this meeting the Council passed the gas tax in 30 seconds or less that was supposed to raise $125,000 to $200,000 to help repair the roads. Here was $200,000 coming straight out of the general fund that could have been used for that. The Council put three taxes on its citizens in just the past couple of months. It did not sit well with her. She thought this needed to be referred to the voters. This process was beginning, and this vote just started it. It was very difficult to stop a moving train, and she felt this was backwards and needed to go to a vote of the people.

Mr. Swanson heard it stated that the Council passed a gas tax in 30 seconds tonight, and he did not wish to leave that impression. The process took 30-seconds, but it was preceded by eight months of staff work in a considerable number of hearings and work sessions with the Council. Tonight the Council made a motion, seconded, and voted that might have taken 30 seconds but it was preceded by hours and months of work when the matter was originally considered. He did not believe the Council enacted taxes on a whim, and it sounded like it was so easy to do it.

Councilor Stone understood how Mr. Swanson might have gotten that impression, but that was certainly not what she implied. The Council did deliberate the last time it was before the group. In fact it would have been nice to have some discussion about this so people knew why this was going down. Again that was what was missing. It was like the work session piece being missed from the MOU discussion. This piece was just missing. She thought the Council should have discussed the gas tax. Council should have let people know why it was voted on that way. They were waiting for the state legislature to introduce a statewide gas tax because the local one seemed to be unfair because it only impacted the five or six stations in Milwaukie. She still believed that, and she still believed that it would effect their businesses. There should have been some discussion about it. She objected to the swiftness of the decision.

Councilor Barnes observed there was another station in Milwaukie now at the Safeway.

Mr. Swanson asked for a motion pursuant to MMC 2.04.180.B, known as the Marshall Amendment, that when a meeting agenda includes one or more public hearings, meetings may be adjourned no later than eleven p.m. If there are no public hearings scheduled, meetings may be adjourned no later than ten p.m. However, the adjournment time may be extended by majority vote.

It was moved by Councilor Stone and seconded by Councilor Collette to extend the adjournment time. Motion passed unanimously. [5:0]

It was moved by and seconded by

E. <u>Council Reports</u>

Councilor Loomis announced the grand opening of the North Clackamas Park Ballfields on April 21.

ADJOURNMENT

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

Mayor Bernard adjourned the regular session at 11:17 p.m.

_____

Pat DuVal, Recorder

Milwaukie Police Department

To: Mayor Bernard and Milwaukie City Council

Through: Mike Swanson, City Manager

From: Larry R. Kanzler, Chief of Police

Date: May 7, 2007

Subject: **O.L.C.C. Application – The Tartan & Thistle – 11050 SE 21st Avenue**

Action Requested:

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from The Tartan & Thistle – 11050 SE 21st Avenue.

Background:

We have conducted a background investigation and find no reason to deny the request for liquor license.

To: **Mayor and City Council**

Through: **Mike Swanson, City Manager**
Kenny Asher, Community Development/Public Works Director

From: **Zach Weigel, Civil Engineer**
Don Simenson, Water Quality Specialist

Subject: **Well No. 8 Reconstruction**

Date: **May 21st for June 5th Regular Session**

Action Requested

Authorize the City Manager to sign a contract for the Well No. 8 Reconstruction Phase I – Well Drilling project with Boart Longyear Company in the amount of $262,495.55. This amount includes a 15% project contingency.

Background

In 1985, Well No. 8 was constructed to provide an additional 700 gallons per minute (1.0 million gallons per day) capacity to the City of Milwaukie water system. Well No. 8 is located off of SE Lake Road near the interchange with Highway 224.

Beginning in 1998, the capacity of Well No. 8 began to decline rapidly. According to a study by Pacific Groundwater Group, the decline was attributed to "bio-fouling" of the well screens. The "bio-fouling" was greatly exacerbated by the presence of highly chlorinated Clackamas River Water (CRW) water in the City of Milwaukie water system. An intertie with the CRW water system to provide reserve capacity within the City of Milwaukie water system is located on SE Harmony Road near the Well No. 8 site.

In April 2005, the Well No. 8 pump caught fire and rendered the well inoperable. The City Manager issued an Emergency Declaration to award a contract for engineering services to find a solution to compensate for the loss of Well 8.
The City of Milwaukie hired Murray, Smith & Associates (MSA) in December of 2005 to report on the City's options for restoring or increasing the City's water supply. The recommendation from the MSA report was to abandon the inoperable well and drill a

new well at the Well No. 8 site. The City Council agreed with report and authorized approval to solicit bids for the design and reconstruction of Well No. 8 at its present site (Resolution #42-2006).

On April 3rd, 2007, the City Council authorized engineering design services for Well No. 8 with Murray, Smith & Associates, inc. in the amount of $89,950.00 (Resolution #21-2007). As part of the design proposal, MSA recommends construction of the Well No. 8 project be separated into two phases. The phased construction schedule is necessary because the pump systems cannot be designed until the well drilling and testing is completed.

The first phase of the project consists of abandonment of the existing inoperable well and drilling and testing a new well. Construction of Phase I is expected to be completed by October 31st, 2007.

The second phase of the project consists of the pump system construction. The City of Milwaukie plans on advertising for bids for Phase II in December 2007. Phase II is expected to be completed by May 2008, bringing City Well No. 8 back into service.

Staff followed the Formal Competitive Process of Section 30.000 of the Purchasing and Contract Reference Guide 2006 for the solicitation of competitive bids. The City received one bid prior to the May 24th, 2007, 2:00 PM bid opening. The following table is a summary of the bid amounts, including the engineer's estimate.

	Contractor	**Bid Amount (less 15% Contingency)**
1.	Boart Longyear Company	$228,257.00
***	Engineers Estimate	$237,950.00

In accordance with Section 30.000 of the Purchasing and Contract Reference Guide 2006, Boart Longyear Company is the lowest responsive and responsible bidder.

Concurrence

Engineering staff coordinated with the Water Operations Department on concept and design of the project.

The City of Milwaukie Finance Department has been consulted regarding the fiscal impacts of the recommendation. Finance concurs that the Well No. 8 – Phase I project is feasible with funds available for construction.

Murray Smith & Associates has reviewed the submitted bids and agrees with the recommendation.

Fiscal Impact

This project is part of the 2006-2007 CIP. The approved 2006/07 Water Fund budget includes $249,200.00 from the Water Capital and Reserve Fund for the Well No. 8 Reconstruction project. A total of $496,200.00 over the next two years is budgeted from the Water Capital and Reserve Fund for reconstruction of Well No. 8.

The contract for design of the Well No. 8 Reconstruction project with Murray Smith & Associates is for $89,950.00 (Resolution 21-2007). The bid amount for construction of Phase I is $228,257.00. The anticipated cost for construction of Phase II is $150,000.00. The total cost of the Well No. 8 Reconstruction project is estimated at $468,207.00.

Work Load Impacts

Engineering staff will provide project management for the Well No. 8 Reconstruction Phase I – Well Drilling project.

Murray, Smith and Associates, the City's engineering consultant, will assist with project management and project inspection. For the Well No. 8 Reconstruction Phase I – Well Drilling project.

Alternatives

1) Do not award project (defer indefinitely)
    - If council wishes not to award project and remove it from the CIP list.
2) Re-bid project without amending
    - If council approves of the project design but thinks the project should be re-bid for any reason.
3) Direct Staff to modify project and re-bid
    - If council does not approve of the project was design and/or thinks that re-bidding could reduce cost.

Attachments

1. Vicinity Map
2. Bid Tabulation
3. Resolution

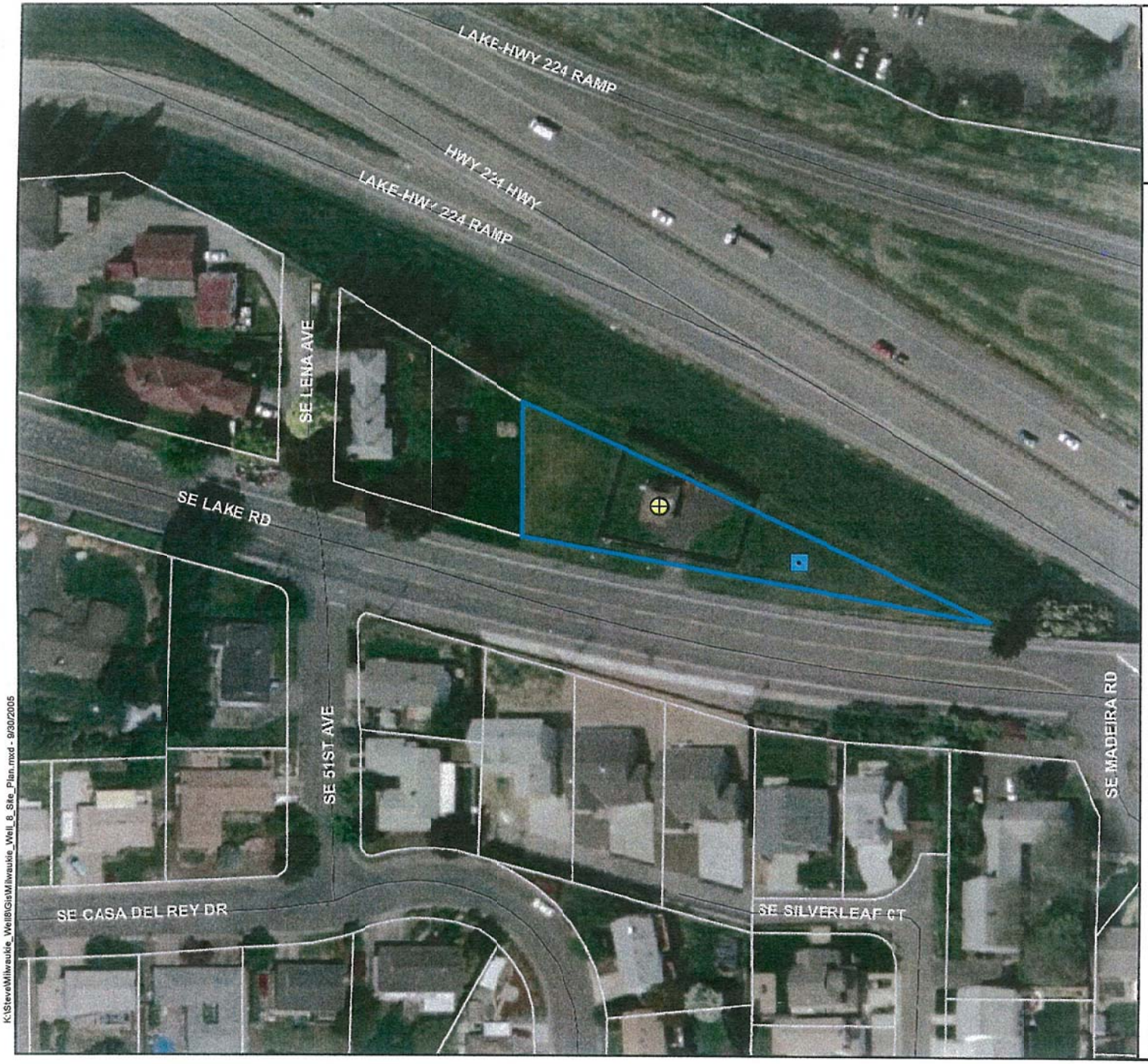

Figure 1
Milwaukie Well 8 Site Plan

Legend

- Well 8
- Proposed Replacement Well Location
- Parcels

USGS Urban Areas
Orthophoto 5/8/2002

0 Feet 100

N

City of Milwaukie
Well 8 Replacement

pgG

K:\Steve\Milwaukie_Well\Well8\Gis\Milwaukie_Well_8_Site_Plan.mxd - 9/30/2005

ATTACHMENT 1

Well No. 8 Reconstruction Phase I - Well Drilling

				Engineers Estimate		Boart Longyear E & I	
Item #	***Description***	***Bid Quantity***	***Units***	***Unit Price***	***Total***	***Unit Price***	***Total***
1	Mobilization and Demobilization	1	EA	$ 25,000.00	$ 25,000.00	$ 40,133.00	$ 40,133.00
2	20-inch surface seal	240	LF	$ 290.00	$ 69,600.00	$ 176.00	$ 42,240.00
3	16-inch drive shoe	1	EA	$ 1,500.00	$ 1,500.00	$ 1,253.00	$ 1,253.00
4	Drill 16-inch hole	240	LF	$ 130.00	$ 31,200.00	$ 148.00	$ 35,520.00
5	Furnish 16-inch well casing	480	LF	$ 55.00	$ 26,400.00	$ 64.00	$ 30,720.00
6	16-inch casing credit	130	LF	$ (5.00)	$ (650.00)	$ (52.00)	$ (6,760.00)
7	16-inch shoe cut	1	LS	$ 5,000.00	$ 5,000.00	$ 2,846.00	$ 2,846.00
8	Furnish screen assembly and accessories	1	FA	$ 17,000.00	$ 17,000.00	$ 17,000.00	$ 17,000.00
9	Authorized hourly work	60	HRS	$ 250.00	$ 15,000.00	$ 250.00	$ 15,000.00
10	Furnish pumping test equipment	1	EA	$ 3,500.00	$ 3,500.00	$ 9,193.00	$ 9,193.00
11	Test water conveyance system	200	LF	$ 50.00	$ 10,000.00	$ 7.00	$ 1,400.00
12	Hourly work for pumping tests	26	HRS	$ 150.00	$ 3,900.00	$ 172.00	$ 4,472.00
13	Extra materials	1	FA	$ 300.00	$ 300.00	$ 300.00	$ 300.00
14	Abandonment of existing Well No. 8	1	LS	$ 30,000.00	$ 30,000.00	$ 34,690.00	$ 34,690.00
15	Authorized hourly standby time	1	HRS	$ 200.00	$ 200.00	$ 250.00	$ 250.00
		Total Construction Bid			**$ 237,950.00**		**$ 228,257.00**

ATTACHMENT 2

ATTACHMENT 3

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING THE AWARD OF CONTRACT FOR THE RECONSTRUCTION OF CITY WATER WELL NO. 8 PHASE I – WELL DRILLING.

WHEREAS, the City Council authorized engineering design services for Well No. 8 with Murray Smith & Associates, Inc. in the amount of $89,950.00 on April 3rd, 2007; and

WHEREAS, Murray Smith & Associates, Inc. recommended a phased construction schedule with Phase I – Well Drilling and Phase II – Pump System; and

WHEREAS, the project was approved for funding in the 2006/2007 budget; and

WHEREAS, a formal competitive bidding process following Chapter 30 of the City's Public Contracting Rules was conducted; and

WHEREAS, Boart Longyear Company is the lowest responsive and responsible bidder;

NOW, THEREFORE, BE IT RESOLVED that the City of Milwaukie shall authorize the City Manager to sign a contract for the reconstruction of the City Water Well No. 8 Phase I – Well Drilling with Boart Longyear Company in the amount of $262,495.55.

Introduced and adopted by the City Council on June 5, 2007.

This resolution is effective on June 5, 2007.

_____
James Bernard, Mayor

ATTEST:

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

_____
Pat DuVal, City Recorder

_____
City Attorney

Document2 (Last revised)

CITY OF MILWAUKIE

To: Mayor and City Council

From: Mike Swanson, City Manager

Subject: Resolutions Regarding State Revenue Sharing

Date: May 24, 2006 for June 20, 2006 City Council Meeting

Action Requested

Consider testimony received during the public hearing and approve the resolutions declaring the City's election and qualification to receive State Revenue Sharing.

Background

In order for the City of Milwaukie to receive a share of state revenues apportioned and distributed to the cities of the state during fiscal year 2007-2008 as provided in ORS 221.770, the City Council must enact an ordinance or resolution expressing that election and file the same with the Oregon Department of Administrative Services no later than July 31.

The City Council can show eligibility of the City of Milwaukie to receive State Revenue Sharing by adopting a resolution that certifies that the City offers four or more of the required municipal services.

Concurrence

The City Manager acting as the Budget Officer concurs with the proposed resolutions.

Fiscal Impact

The resolutions declare the City's election and qualification to receive State Revenue Sharing in fiscal year 2007-2008.

RESOLUTION NO. _____

A RESOLUTION DECLARING THE CITY OF MILWAUKIE'S ELECTION TO RECEIVE STATE REVENUE SHARING

WHEREAS, the City of Milwaukie desires to receive a share of state revenues apportioned and distributed to the cities of the state during fiscal year 2007-2008 as provided in ORS 221.770; and

WHEREAS, ORS 221.770(1)(a) requires that any city electing to receive a distribution must enact an ordinance or resolution expressing that election and file the same with the Oregon Department of Administrative Services no later than July 31; and

WHEREAS, ORS 221.770 (1)(b) requires that any city electing to receive a distribution must hold at least one public hearing at which citizens have the opportunity to provide written or oral comment on the possible uses of the distributions; and

WHEREAS, the City must certify its compliance with the statutory provisions to the Oregon Department of Administrative Services before July 31.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milwaukie, Oregon as follows:

Section 1. The City of Milwaukie hereby elects to receive distributions of state revenues during fiscal year 2007-2008 pursuant to ORS 221.770(1)(a).

Section 2. The City Council hereby certifies that it conducted a public hearing, after giving public notice, on June 5, 2007 and called for written and oral comment on the possible uses of the distributions and that the hearing complied with ORS 221.770(1)(b) and (c).

Section 3. The City Recorder is directed to certify compliance with the public hearing requirements with the Oregon Department of Administrative Services by July 31, 2006.

Section 4. This resolution shall be effective immediately upon its passage.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon on June 5, 2007.

_____
James Bernard, Mayor

_____
Date

Attest:

_____
Pat DuVal, City Recorder

Approved as to form
RAMIS, CREW, CORRIGAN, LLP

_____
City Attorney

RESOLUTION NO. _____

A RESOLUTION CERTIFYING SERVICES FOR STATE REVENUE SHARING

WHEREAS, ORS 221.760 provides as follows:

Section 1. The officer responsible for disbursing funds to cities under ORS 323.455, 366.785 to 366.820 and 471.805 shall, in the case of a city located within a county having more than 100,000 inhabitants according to the most recent federal decennial census, disburse such funds only if the city provides four or more of the following services:

(1) Police protection
(2) Fire protection
(3) Street construction, maintenance, and lighting
(4) Sanitary sewer
(5) Storm sewers
(6) Planning, zoning, and subdivision control
(7) One or more utility services

and

WHEREAS, city officials recognize the desirability of assisting the state officer responsible for determining the eligibility of cities to receive such funds in accordance with ORS 221.760.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Milwaukie hereby certifies that it provides the following four or more municipal services enumerated in Section 1, ORS 221.760:

Police protection
Street construction, maintenance, and lighting
Sanitary sewer
Storm sewers
Planning, zoning, and subdivision control
One or more utility services

Introduced and adopted by the City Council of the City of Milwaukie, Oregon on June 5, 2007.

This resolution shall be effective immediately upon its passage.

_____
James Bernard, Mayor

_____
Dated

Attest:

_____
Pat DuVal, City Recorder

Approved as to form
RAMIS, CREW, CORRIGAN LLP

_____
City Attorney

CITY OF MILWAUKIE

CERTIFICATION

I certify that a public hearing before the Budget Committee was held on April 30, 2007 and May 7. 2007, and a public hearing before the City Council was held June 5, 2007 giving citizens opportunity to comment on the use of State Revenue Sharing.

_____

Pat DuVal, City Recorder

CITY OF MILWAUKIE

To: Mayor and City Council

From: Mike Swanson, City Manager

Subject: Resolution adopting the FY 2007-2008 Annual Budget

Date: May 25, 2006 for June 5, 2007 City Council Meeting

Action Requested

Consider testimony received during the public hearing and approve the resolution adopting the budget and capital improvements plan, making appropriations, and declaring and categorizing taxes for fiscal year 2007-2008

Background

The Budget Committee of the City of Milwaukie met and adopted its Approved Budget on May 7, 2006. A financial summary of the approved budget and a notice of budget hearing before the City Council were published in the "Clackamas Review" on Wednesday, May 23, 2007 according to the requirements of Oregon Local Budget Law (ORS 294.416). The City Council may take action to adopt the budget once the budget hearing has been held and testimony has been heard and considered.

The legal publication contains one budget issue that differs from the budget you are adopting. In adopting its Approved Budget the Budget Committee, upon my recommendation, made a change to the Budget Officer's Proposed Budget that was not reflected in the publication. That change eliminated a $1,000 expenditure from the Library budget and increased the transfer to Fund 880-Ethel Folden Donation Fund by $1,000. The transfer to Fund 880 was not reflected in the legal publication. The budget before you is the same as that adopted by the Budget Committee, so you need not take any special action with respect to the error. However, I did want to ensure that the difference was a part of the record, which is accomplished by the foregoing explanation.

There is one change from the action taken by the Budget Committee. Fund 880 was named the "Ethel Folden Donation Fund," following a substantial bequest from Ms. Folden. Since Budget Committee adoption of its Adopted Budget the

Library received $31,862.44 from a life insurance policy on Evelyn Zanon. Thus, Fund 880 has been renamed the “Library Endowment Fund.”

Concurrence

The City Manager acting as the Budget Officer concurs with the proposed resolution.

Fiscal Impact

The resolution adopts the fiscal year 2007-2008 annual budget of $42,867,264.

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE BUDGET AND CIP, MAKING APPROPRIATIONS, AND DECLARING AND CATEGORIZING TAXES FOR FISCAL YEAR 2007-2008

WHEREAS, the Budget Committee of the City of Milwaukie met and approved the Proposed Budget on May 7, 2007; and

WHEREAS, the Notice of Budget Hearing and Financial Summary were published in the "Clackamas Review" on May 23, 2006 as required by ORS 294.416; and

WHEREAS, a public hearing was held on June 5, 2007; and

WHEREAS, the only change in the Proposed Budget is the renaming of Fund 880 from "Ethel Folden Donation" to "Library Endowment."

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milwaukie, Oregon as follows:

Section 1. The City Council of the City of Milwaukie hereby adopts the budget for fiscal year 2007-2008 in the sum of $42,867,264. A copy of the budget document is now on file at City Hall, 10722 SE Main Street, Milwaukie, Oregon.

Section 2. The amounts for the fiscal year beginning July 1, 2007 and for the purposes shown below are hereby appropriated as follows:

General Fund	
Library Services	1,910,261
Community Services	1,317,297
Code Enforcement	215,885
Public Access Studio	127,000
Police Administration	389,466
Police Field Services	6,522,874
Police Support Services	509,417
Planning	748,056
Municipal Court	71,745
Intergov/Interfund	1,579,350
Total	13,391,351
Administrative Services	
City Council	52,707
City Manager	338,668
City Attorney	175,000
Human Resources	290,499
General Government	302,738
Finance	470,324
Records and Info Management	652,060
Information and Technology	882,432
Photocopies	55,512
Total	3,219,940
Computer Reserve	
Capital Outlay	175,000
Contingency	61,866
Total	236,866
Bike Path	
Capital Outlay	5,000
Contingency	48,133
Total	53,133
Neighborhood Grants	
Capital Outlay	74,251
Public Safety Facility Debt Service	
Materials and Services	463,363
Contingency	229,310
Total	692,673
Pension Debt Service	
Materials and Services	217,096
Building Inspections	
Personal Services	174,444
Materials and Services	128,094
Capital Outlay	100,000
Transfers	44,307
Contingency	204,869
Total	651,714
Streets/Surface Maintenance	
Materials and Services	50,000
Capital Outlay	600,000
Contingency	152,228
Total	802,228

Streets/State Gas Tax	
Personal Services	415,606
Materials and Services	938,998
Capital Outlay	10,000
Transfers	818,162
Contingency	304,554
Total	2,487,320
Streets SDC	
Capital Outlay	56,300
Contingency	145,390
Total	201,690
Streets Capital and Reserve	
Capital Outlay	433,300
Contingency	31,954
Total	465,254
Water	
Personal Services	425,852
Materials and Services	1,288,656
Capital Outlay	76,000
Transfers	443,094
Contingency	172,010
Total	2,405,612
Water SDC	
Capital Outlay	36,000
Contingency	475,124
Total	511,124
Water Capital and Reserve	
Capital Outlay	249,200
Contingency	195,961
Total	445,161
Wastewater	
Personal Services	390,608
Materials and Services	2,376,695
Capital Outlay	59,800
Transfers	351,143
Contingency	194,847
Total	3,373,093
Wastewater SDC	
Capital Outlay	10,200
Contingency	1,226,103
Total	1,236,303

Wastewater Capital and Reserve	
Capital Outlay	526,000
Contingency	1,698,140
Total	2,224,140
Stormwater	
Personal Services	316,040
Materials and Services	670,373
Capital Outlay	10,000
Transfers	486,040
Contingency	97,714
Total	1,580,167
Stormwater SDC	
Contingency	297,318
Stormwater Capital and Reserve	
Capital Outlay	65,000
Contingency	109,745
Total	174,745
Community Development Admin	
Personal Services	824,000
Materials and Services	509,389
Total	1,333,389
Engineering	
Personal Services	490,187
Materials and Services	266,788
Total	756,975
Fleet Services	
Personal Services	422,461
Materials and Services	823,111
Capital Outlay	20,000
Transfers	192,533
Contingency	132,175
Total	1,590,280
Fleet Services Capital and Reserve	
Capital Outlay	525,000
Contingency	1,759,502
Total	2,284,502
Facilities Management	
Personal Services	147,895
Materials and Services	892,561
Capital Outlay	268,000
Transfers	151,269
Total	1,459,725

Knutson Cemetery Trust		**Unappropriated Reserve**	
Materials and Services	3,000	General Fund	500,000
Contingency	35,513		
Total	38,513	**Total Budget**	**42,867,264**
Ethel Folden Donation			
Capital Outlay	152,210		
Forfeiture Trust			
Capital Outlay	10,491		
Total Appropriations	**42,367,264**		

Section 3. The City Council of the City of Milwaukie hereby imposes the taxes provided for in the adopted budget at the rate of $4.0512 per $1,000 of assessed value for operations and in the aggregate amount of $574,079 for bonds. These taxes are hereby imposed and categorized for tax year 2007-2008 upon the assessed value of all taxable property within the City.

	General Government	**Excluded from Limitation**
General Fund	$4.0512/$1,000	
Public Safety Debt Service		$574,079

Section 4. The City Council of the City of Milwaukie hereby adopts the City of Milwaukie 2008-2012 Capital Improvement Program (CIP) for fiscal year 2007-2008. A copy of the CIP document is now on file in City Hall, 10722 SE Main Street, Milwaukie, Oregon.

Section 5. The City Council of the City of Milwaukie hereby adopts the pay table for fiscal year 2006-2007 and includes it as part of the adopted budget.

Section 6. Effective July 1, 2007 the monthly stipend for Mayor shall be $300.00 and the monthly stipend for a City Councilor shall be $250.00.

Introduced and adopted by the City Council on June 20, 2006.

This resolution takes effect immediately upon adoption.

_____
James Bernard, Mayor
Dated: _____

Attest:

_____
Pat DuVal, City Recorder

Approved as to form:
Ramis, Crew, Corrigan, LLP

_____
City Attorney

CITY OF MILWAUKIE

To: **Mayor and City Council**

From: **Mike Swanson, City Manager**

Date: **May 25, 2007**

Re: **Adoption of Proposed Financial Policies**

Proposed Action

The action proposed is adoption of the resolution adopting the Financial Policies.

Background

At present the City's financial position is healthy. This is not because we are flush with revenues. Rather, the present financial position is due to careful management of the City's finances by all concerned—City Council, Budget Committee, and staff.

The proposed Financial Policies seek to institutionalize many of the practices that have led to our present condition. In the face of threats to future revenue such as the possible loss of the County's contribution to library services and legislative attacks on the franchise fee, it is incumbent on the City to continue careful management of available resources. The Financial Policies are an important tool in achieving this goal.

Stewart Taylor drafted the policies during his tenure as the City's Finance Director. They were reviewed by the citizen members of the Budget Committee acting in their role as members of the Budget Review Board. The full Budget Committee considered them during its budget process and at its May 7, 2007 meeting took action to recommend them for adoption.

Recommendation

In my capacity as City Manager and Budget Officer I recommend adoption of the policies as presented.

Attachments

Resolution with Attachment

ATTACHMENT 1

RESOLUTION NO. _____

A RESOLUTION ADOPTING FINANCIAL POLICIES

WHEREAS, the Budget Officer and Finance Director worked with the citizen members of the Budget Committee to draft financial policies governing major City financial issues; and

WHEREAS, the Budget Officer and citizen members of the Budget Committee recommended adoption of the financial policies attached to this Resolution as Exhibit A; and

WHEREAS, the said Financial Policies were presented to the full Budget Committee for its consideration and adoption during the FY 2007-2008 budget process; and

WHEREAS, the full Budget Committee recommended adoption of the said Financial Policies at its May 7, 2007 public hearing.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Milwaukie, Oregon as follows:

Section 1. That the Financial Policies attached to this Resolution as Exhibit A be adopted.

Section 2. That this Resolution becomes effective upon its adoption.

Introduced and adopted by the City Council on June 5, 2007.

_____
James Bernard, Mayor
Dated:_____

Attest:

_____
Pat Duval, City Recorder

Approved as to Form:
Ramis, Crew, Corrigan, LLP

_____

Exhibit A

CITY OF MILWAUKIE

Financial Policies

The City of Milwaukie has an important fiduciary responsibility to its citizens to properly account for public funds, manage municipal resources wisely and plan adequate funding for services and facilities desired and needed by the community. The City Council is ultimately responsible for decisions concerning the fiscal management of the City. The City Council, Budget Committee, boards and commissions and city staff must take into consideration the City Charter, ordinances, strategic plan and all applicable state and federal laws in determining how best to allocate and manage the available resources.

These policies are designed to establish guidelines for the fiscal stability of the City of Milwaukie and to provide guidance for the City Manager in the roles of Budget Officer and Chief Executive Officer for the City

These policies shall be duly adopted by resolution of the City Council and can be changed only through subsequent resolutions adopted by the City Council. These policies shall be reviewed annually as part of the budget planning process by the Budget Officer and Budget Committee to determine whether any changes are necessary. Any additions or deletions shall be reviewed by the Budget Committee prior to review and approval by the City Council.

Annual Budget

The City shall prepare, adopt and amend its annual budget in accordance with Oregon Local Budget Law. It is the responsibility of the City Manager as the City's Budget Officer to prepare and present the annual budget to the Budget Committee. The Budget Committee considers the proposed budget, makes any adjustments it deems necessary and approves the budget. The City Council has the final responsibility for adopting the budget, levying taxes and making the necessary appropriations.

Minimum Fund Balances
The City shall target an unreserved fund balance in the General Fund and all operating funds of at least ten percent of the annual expenditures of the fund. The unreserved balance shall be used to avoid cash flow interruptions, generate interest income and reduce the need for any short-term borrowing.

Contingencies and Reserves
The City shall maintain contingency and reserve accounts to respond to unforeseen circumstances and to preserve resources for future budgets. The accounts shall be in the amounts and for the purposes described below:

1. Operating Contingencies. The General Fund shall have a target operating contingency of $1,000,000.00 and each operating fund shall have a target contingency of at least ten percent of the operating expenditures of the fund. During the budget year, the City Council may, by ordinance or resolution, transfer up to a cumulative 10% of the appropriation authority from the contingency account to another existing appropriation category to address circumstances that were unforeseen at the time the budget was adopted. Transfers greater than a cumulative 10% must have review and recommendation of the Budget Review Committee before the City Council takes action to transfer appropriation authority.
2. Special Purpose Contingencies. Contingency accounts for special purposes such as Public Education and Government Access and Payments in lieu of Improvements shall be in the amounts and for the purposes for which they are established.
3. Capital Reserves. Capital reserve accounts shall be maintained in capital budgets in the amounts and for the purposes of accumulating resources for future capital projects.
4. Unappropriated Reserves. The General Fund shall maintain a target unappropriated reserve of at least three months of general operating expenditures. The reserve shall be given priority for one time and previously uncommitted revenues until the target amount is established. The reserve account provides available cash in the subsequent budget year before budgeted revenues become available and is key in maintaining an investment grade bond rating capacity.

Revenues
All revenues shall be managed in a way to best achieve the following objectives:

1. Revenue sources shall be diversified and stable in order to shelter the City from short-term fluctuations in any single revenue.
2. One-time revenues shall be used only for one-time expenditures and temporary revenues shall not be used for ongoing services.
3. Dedicated revenue sources shall be used only for the purpose for which they are collected.
4. Conservative estimates shall be used for all revenue forecasts.

5. All idle cash shall be invested in accordance with the City Council adopted investment policy, resolution 35-2004, in order to maximize, in priority order, safety, liquidity and yield.
6. The Finance Department shall regularly report budget to actual revenues to department directors, the City Manager, City Budget Review Committee and City Council.

Interest Income
Interest earned from the investment of idle cash shall be distributed to the appropriate fund in accordance with the equity balance of the particular fund from which the money was available for investment.

Expenditures
All contracting, purchasing and disposing of surplus property shall be in accordance with the Public Contracting Rules and Findings as adopted by the City Council in resolution 2-2006.

Employee salary and benefit costs and all materials and equipment purchases shall be considered in terms of current year and future year budgets. As much as possible, ongoing costs will be considered in terms of quality and level of service provided to the community.

The Finance Department shall regularly report budget to actual expenditures to department directors, the City Manager, City Budget Review Committee and City Council.

Debt
Debt shall not be used for operating purposes. Long-term borrowing will be limited to capital improvements too large to be financed from current revenues. No debt shall be in existence for longer than the useful life of the capital investment for which the debt was incurred.

The City will examine all financial alternatives in addition to long-term debt. These alternatives will include pay-as-you-go, joint financing, reserve funds, lease-purchase, local improvement districts, special assessments, state and federal tax increment, borrowing from other funds, systems development charges and developer contributions. Before a decision is made, the Finance Department will generate a cost benefit analysis for each alternative being considered with the goal of minimizing the cost of the financing to the City.

The City will limit bonded debt to 3% or less of total assessed value, as required by ORS 287.004. Repayment sources will be identified for every debt prior to issuance.

The City will adhere to recommended disclosure guidelines as endorsed by the Public Securities Association, the Government Finance Officer Association, the

Municipal Securities Rulemaking Board and the Governmental Accounting Standards Board. The City will maintain and seek to improve its current bond rating of A1 (Moody's Rating) so that future borrowing costs are minimized and access to the credit market is preserved.

Accounting

The City shall establish and maintain an accounting and financial reporting system in accordance with Generally Accepted Accounting Principles (GAAP) and shall adhere to the principles and standards promulgated by the Government Finance Officers' Association (GFOA), Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB).

The Finance Department will issue a Comprehensive Annual Financial Report (CAFR) each fiscal year. The CAFR will show fund expenditures and revenues on both a GAAP and budget basis for comparison purposes.

An independent annual audit will be performed by a certified public accounting firm. The audit will include an official opinion on the annual financial statements and a management letter detailing areas needing improvement, if necessary. The annual audit report shall be presented to the City Council by the independent public accounting firm.

Park & Recreation Board PARB

April 24, 2007
7:30 am to 9 am
Regular Meeting

MINUTES

Attendees: Kate MacCready, Sherri Dow, Ray Harris, Bob Cooper, Mart Hughes, Val Hubbard

Absent: Sonny Newson
Staff: JoAnn Herrigel, Rose Marti, Joan Young, Kevin Cayson

Minutes
Young noted a typo on page one (District is misspelled) Dow moved to approve minutes, MacCready seconded. Minutes approved 6-0.

Herrigel noted that Sonny Newson had moved to Salem and had reported he would resign. Herrigel asked the Board to spread the word that the Park Board needed a new member.

Work Plan and Report to Council
Herrigel said that she had PARB's annual meeting with Council scheduled for the May 1 Council meeting but had to remove it since the group had not yet developed their work plan for next year. She distributed a list of accomplishments for 06-07 and the group went over them. She then went over the proposed work plan for 07-08. She noted that the list was similar to last year's but had a few additions.

Board comments:

- Macready asked where enforcement of off-leash dogs fit into the work program. (Herrigel said that maybe a bullet should be added for 07-08 for Park Rule enforcement)
    - Cayson and Young noted that off leash dog issue still a problem at NCP. Now that ball fields are open and more kids are in the area – the mix of dogs and kids may present increased problems.
    - Cayson noted that a dog had been killed while in the enclosed dog run area at the park last week.
    - Cayson said Herrigel and Code enforcement folks might meet with Tom McDowell, the grounds keeper, for info on when and where issues exist and how best to deal with them.

    - Hughes said he thought identifying who the violators are first would be a good step
    - Cayson said that fines wouldn't necessarily be required and Dow said that laminated cards with park rules might be good.
- Hughes noted that Metro has additional funds available through the Bond measure and asked if Herrigel was in touch with Metro staff re: use of those funds in Milwaukie. (Herrigel said she was.) Hughes suggested that the City consider additional property acquisition near Elk Rock Island in floodways between Elk Rock and Spring Park, along the railroad south of Spring Park and along cliff at Bishop's Close.
- Hughes noted that the District was hiring a natural resource person to focus on natural areas within the District. He suggested that the PARB work with this new person to develop a process for maintenance of these natural areas.
- Herrigel asked if the Trails Plan for Milwaukie should be on the work plan for this year and the group agreed that it should

Herrigel said she would place the 2007-08 work plan on the May 15 Council work session and encouraged PARB members to attend. She said she'd remind them of the date as it got closer.

City Update

- Herrigel reported that the naming of the Creeklette at North Clackamas Park was now on the May 1 Council agenda. She said that the Lake Rd neighborhood had voted to support the name Camus Creek and that the PARB's comments and the NDA's have been forwarded to Council.
- Herrigel asked Hughes for an update on invasive removal Kronberg. He said that the timeline for application of herbicides is dependent on his time and the weather.
- One bench and two trees were installed at Lewelling Park this week and two benches were installed at Scott Park.
- Harris noted that a fence board was missing from the southwest side of Lewelling Park

District Update

- Budget has been passed from DAB to Budget Committee
- Grand opening of the ball fields at NCP happened April 21
- Alta has been hired by the District to do the master plan for the north part of NCP. The public process should begin in May. The Stewardship group will provide guidance for that process.
- Earth day events took place at NCP on April 22.
- Cayson said that Scott Park and the Library are looking good. He said he has two guys out there one day each week now.

- Cayson responded to Herrigel's inquiry about goose droppings at the amphitheatre at Scott Park – saying he suggested using a goose repellent in the grass to keep them away from the area.

Harris motioned to adjourn. Cooper seconded and the motion passed 6-0.

North Clackamas Parks and Recreation District
MILWAUKIE CENTER/COMMUNITY ADVISORY BOARD
Minutes of April 13, 2007

MEMBER PRESENT: Joan Staley, Chair; Kim Buchholz, Joy Estes, Jane Hanno, Molly Hanthorn, Ben Horner-Johnson, Eleanor Johnson, Jim McCready, Carolyn Mills, Chuck Petersen, Kathi Schroeder.

MEMBERS ABSENT: Katie Rudfelt, Ben Tabler.

STAFF PRESENT: Joan Young, Cheryl Nally.

GUESTS: None

CORRESPONDENCE: None

CALL TO ORDER: Joan Staley called the meeting to order at 9:35. Kim Buchholz moved to adopt the minutes with minor corrections. Jane Hanno seconded and the motion was passed unanimously.

DISCUSSION ITEMS:
Recommendation Regarding DAB Alternate
Molly reported that recommendations have been made regarding the need for a DAB alternate who will attend the meetings in the absence of the regular committee member. Kim and Eleanor volunteered to be available.

Future Planning Task Force Development
Joan Young reviewed the need to reconvene a group of people to look at the mission and future programs of the Center. Kathi and Kim will help form a committee.

BOARD/COMMITTEE REPORTS:
North Clackamas District Advisory Board
Molly reported that a broad discussion was held concerning the creation of a Natural Resources position. This would be a full time temporary job for six months. The position was approved and the budget will be sent on to the District budget committee. The amplified sound policy was approved. There is a master plan being developed for the north side of North Clackamas Park area. The south side ball fields will be dedicated on April 21.

North Clackamas Park Stewardship Committee
The committee discussed the possible environmental impact that the ball fields might have on the surrounding area. An e-mail was received from Michelle Healy concerning vandalism. The need for some type of policing was discussed.

Nutrition &Transportation Committee
Area Agency on Aging Focal Point & Nutrition representatives met at the Center and sat in at a noon meal hour and a positive report was given. The MOW currently serves 212 clients each day. The Rummage Sale raised $2,000. The Famous May Sunday Dinner

will be held on May 6 from 3-5pm. The March for Meals netted almost $15,000 for the MOW program. The Candy Sale was successful and $3,000 was raised in support of Transportation Services. Senior Center directors met and several centers have decided to change the suggested donation amounts for meals and bus rides.

Program & Services Committee
The committee discussed the staff budget recommendations. Cheryl shared about the Senior Companion program and the need to inform more people about the services of the Center. Jan reported that space is an issue for new classes to be offered and evening classes may be a possibility. The Senior Prom planning is going well.

Building Review
The budget requests for improvements to the facility were discussed along with the idea to redesign the library in order to yield more space for small meetings. Disaster planning was also discussed. The staff is looking into Wi-Fi for the building.

Publicity
No meeting.

OTHER REPORTS:
Friends of the Milwaukie Center
Eleanor reported that the Spaghetti Dinner event raised $3,000 and the Mystery Dinner invitations have been sent out. There will be a Housing Fair on May 7 from 10am to 1pm with representatives from local facilities participating.

Governor's Commission
Joan Staley reported that a meeting was held in March. Liz Baxter is working with John Kitzhaber on health care reform.

CENTER REPORT: Center Director Joan Young reported that the budget requests are going through the budget process with a budget hearing in May and budget adoption in June. She reminded board members of the grand opening of the ball fields and invited all to attend. She also invited all board members to the annual volunteer recognition on April 27.

INFORMATION/ANNOUNCEMENTS:
Chuck Petersen's new address is: 17971 S.E. River Road, Apt. #418, Milwaukie, Oregon 97267. His phone number is 503-654-9698.

AGENDA FOR NEXT MEETING:
The ad hoc committee appointed by Chair Joan Staley will make a report on Advisory Board officer nominations for 2007-2008.

The meeting was adjourned at 11:05.

Carolyn Mills, Secretary

North Clackamas Parks and Recreation District
MILWAUKIE CENTER DIVISION
Monthly Report for April, 2007

Programs & Services
From February to the April tax return deadline this year the Milwaukie Center provided over 3,000 volunteer hours of tax services, at no cost to over 1,200 individuals who filed more than 2,300 returns. This service was provided through the Tax Aide Program sponsored by AARP, the IRS and Oregon Department of Revenue.

The Nutrition Program receives $2.54 Older Americans Act reimbursement for each Meals on Wheels meal up to a maximum number annually. The number of meals provided this year has now exceeded the contracted amount of reimbursement for 2006-2007. Meals on Wheels service during April, May and June will not receive reimbursement, therefore the Center will be responsible for the full cost of each meal.

The Oregon Department of Revenue presented information to a group of interested persons in April about assistance with property tax costs for low income seniors or disabled citizens. The state will allow a deferment of taxes owed each year for those who are eligible, which includes a 6% interest rate until the taxes are paid.

Twenty-five Girl Scouts and their leaders from several troops in the North Clackamas area delivered over 200 boxes of Girl Scout cookies for Meals on Wheels clients. They raised money to buy the cookies through donations and profits from cookie sales.

Hula has begun at the Milwaukie Center! This new activity group has started on Thursday afternoons, so join the Aloha spirit and practice for your next luau!

Fund-raising:
The first ever "March for Meals" campaign fund-raised more than $5,700 last year. The 2007 "March for Meals" campaign for the Milwaukie Center Meals on Wheels service grew exponentially. Between sponsorships, fund-raisers, point-of-sale donations, and in-kind support, the total raised this year was more than $16,000. This amazing effort will supply 3,200 Meals on Wheels!

The Transportation Program See's candy fund-raiser ended with a successful Easter candy sale. Candy was sold at the Milwaukie Center, the North Clackamas Aquatic Park and Clackamas Community Federal Credit Union. Combined, volunteers sold over $3,500 worth of chocolate during the Valentine and Easter season.

Coming up:
"Keep On Trekking" program is coming to the Milwaukie Center! NCPRD and AARP have joined together to present a 10-week walking program. Look for the kick-off meeting on May 8, 10:30am. Come and sign up, receive a free pedometer!

1st Annual Senior Prom –"Dancing Through the Decades", Wed., June 20, 6-9 pm. Catered dinner, no-host bar, dancing and great music from the 40's, 50's and 60's.