

REGULAR SESSION

AGENDA

MILWAUKIE CITY COUNCIL APRIL 15, 2008

MILWAUKIE CITY HALL
10722 SE Main Street

2027th MEETING

REGULAR SESSION – 7:00 p.m.

- | | Page # |
|---|-----------|
| I. CALL TO ORDER | |
| Pledge of Allegiance | |
| 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS | |
| A. Introducing the Center for Environmental Structure (Kenny Asher) | 2 |
| B. Board and Commission Interviews (continued from work session) | |
| 3. CONSENT AGENDA <i>(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.)</i> | |
| A. Minutes of January 15, 2008 Council Regular Session | 8 |
| B. Minutes of February 5, 2008 Council Work Session | 28 |
| C. Minutes of February 5, 2008 Council Regular Session | 38 |
| D. Minutes of February 19, 2008 Council Regular Session | 50 |
| E. Revised ODOT Appraisal Logus Road Improvement Project IGA – Resolution | 64 |
| F. Engineering Staff / Consultant Work Balance Adjustments – Resolution | 67 |
| G. Certification of March 11, 2008 Special Election Results – Resolution | 78 |
| H. OLCC Application for Sunny Corner Market, 5010 SE Monroe Street, Change of Ownership | 80 |
| 4. AUDIENCE PARTICIPATION <i>(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,</i> | |

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.)*

Motion to Consider Continuation of Amendments to Milwaukie Municipal code (MMC) Section 19.321.7 & 19.321.3 (Mike Swanson)

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. **Election of Council President Pursuant to Milwaukie Charter Chapter VI, Section 24 (Mayor Bernard)**
- B. **Council Reports**

7. **INFORMATION**

Design and Landmarks Committee Minutes of February 21, 2008

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8. **ADJOURNMENT**

Public Information

- Executive Session: The Milwaukie City Council may meet in executive session immediately following adjournment pursuant to ORS 192.660(2).
- All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503.786.7555
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

2.

PROCLAMATIONS,
COMMENDATIONS,
SPECIAL REPORTS,
AND AWARDS



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: Kenneth Asher, Community Development and Public Works Director

Subject: Introducing the Center for Environmental Structure

Date: April 2, 2008 for April 15 Regular Session

Action Requested

None. Staff would like to provide Council and the community with a special report that introduces the Center for Environmental Structure (CES) – the planning, design and construction firm engaged to assist the city with exploring the South Downtown area. CES Vice President Randy Schmidt will be making the presentation to Council and will be available to answer questions and provide information about CES, as well as the approach it will take in supporting Milwaukie’s South Downtown planning efforts.

History of Prior Actions and Discussions

- November 2006** – Work Session discussion regarding the Cash Spot, Robert Kronberg Park and the need for coordinated planning at the south end of downtown.
- April 2007** – Work Session discussion to solicit council ideas for South Downtown.
- November 2007** – Work Session discussion to review a preliminary concept Plan created by Gast-Hillmer urban design.
- March 2008** – Work Session discussion to consider staff’s intention to move the planning effort to the next stage of development.
- April 2008** – Resolution approving first phase of work with CES

Firm Background

A non-profit corporation established in 1967, CES seeks to implement projects through which towns, landscapes, buildings and gardens can be truly adapted to support human existence. Throughout its history, CES has created and refined innovative and publicly accessible models of working processes that have changed the way places are

planned, built and experienced by people. CES has conducted its work throughout the world.

CES has accomplished its mission in a fashion that permits the creation of beautiful architecture while providing professional and lay people with new models for imagining and creating built space. The projects CES undertakes are explicitly chosen to extend the firms testing of implementation mechanisms and processes, the results of which can (and have) impacted the way architecture and planning is conducted in the world.

CES's Philosophy: The Life of the Environment

Fundamental to CES's aims is the fostering of a certain *specific* quality in the built environment. For convenience, CES calls this quality "life." In a living environment, as CES defines it, the people who live and work there are relaxed, know that they belong there and enjoy a kind of freedom in relation to the buildings and space around them. They feel and are "at home" in their world.

In looking around, CES mostly observes this quality in traditional buildings and towns, where, over the years, people have constructed an orderly but loose configuration of space, rooms, gardens, houses, and larger buildings. The later 20th century, for varied and complex reasons, has not seen much in the way of living buildings and neighborhoods.

The idea of CES is not to engage in a nostalgia for past centuries, but to develop a modern interpretation of living structures that can speak to local communities, cultural specificities, and to current times, all while reaching this deep understanding of spatial arrangements that support, rather than deny, humanity and ordinary daily events.

CES believes that many ingredients are required to make a living structure: an understanding of space and human response to it, appropriate technology and materials, constructing, from the outset, with and for the people who will adopt that space as their own, and even arranging for the way that money flows for initial construction, later repairs, adaptation, and growth. The key for CES is in understanding and developing the processes by which living environments can come into existence and prosper.

User Participation

CES believes that people have a right to determine and shape their own environment, since people know more of the details that are necessary for creating a good environment, and that good architecture can only come from wholehearted involvement of the users in the shaping of their buildings and streets.

CES has a long standing commitment to the particular human qualities that make each city, each town, each country, each people, and each region unique, and has wide experience in cooperation and in paying attention to the subtlety of human value as it arises in different contexts.

Since 1967, CES has had wide-ranging experiences of participation in different countries, and in working with peoples of different cultural and ethnic backgrounds, and with people of a wide range of different income levels.

Process Innovations

The most fundamental aspect of CES innovation and practice concerns the necessity to revise and reconstruct social, technical, banking, and human process throughout the fields that determine the shape and form of the built environment. The firm is committed to the view that a good, healthy, and beneficial environment for human beings in the 21st century can only be created by thoroughgoing changes in the systems and processes that came to be commonplace in the 20th century.

During the last forty years CES has frequently proposed, and made, innovations of process. At one time or another, CES proposed changes in almost all the processes that create buildings, because for over thirty years the firm has tried to identify the kinds of process that are capable of creating a living world. Some of these process innovations include:

- Involvement of users and lay people in the design process of their towns, public spaces, houses and workplaces
- Innovations in public diagnosis of a community environment leading to changes of process
- Changes in process for consecutive layout and siting of buildings in urban design and construction of city centers
- Analysis of a design task in terms of its functional roots
- Finite element analysis of complex forms as a method of cycling engineering solutions
- Fixed-fee, non-profit management of construction
- New forms of construction contract
- Changes in the flow of money
- Inventions in construction technique designed to create physical processes that could allow formation of well-adapted, inexpensive buildings
- The nature of the human process that is used to lay out a building or town
- The experimental human process needed to improve layout of building interiors
- Mechanical innovations in setting out the foundations of a building
- Innovations in engineering process and analysis to get better results in engineering design
- Innovations in the relative order of items in a construction procedure
- Innovation in the manufacturing process for office furniture designed to make the furniture better adapted to individual needs
- Changes in the maintenance of buildings, and the maintenance budget and its distribution over the lifetime of the building

These innovations have all been innovations of process, made under the conviction that the value of the living architecture is dependent on changes in process, and can only be created by these or other equivalent process changes. In the firm's experience, these sorts of innovations have often been dismissed as not essential, or too radical for

architects to propose. Nevertheless, experience has taught CES that fundamental practical innovations of process are necessary consequences of thinking correctly about the nature of life, and of facing honestly the task of creating living structure in the world.

Approach to the Milwaukie Project

CES envisions the Milwaukie project as an integrated whole, although the approach has been divided into three phases at the City's request. The City and the firm have the intention of an ongoing collaboration to provide a complete response to the questions raised by the South Downtown Concept Plan.

By the end of the first phase, CES will have adequately studied the South Downtown Concept Plan, and validated or invalidated the South Downtown Concept Plan for further development. CES will have conducted in-depth interviews with many citizens and businesses. Additionally, based on the interviews, CES will develop a draft pattern language for Milwaukie, a document which will put in concrete language the citizen's aspirations and wishes for the South Downtown, for what it can be. This draft pattern language, codifying the community's wishes, can help guide more detailed design work on the South Downtown, so that the design strongly reflects community desires. This design work is the subject of phases 2 and 3.

In Phase 2, CES will conduct a study (or "diagnosis") of the land of the South Downtown area, with Milwaukie citizens. In this process, the existing land, streets, trees, water, and buildings will be mapped and studied, the strengths and weaknesses of the existing context discussed and mapped. In addition, a final pattern language will be created with the community and approved. Then, initial design work for the South Downtown will be done, creating a rough geometrical solution that brings together the community's wishes gathered in Phase 1 together with the strengths of the existing context identified by the community and CES in this Phase 2.

In Phase 3, CES, working in Milwaukie together with community members, will create a large design study model which builds upon the rough design for the South Downtown from Phase 2. After a process of refinement and adjustment of the design at this large scale by community members and CES, review drawings will be made which capture the phase's work. These drawings will then be shown to the community at large for review and comment. Final presentation drawings and a report will then be made, showing the updated Concept Plan for the South Downtown.

These methods and work plan are envisioned to help empower the City to better understand, communicate and implement a vision for the South Downtown that is most compatible with Milwaukie's hopes and aspirations.

Concurrence

None, as no action is being requested.

Fiscal Impact

None, as no action is being requested.

Work Load Impacts

None, as no action is being requested.

Alternatives

None, as no action is being requested.

Attachments

None.

3.
CONSENT AGENDA

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
January 15, 2008**

CALL TO ORDER

Mayor Bernard called the 2022nd meeting of the Milwaukie City Council to order at 7:05 p.m. in the City Hall Council Chambers.

Present: Mayor James Bernard and Councilors Deborah Barnes, Greg Chaimov, Joe Loomis, and Susan Stone

Staff present: City Manager Mike Swanson, City Attorney Bill Monahan, Planning Director Katie Mangle, Police Chief Larry Kanzler, Community Development and Public Works Director Kenny Asher, Community Services Director JoAnn Herrigel, and Associate Planner Bob Fraley.

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

Chief Kanzler recognized Milwaukie Police Sgt. Steve Bartol for his being named Dean's Scholar for his outstanding performance at the Southern Police Institute in Louisville, Kentucky.

Mayor Bernard read a proclamation naming the month of January 2008 as *Big Brothers Big Sisters Month* in the City of Milwaukie.

CONSENT AGENDA

It was moved by Councilor Barnes and seconded by Councilor Loomis to remove item 3.C, A Resolution Approving the Purchase of Real Properties Located at 3039 and 3103 SE Balfour Street for a Local Park Using Metro Local Share Funds from the Consent Agenda for discussion. Motion passed unanimously. [5:0]

A. City Council Minutes of the November 20, 2007 Regular Session

B. Resolution 8-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the City Manager to Execute a Contract and Issue a Purchase Order with Milwaukie Plumbing for On-Call Plumbing Services in the amount of \$20,000 per year for a Maximum of Five Years.

Resolution 9-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the City Manager to Execute a Contract and Issue a Purchase Order with Milwaukie Heating and Cooling for HC+VAC Services in the Amount of \$20,000 per Year for a Maximum of Five Years.

Resolution 10-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the City Manager to Execute a Contract and Issue a Purchase Order with Dryer Electric for On-Call Electric Services in the Amount of \$40,000 per Year for a Maximum of Five Years.

It was moved by Councilor Stone and seconded by Councilor Barnes to adopt consent agenda items 3.A and 3.B. Motion passed unanimously. [5:0]

AUDIENCE PARTICIPATION

- **Rene Sanders, Milwaukee**

Ms. Sanders was an Ardenwald Neighborhood resident and spoke on behalf of the proposed purchase of the Balfour Street property. Her first point had to do with access. In the correspondence she had read some other parks were pointed out in the Ardenwald Neighborhood; however, the access for those living on the west side of 32nd Avenue as not very convenient. Hillside Park although on the west side of 32nd Avenue would require parents and children to use a very busy street. She commented on the speculation in the e-mail about the traffic on 32nd Avenue. While it was not as busy as River Road it was still a very busy road and traffic did not stop at the hospital. There were 2 buses that went beyond the hospital – 28 and 75 which runs every 15 minutes both ways. It was a very busy street, and despite the speed bumps some people still drove the street quite fast. The other parks mentioned, Water Tower Park, Ardenwald Elementary, were about a mile from this side of the Neighborhood. That was a 20-minute walk for an adult and increases to 30-minutes or more when she takes her child. A park should be a place one can get to quickly, let the children play, and have 10- or 15-minutes to get home without planning for 30-minutes or more. There was something very safe about where she lived on a dead-end street. It gave the children the ability to play outside and even in the street with quite a degree of safety. The only people using the street are those who live there and know the children are out in the street. The disadvantage of that was the children were less aware of the need for safety when approaching intersections. Even though she and her child walked and she drilled safety into him, she could not be sure even when he was older if he would be safe because there were no painted crosswalks. She also had difficulties crossing there. Could she be sure he would stop and be safe? She did not think she could. Her second point was preservation. She was unaware there was an Ardenwald Forest. Since she purchased her house she had driven by those 2 lots daily because she lived on Balfour. She had always been enthralled even when they were overgrown with laurel hedges and falling-down houses. She read in the e-mail that this was a forest, which was a wonderful thing. As Oregonians, that needed to be preserved. It was dear to the hearts of the people to keep old forests and open spaces. A lot of property was being over developed. Developers would buy those 2 lots and put 6 or 8 houses on them, which would increase traffic on the battered little road. Her final point was financial. The e-mail asked why spend over \$300,000 when the property down the street sold for \$200,000. This was 2 lots, so the City was not paying more than it had for the lot down the street. Properties in the Portland area were still appreciating and property values would only increase over time. If the City were looking to buy land in the future, it would cost even more.

- **Leonard and Christina Noakes, property owners on SE 55th Avenue**

Mr. Noakes said he had a rental unit at 9387 SE 55th Avenue. He had a question for the last 5 years because he believed he qualified for a reduced rate on his business license because his business grossed less than \$10,000. City staff made a number of mistakes that he questioned for the last 5 years in asking for information that was not even required to be filed by the IRS for that year. Mr. Noakes was asked for a copy of his 1040 and either Schedule C or E. Under standard business licenses none of that was required by anyone who had a business in the City. To qualify for the reduced rate he was required to submit those. He had done so in the past. He was yet to have a City employee point an item out to him on his 1040 that was in any way relevant to determine if he grossed \$10,000 on his rental property. He did not see why he had to provide those in order to get the reduced rate. He guaranteed he grossed less than \$10,000 on that rental property. He did not know how to approach it because he had

not had good relations with City staff. He got a letter in the past, which he did not have with him. He wanted to know what to do to get an answer.

Mayor Bernard recalled Mr. Noakes had talked with him before and recommended that the City needed to consider income verification requirements.

Mr. Swanson referred to Milwaukie Municipal Code § 5.08.030.B that set out business tax rates. The standard rate, which was applicable unless exempt or otherwise specified was \$100. A separate category called rate for taxpayers with gross income less than \$10,000 was \$40. The issue seemed to be how one proved the gross income was less than \$10,000. In the past it was a request for the 1040 and Schedule C or E. The City did not keep those in a file so they were not public record. The person issuing the license looked at the document to verify the gross income was less than \$10,000. It was not kept.

Mr. Noakes asked if it was the gross income of the business or was it the gross income of the individual.

Mr. Swanson replied it said, "rate for taxpayers with gross income of less than \$10,000." It did limit the language. It did not say the rate for the taxpayers of the business being licensed having an income of less than \$10,000.

Mr. Noakes understood he paid the same amount as a rental unit with one address as with 20 or 25 units.

Mr. Swanson said the definition of business was broad and said an enterprise or business, establishment, store, shop, activity, profession, or undertaking of any nature conducted directly or indirectly for private profit or benefit." It looked at location. If one had an apartment complex at one property as opposed to 1 house, the business license was the same for both even though the magnitude was different. Each FTE was an additional \$3, so that did not add up to much. The standard fee was \$100 regardless of the size.

Mr. Noakes understood size had no bearing. So in seeking a reduced fee, the City was privy to his 1040 and Schedule C or E. If he paid the \$100 the City was not privy. He was not a moneyed person so the \$100 seemed like a lot. In reading the code he understood it was the gross of the business. It was not stated that way. Oregon City and West Linn had exemptions for 1 to 2 houses for people in his circumstance. This was a passive activity for him. It was reported under Schedule E. It was not a business. In a letter from the city manager it said Mr. Noakes showed him a 1040 and Schedule C which qualified him. There was no information on that whatsoever that pertained to that property or the gross income of that property. He suggested the City might consider exemption for 1 or 2 houses like other municipalities.

Councilor Stone asked how many rental properties he had.

Mr. Noakes replied that he had 1 rental property. He had 2 adjoining properties on 55th Avenue. They were small trailers, and he had owned the properties since the 1960's. Suddenly a business license came up after the property had been rented over time and family members had used them. Now it was \$200. He gets \$400 to \$500 in rent a month, so it was grossly inequitable when apartments that have 30 units pay a \$100 business license. He was also subjected to examination of his tax forms. It was better for him just to pay the \$100. If that was the intent of the City Council then that was fine, but it was grossly inequitable. Mayor Bernard did not even produce a 1040 or a Schedule C or E. All he had to do was verify the number of employees and pay the \$100.

Councilor Barnes responded Mr. Noakes would not have to either unless he requested a lower rate. The City asks businesses to pay the \$100. If Mr. Noakes did not want to show other paperwork, then he would not get a reduction.

Mr. Noakes replied if he did not want to show something related to the business he was glad to show anything related to the business. The City was forcing him to show personal information that no other business owner had to show.

Councilor Barnes responded Mr. Noakes was asking the City for a lower rate. To do that he was asking the City to believe he was not making any money.

Mr. Noakes presumed that was related to what the City called a business. It was a passive activity. It was an investment, and he did not consider it a business. The City of Milwaukie considered it a business.

Councilor Chaimov asked Mr. Swanson if the City Council wanted to visit the issue of the propriety of license fees for small or passive businesses or both how that would be done.

Mr. Swanson suggested discussing it in work session and directing him to prepare an ordinance that reflected the desired changes.

Councilor Stone had gotten phone calls from people who had rental properties saying exactly what Mr. Noakes had about the inequities of large complexes with 30 units paying the same business license as those with 1, 2, or 3 individual house rentals. She thought it was a good idea to discuss this in work session and look at how it could be done better.

Councilor Loomis agreed. The intent of the code was to focus on the business and not the personal income.

Mr. Monahan said in order to interpret the code there would need to be some kind of Council direction supported by a record so staff could apply it uniformly.

Councilor Barnes understood there were a lot of 1-person businesses that feel they should not have to pay.

Mayor Bernard suggested it might be more equitable to charge based on the number of units versus reducing the fee. If one takes a write off, then it is considered a business.

Councilor Loomis thought the intent of the code was that if one made \$10,000 or less then one got a reduced rate. This was a business license and not a personal license. He understood Mr. Noakes was frustrated because it should be reflective of the business but not the total income.

Mr. Noakes took it to mean the gross of the business, but that was not what it said.

- **Ed Parecki, Milwaukie business owner**

Mr. Parecki addressed 2 issues one of which he brought up early December 2007. That was regarding the code. As we learned in the last session the code was the code and had to be adhered to. There was a resounding 'yes' from the entire City Council. The code was 3.15.015 that addressed the sale of City-owned property. He was specifically referring to the City-owned property at the Texaco site. None of the parameters of the code had been met. He wanted to know why that was. If one looked at the code and the North Main Village project none of the parameters of the code were met when that was sold or transferred. He also brought up the fact that Councilor Barnes made a statement about confusing the sale of the property and public area improvements for North Main Village. He showed the City Council and Planning Commission that North Main Village took out a \$738,000 loan – public funds – to fund

the public area improvements for that project. There was no misunderstanding, and no interpretation was needed. The people of Milwaukie were paying for those public area improvements and would continue to pay for them for another 15 to 20 years. If the code was the code and needed to be adhered to then a contract was a contract that needed to be adhered to. This was in reference to the memorandum of understanding (MOU) for the Texaco site. In the contract, paragraph 9 clearly stated without need for interpretation that if a purchase and sale agreement were not executed by November 30, 2007 this MOU would automatically terminate. No questions. No extensions. No paragraphs to refer to. That contract was now null and void. Yet the City Council seemed to want to extend it or continue talking about it. He did not know what was going on because there was not much going out to the public. He wanted the City Council to address those 2 issues and come up with an answer. He had waited a month and a half on the code that was a code that needed to be abided by. It was not being abided by. He did not like being singled out when there was a code that was clearly unconstitutional that he had to abide by. MMC 3.15 had a reference to Oregon Statutes. It was clear and safe to say constitutional. Yet the City chose not to abide by it. Let's get an answer so the public that was listening and wondering the same thing can get some kind of answer. He added the City Council "ain't seen nothing yet."

Councilor Loomis commented he supported the project, and it would get worked out somehow.

Mr. Parecki was moving forward with the project. He resubmitted an application last Monday. He worked out some kinks and removed the elevator from the project, which lowered the value of the improvements to below the 50%. He was now being assessed 10% for public area improvements even though unconstitutional. He would do those to get the project moving. He was now being assessed half of what he offered the first time, and now he would move forward.

- **Ronn Palmer, Milwaukie**

Mr. Palmer was the Ardenwald Neighborhood Chair and made statements in reference to the purchase of the park on Balfour. He highly encouraged the City Council to move forward and purchase the property. As he walked and talked with various people living in the Ardenwald Neighborhood pretty much everyone was in favor of it. They were looking forward to it. One of the arguments when the neighborhood asked the City to step in regarding the so-called residential treatment facility was the fact that this park was anticipated on the same street. He lived one block away. Access was easy and would serve hundreds of people that lived west of 32nd Avenue. There were already children playing in the street and people walking up to it. He was not sure where the notion of the forest came from; it was not a forest. There were 2 lots that were grossly overgrown with dead trees and massive amounts of blackberries, noxious weeds, trash, and garbage. All of that was removed, and it was starting to look good already. It was beginning to take shape. He and the Mayor would talk about traffic calming devices and speed bumps. This would benefit not only the Ardenwald Neighborhood but also the rest of the City. It would be a nice respite from both Portland and Milwaukie city life. Speaking for the majority of people in Ardenwald he highly encouraged the City Council to move forward and purchase the property on behalf of the entire City.

- **Dave Aschenbrenner, Milwaukie**

Mr. Aschenbrenner discussed the business license issue. It was his understanding it was on the business and not the person. When he paid for his business license, it was based on the business and not his personal gross income. That was his understanding and that was what he paid on in the past. The City Council needed to clarify the matter. When the policy was put into effect on the Budget Committee side of things he believed

it was geared toward the business and not the personal income. It definitely needed to be clarified.

A few years back there was a map of the City that showed all the neighborhoods that did not have parks. He believed this was one of those areas. He had no problem purchasing the property with the Metro greenspace money set aside for acquisition. The issue would come up in his neighborhood about the order in which the parks were being done, and his was on the top. His was not done yet. There was a process for doing the parks. The development of the park was one thing; the purchase of the land was something else. If you get a chance to purchase land, then he saw no problem using Metro greenspace money. When it came to the development of the park, he wanted to make sure things were kept in order.

- **Lisa Batey, Milwaukie**

Ms. Batey said most of what she had to say was in her letter. She was sorry they were being pushed to do this with no notice to the other neighborhoods that might have had an interest. She heard from several people who agreed with the points she made in her letter, but they had no notice to gather for this meeting. She noted the group was made up of disparate people in the views in general. She got responses from 3 people, but it was a wide range in terms of the spectrum of public opinion. A week ago last night at the Planning Commission she complained to Mr. Asher and Ms. Mangle during a discussion of the work plan that the City tended to overanalyze things. There tended to be too much public process. On Friday, Ms. Batey saw this major purchase using half of the Metro greenspace money for this property slipped into the consent agenda with no public process. She suggested Mr. Asher take some tips from Ms. Herrigel on how to slip things in and get things passed like the sign code. She felt for those who testified in support of this park, and she felt that same support would be heard in all the 7 neighborhoods in Milwaukie. People always felt they had to go too far. She measured the distances she put in her letter, and they were conservative estimates. It was less than half a mile from the Balfour property to Water Tower Park. It was right at .7-mile to Ardenwald Park. There were other neighborhoods, residents both children and adults who had to travel much further than that to get to a park. They also had to cross busier streets than 32nd Avenue. She referred to Mary King's e-mail about how much money should go to acquisition versus improvements to parks. Maybe \$400,000 was right and maybe even more than that was right. Maybe the whole pot of money should go to acquisitions but not for this one. Generally parks were looked at for 2 things. It was either for a playground or for a valuable greenspace. Here there was a playground just to the south in Hillside Manor. Even if one discounted Hillside Manor there were no Ardenwald residents south of this park. All of the hundreds of residents being served by a park west of 32nd Avenue were all north of this park. Keep in mind this park was in a corner of an area it was intended to serve. Ms. Batey discussed the greenspace value. To be honest the lot already purchased on Balfour might have more greenspace value than this property. It actually backed up to the greenspace behind Hillside Manor and the railroad. There was most likely a wetland at the back of that property. She walked behind Hillside Manor, and there was a big, lowered area at the back of the property. If the goal was greenspace there was a lot better greenspace the City should be saving its dollars to buy whether it was along Johnson Creek or Kellogg Creek. This park served neither need. Those were the needs identified by the Park and Recreation Board in its minutes. She thought something about the process was broken. Staff came forward and said, "let's spend half of the money on this." Of course the neighborhood where it was being spent was supportive. We count on these boards and commissions to be a check and balance, and none of them questioned or probed about how the other neighborhoods might feel about spending half the money on one project. That did concern her. If something was broken, then we needed to figure out how to fix it. This

was not a special property. This was not some high-value property. Things could come along where this money was better spent to serve the wider community or a less-served part of the community. She felt this was a very bad investment of the Metro greenspace dollars.

- **Lisa Gunion-Rinker, Milwaukie**

Ms. Gunion-Rinker was an Ardenwald resident. She thanked the City Council for moving quickly on the purchase of the residential treatment facility property. The neighborhood was grateful and thankful such a fast decision was made. Otherwise they would be in the same situation faced by Hillsboro right now. She also wanted to address the Balfour purchase for parks. This started in late 2006 in the neighborhood when they heard there might be funding. The west side of 32nd Avenue had been identified as an area with no parks. They formed a subcommittee of about 8 members that looked at 8 different sites on the west side of 32nd Avenue to determine the best area for a park in the neighborhood. They ended up with the Balfour Street property because it was large and easily accessible and had parking. Ms. Batey made salient points in her letter. She mentioned that Roswell Pond was a natural area in the neighborhood on the west side of 32nd Avenue but it was not accessible. It was not a place where kids could play. 32nd Avenue was a fairly busy street, and there were no crosswalks to get to Water Tower Park near 40th Street. The Neighborhood was happy to have another park, and she understood Ms. Batey's and Mr. Aschenbrenner's comments about wanting money allocated for their parks as well. In this situation the acquisition of land was more important because it would only go up in price. One would not have the opportunity to purchase land again. She did not think there was another area in the neighborhood for a one-acre park. It did have a lot of older trees, and she did not know if it was part of the original Scott's Woods. There was a forest there back in the day, but she did not know if these were part of it. These were definitely old trees, and it would be a nice natural area, greenspace for the neighborhood. She did not know anything about the price of the property and did not know how much was allocated. She felt it should take precedence over improving other parks.

Councilor Barnes asked what the neighborhood would like to do with the parcel if it were purchased.

Ms. Gunion-Rinker thought the neighborhood would have to do something similar to the Lewelling Park by applying for grants for improvements. There would be a lot of volunteers, and they wanted to keep it a natural area with the existing native plants and trees. They would not take money from other neighborhoods that wanted park improvements.

- **Michelle Capisos, Milwaukie**

Ms. Capisos lived on Balfour, and although she and some others no longer had young children they knew it was a good thing to put a park in that location. There were a lot of children on that side, and traffic on 32nd Avenue had gotten worse. To get to Water Tower Park there was no crosswalk and no sidewalk with a lot of parked cars. They had to go into the middle of the street sometimes to get around the cars. It was not really the safest area for them to walk to get to Water Tower Park. The little kids did not have any place to play on the west side of 32nd Avenue, and she and others really wanted the park there. People were really excited and were surprised there was opposition. She understood that everyone would like to have something like this in their neighborhood. To get to any of the play areas for little children it was not really that safe. Having it on this side of 32nd Avenue would be much safer.

Mayor Bernard had a question for Mr. Palmer. The City recently bought a piece of property down the road and was looking at an easement for a stormwater pipe. He asked if that property would be adequate for the park.

Mr. Palmer replied in his personal opinion the upper Balfour property near 32nd Avenue would be more appropriate for a park than the site where the residential treatment facility would have gone.

Ms. Gunion-Rinker added the land was similar in size; both were about 1 acre. The only difference would be that one was next to the railroad track, and she did not know how flat it was. The one on upper Balfour was relatively flat. She did not know if there was a Brownfield issue on the lower parcel, but the upper property passed its test.

PUBLIC HEARING

A. Milwaukie Municipal Ordinance Amendment ZA-07-02, Proposed Amendments to the Milwaukie Municipal Code (Title 14 – Signs and Title 19 – Zoning)

Mayor Bernard called the public hearing on the legislative Zoning Ordinance amendment initiated by the City to order at 8:03 p.m. The purpose of the hearing was to consider an ordinance to adopt proposed amendments to the Zoning Ordinance, which included Title 14, Signs and Title 19, Zoning

Mr. Monahan reviewed the procedure. No members of Council declared any potential or actual conflicts of interest as defined in ORS 244. No member of the audience challenged any Council member's ability to participate in the decision.

Ms. Mangle provided a brief overview of the proposal. The code amendments were grouped by degree of difficulty (A, B, or C) that included housekeeping changes that were relatively simple and those which were more complex. This was an effort to work on A-type code changes and defined as simple and did not affect the meaning or intent of existing regulations. They clarified and corrected miscellaneous subsections of the Code to improve its administration without changing basic policy or intent. One of the rules was that if there were any research or discussion even at staff level, it was of the list in order to use resources on the Transportation System Plan (TSP). These could be thought of as code changes that only planners and lawyers loved. This was the first in a series of packages that would come to the Council that included public notices, State and Metro approval, and Planning Commission hearings.

Mr. Fraley reported at its hearing on November 27, 2007 the Planning Commission recommended Council approval of the Title 14 and Title 19 amendments. As part of the Planning Commission's 2006 – 2007 work plan staff was directed to prepare a list of "paramedic" Code changes designed for housekeeping amendments. The Type A code amendments were the first in a series of amendment packages that will come to Council throughout the year. The changes before the City Council at this hearing did not affect the meaning or intent of the existing regulations so were not policy changes per se. The proposed amendments for adoption at this meeting were designed to do 3 things. The first was to reduce conflict between the regulations within the zoning code with other sections of the Municipal Code. They would clarify language that made understanding and implementing the regulations difficult not only for staff but also the public. The third intent was to change incorrect references to other sections of the Code. Overall there were 15 categories that fell within these housekeeping amendments. These included externally illuminated awning signs and clarified such signs were subject to design review and approval by Planning Commission through the minor quasi-judicial procedure. The second was to clarify adjustments to the sign code may be considered and granted by the Planning Commission. Third, the definition of "front lot line" was

revised to include through lots in the same category as corner lots. Fourth, the “rear yard” definition would be revised to clarify that it was measured at right angles to the rear lot line. Fifth, transposed definitions for structured parking and temporary transitional parking were corrected. Sixth, “average” was proposed to be removed from lot depth requirements in use zone standards and eliminate redundancy in the definition. Also in use zone standards the amendment would change to minimum density standards to clarify that each residential district required a minimum development density and a maximum permitted density based on the lot area.

Ms. Mangle explained the density standard itself was not changing. It would clarify redundant and confusing code language.

Mr. Fraley continued with issue 7, which related to major exterior alteration design review and clarified that the Planning Commission was the decision-maker for minor quasi-judicial applications and that the Design and Landmarks Committee (DLC) was a “committee” and not a “commission.” Number 8 had to do with water quality resource regulations and corrected a reference and clarified that the corridor width was applied to the outer boundaries of water features such as the edge of a wetland and both banks of a watercourse. Number 9, the Historic Preservation Overlay Zone, staff proposed to remove the definition of “committee.”

Ms. Mangle added the DLC was not referenced anywhere else in the section and did not have a formal role.

Mr. Fraley said in number 10, the demolition appeals process, staff proposed to replace the incorrect code section reference with the correct code section. There were 2 proposals in the clear vision standards. The first changed the section to include the correct chapters, and the second revised the section to specifically reference Chapter 12.24 of the Code and Section 19.409.2.E of the zoning code. Item 12, off-street commercial vehicle parking, the amendment would add reference to the definition of commercial vehicles found in Chapter 10.04.090. The category of height exceptions for conditional uses was proposed to be removed. The Home improvement category exception removed embedded language from the purpose statement and that created a new subsection of Chapter 19.707.2 to clarify a single family attached or detached home would qualify for this exception. It would make it more clear for an applicant so they would understand that they would have to qualify for either / or but not both. Finally, there was a typo listed as a type H process and there was no such thing. The amendment would correct the review procedure from a type H to a type II process. Under the Transportation standards they corrected a reference to transportation facility adequacy requirements.

The City Council may approve the amendments as proposed; approve the amendments with modifications; continue the hearing to allow for more discussion; and not approve the proposal and send the proposed amendments back to the Planning Commission for discussion.

Correspondence – None

Testimony in Support – None

Neutral Testimony -- None

Testimony in Opposition -- None

Staff Report and Recommendation

Councilor Chaimov asked why were staff was retaining the semicolon in the proposed changes to section 19.707.2(a) line 2?

Councilor Stone had a question about page 10. It looked like it was something that was added.

Ms. Mangle said if one looked at the previous page there was a whole section that was being deleted from 19.707.1. This was an example that the policy was already there, but if the applicant was looking at it the criteria were stated. It was embedded in the purpose statement, so they moved it out.

Councilor Stone asked why the Design and Landmarks Committee (DLC) was marked off in the variance language. It said they could grant a variance in the first sentence but cannot in the next sentence in 19.701. She saw the change from a commission to a committee on the first line. Should it be left in there? She struggled with that when it changed from a commission to a committee and asked how that committee was doing?

Ms. Mangle replied the Planning Commission was asking the Committee for various things and was a very active.

Mr. Fraley said the word “authorize” did not denote that they had the authority to approve a variance. He thought the thinking was that the DLC could authorize a variance as a recommendation to the Planning Commission, but not approve one.

Councilor Stone said she liked that the word “variance” was replaced with the word “adjustment.”

Ms. Mangle said that was something that they primarily did in the sign code project last year. There were a few code sections where it was overlooked.

Mr. Fraley understood the Council thought the word “authorize” was clear. It may have been that the Design and Landmarks Committee was inadvertently stricken and replace with “committee.”

Mayor Bernard said it looked like DLC ought to be removed from the first sentence and then leave out the strike in granting the variance.

Councilor Stone said it needed to be clarified that the DLC had the authority to recommend a variance to the Planning Commission.

Mayor Bernard said his proposal was the Planning Commission or planning director may authorize a variance and in the next sentence add “the DLC may recommend such a proposal.”

Ms. Mangle said they would drop that section and put it in the next package of code amendments.

Close Hearing

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

Council Decision

It was moved by Councilor Barnes and seconded by Councilor Loomis for the first and second readings by title only and adoption of the ordinance amending Title 14, Signs and Title 19, Zoning – File ZA-07-02 and removing amendments to 19.701 Variances. Motion passed unanimously. [5:0]

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

The City Recorder polled the Council: Mayor Bernard and Councilors Barnes, Chaimov, Loomis, and Stone voting ‘aye.’ [5:0]

ORDINANCE 1977:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING TITLE 14 SIGNS AND TITLE 19 ZONING, TO CORRECT AND CLARIFY THESE ORDINANCES TO MAKE THEM MORE EFFECTIVE (FILE #ZA-07-02) WITH THE EXCEPTION OF 19.701 VARIANCES.

The City Manager read section 19.701, Variances in original form two times.

Mayor Bernard read the LUBA appeal information.

Mr. Swanson made note that there were a couple of scrivener's errors in the proposal that they were allowed to take care of. He notified the City Recorder of the errors.

B. Motion to Consider Continuation of Amendments to Milwaukie Municipal Code (MMC) Section 19.321.7 and 19.321.3

Mr. Swanson said this was a monthly process that began June 2006 when amendments were considered to 3 sections of the code. Council adopted the Comprehensive Plan changes that provided for the Kellogg Treatment Plant being a nonconforming use and required its removal by December 31, 2015. That was in the middle of the Citizen Advisory Council (CAC) process, so it was thought best at that time and had continued to be policy of the Council to consider those amendments. Those considerations will be brought up monthly so that Council may adopt them in the future.

It was moved by Councilor Barnes and seconded by Councilor Stone to consider continuation amendment to MMC 19.321.7 and 19.321.3 to a date certain of February 19, 2008 regular City Council meeting. Motion passed unanimously. [5:0]

Mayor Bernard called for a brief recess.

OTHER BUSINESS

A. Authorize the City Manager to Sign a Vendor Contract for Photo Traffic Enforcement

Chief Kanzler provided the staff report asking Council to adopt a resolution authorizing the City Manager to sign a contract for photo traffic enforcement with Automated Computer Systems (ACS). He said they were piggybacking on the City of Portland contract. The City was getting the rate per incident at Portland's High Volume versus what we would get if we went individually.

Mayor Bernard asked if the locations had been selected.

Chief Kanzler said they would do a last minute collection of data for validation, but the two locations coming to mind were 99E and Ochoco and Hwy 224 and Oak, which represented 50% of all the accidents that happened in the City, and usually were a result of running red lights and high speed. Other locations could be added.

Councilor Barnes thanked Chief Kanzler for all of his hard work at the legislature to get the bill passed.

Chief Kanzler said this was the third legislative session where he had testified, and he appreciated the support of Sen. Kate Brown and Rep. Carolyn Tomei as well as Mayor Bernard and Mr. Swanson. He noted the photos of the 2 wrecked Milwaukie police cars turned things around.

Councilor Loomis asked if this contract was the red light or the van?

Chief Kanzler said there were two modes. The signal enforcement would be at specific locations, and the van was mobile and had to be moved every 4 hours. The van would work school zones and speeding on neighborhoods as well as Hwy 224 and Hwy 99E.

It was moved by Councilor Barnes and seconded by Councilor Chaimov to Adopt the Resolution Authorizing the City Manager to Sign a Vendor Contract for Photo Radar Traffic Enforcement with ACS, Inc. Motion passed unanimously. [5:0]

RESOLUTION NO. 11-2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT FOR PHOTO TRAFFIC ENFORCEMENT WITH ACS, INC.

B. Approval of an Amended Memorandum of Understanding with Metro and Main Street Partners regarding Redevelopment of the Town Center Site

Mr. Swanson said that Mr. Parecki asked a couple of questions about the section of the Code having to do with the property disposition, and the City Attorney would have a response at the February 5 meeting. The other question was, Is a contract a contract? That had to do with the date by which the purchase and sale agreement was to be executed or the contract was null and void. A contract was a contract when the 3 parties mutually agreed. The original deadlines did not work, and if council agreed with what was being proposed tonight it would constitute mutual agreement of the 3 parties. That constituted a contract.

Mr. Asher said was requesting approval of an amended MOU with Metro and Main Street Partners regarding redevelopment of the Town Center Site. Mr. Kemper and Mr. Whitmore were there to represent the partners. The last time council heard about the project was August 24 and at that meeting council authorized the City Manager to execute a MOU that laid out all of our intentions with how we move toward disposition of the site and the development of the site that would be accomplished by Main Street Partners. In the late summer 2007 there was a dramatic turn in the condo market globally. As a result, the only party to sign that agreement was Mr. Swanson. When he inquired about the delay he was told it was about the housing market and Main Street Partners portfolio. There was a certain amount of re-evaluating because of the market. They continued to meet to see if there was still a team and a project. We do still have a team and project. The project management group was represented by 3 parties and is interested in getting to a signed MOU according to the same terms. The reason they couldn't sign the previously authorized MOU was because the schedule of performance had fallen out of date. Those dates were put in there to hold the parties accountable to a certain schedule. It was not a formal contract and wasn't executed so all of the dates had moved. They do need a new agreement with dates and asked for authorization to sign again.

Mr. Kemper remained committed to the project. They were pushing for a more relaxed schedule, and the 3 parties had agreed to that schedule. Their concern had been the state of the housing market, and many projects had stopped. Council got a taste of that from Mr. Johnson at the work session. His comments were really focused on Milwaukie. It was an interesting note that the 2120 project on Belmont was nearing completion and had no sales. It was a large project, and the market had changed to the negative. It would turn around, but it had to bottom out before they could spend the money. The intent was to move forward with the code amendment process and then to

move forward with the design and construction of the project. They were very much committed to the project but wanted to move forward at a slower pace.

Mr. Whitmore, Metro, said they see external forces stronger than they are. With increased construction costs and a decrease in the market it would not be prudent to launch a project, but it was prudent to get it into position. They just went through a long period of a strong market probably followed by a few down years. We needed to be ready to launch this project at the right time. Metro fully supported the amendments.

Mr. Asher said the new schedule amounted to a one-year delay. They had hoped to break ground in the summer. That would not happen, so the Farmers' Market would be able to use the site for one more season. They hoped to be able to start construction July 2009. The work in next 6 months would focus on the code amendment package. This was an intensive project for the planners, and it would be a request that would come to the City from Main Street Partners. Staff would help facilitate that process along to get the application to the Planning Commission. The Planning Commission would hear it and make a decision followed by a Council decision. It was their hope to have that request from Main Street Partners next month and before the Planning Commission and City Council next summer. There were various amendments that had to get packaged together and a process that Ms. Mangle had described before. They felt like this was work that had to happen and was scheduled to happen before the purchase and sale agreement. They had not changed the order of activities, but they relaxed the schedule to allow time for the market to recover.

Councilor Chaimov understood from Mr. Asher that the MOU had not been entered into. What would be executed was a MOU that included the adjusted dates.

Mr. Swanson said he executed the original MOU, but it was not executed by any of the other parties.

Mr. Asher explained they were not amending anything because it was not executed in the first place. There was a new resolution that updated the last Council action.

Councilor Chaimov understood there was an agreement with Metro to develop the site.

Mr. Asher said yes and they referred to that as the IGA.

Councilor Barnes asked Mr. Kemper why after hearing Mr. Johnson was he doing this with the state of the housing market. What did you see and why were you doing this now?

Mr. Kemper said it was a question he continually grappled with. First, they made a commitment to the City of Milwaukie. Things initially that attracted him to Milwaukie remained the same. Milwaukie had one of the most beautiful waterfronts in the entire Portland metro area; the city is 10-minutes from downtown Portland and light rail would be here in a number of years. Those things were why he was sitting there tonight. The design on the table took advantage of what was here. The intent was to remake Main Street and take it back to its former glory before the Clackamas Town Center was built. They tried to create a scale that would fit into that cozy Main Street feel then do the bigger condos with views of the Rive. That sold the project and made the economics work. He would commit to moving the project forward. The market had to turn, and they would do things to make it more competitive in the market place. In the long run it was a project that needed to be done, and that was what Main Street Partners was about.

Councilor Stone had a question regarding the purchase price of \$250,000 and went on to talk about the look back clause. What was the dollar figure projected to be distributed to the City and Metro?

Mr. Asher answered he projected \$0. That look back clause was if the developer was able to do better than anticipated. Instead of pocketing the profit the developer would distribute it to the partners. He thought the prudent thing for the City to do was to consider the base purchase price and not have the expectation that the project would over perform. While he liked that clause and the agreement he looked at \$250,000 as the purchase price because there was no reason to expect it would out perform the pro forma.

Councilor Stone said the purchase price of \$250,000 seemed low for that property.

Mr. Asher reminded Councilor Stone it was the highest of the 3 proposals.

Mr. Swanson said the City and Metro sought competitive proposals and received 3. Main Street Partners was the most lucrative in terms of the purchase price. It was difficult not to look at it in that context. That was the best price they got in the process.

Mr. Whitmore said the philosophy was to get the best project for Milwaukie. Even if that had not been the highest purchase price it still could have been the recommended project to come forward because they were looking for the long-term investment in the community. They were aspiring to try and create something in Milwaukie that was more than what the market would be. If you wanted to sell that for a car wash or some use like that and not compatible with the downtown vision the City could have gotten a lot more money for it.

Mayor Bernard added that Olson Bros. had a purchaser that wanted to buy it for a gas station and grocery store, and instead there was an opportunity for Metro to step in and purchase the property. It was discussed extensively that it provided an opportunity to grow the downtown vision.

Mr. Whitmore said Metro believed in the site, community, developer, and the project. They needed to be patient with the market and see it through.

Mr. Asher said that Mr. Johnson spoke about the concept of achievable pricing that allowed the developer to build the form, which in this case was mixed-use. The cost of the land was part of the cost structure, and as the land cost went up that achievable cost was impacted. There needed to be some intervention and this was how the public could assist.

Councilor Loomis asked if any of the terms in the MOU were binding. He had reservations about some things.

Mr. Asher said that none of the terms were binding. They would proceed so everything was on the table and all parties had an understanding of what each would do. If there were concerns about any of the terms, depending on how grave they were, they did not want to have any expectations to resolve anything further down the road. The purchase and sale agreement was much more about the real estate transaction. Now was the time to be clear about what we would get in exchange for the land sale and benefits to the community.

Councilor Loomis said he was concerned about the 5-stories, price, parking, and vertical housing tax abatement. The reason he did not bring those up earlier was because he understood there was time to work out those details.

Mr. Asher said there was time to consider and actually vote on the height. At this juncture it was an important aspect of the project. His test would be was there openness to hearing all of the evidence and hearing from Planning Commission, Metro, DLC, the developer, and whomever else to make the decision when the Code amendment came to the City Council. There was time on that issue if there was a

willingness to consider the evidence. If you were already certain that it was the wrong thing, then we should know that now.

Councilor Loomis said it seemed like with North Main Village we had issues of people parking all over the place, and the City put up parking restriction signs. He wondered if there was a way through DMV to find out about the number of vehicles owned by the people living there. Limiting it to one parking space per unit sounded good but was that the way people actually lived.

Mr. Kemper said his perception was that the North Main Village parking issue had settled down. The position would be to build 1:1 and no less. They expected that people understood they were buying into an urban community. A second car was a luxury and not the norm. If they have a second car they needed to make other parking arrangements.

Mr. Asher said they had made some improvements in the way parking was managed. There were a couple of things pushing us toward a lower parking ratio downtown. One was a Code. It did not call for surface parking lots, which was a cheaper route. Instead of developing a full block, you use interior parking, which was expensive and did not fit as much parking. You simply build out a corner of the block and leave the rest of it open for a parking lot, and that was not the direction called for. Although the Code did not bind to a 1:1 ratio they were pushed in that direction. Our Metro partner had the same goals. If we went back to Metro and said we want more than 1:1 they would no longer be that interested. The IGA called for a target of one space per residential unit. The Transportation System Plan (TSP) pushed toward multi-modal in the downtown. All the policies in place said that was the right thing to do.

Mayor Bernard said we just voted unanimously to adopt the TSP that included a downtown parking strategy. The parking problem was much better than it used to be. He was open to the discussion of the 5th floor.

Mr. Swanson said Council was going to be considering a request for amendment by the developer. All of the discussion outside of this forum was in the nature of complaints about the 5th story. That did not allow for the discussion to take place in a structured environment that allowed for all points of view. The City Council would be the ultimate decision makers. He was concerned that when we become too specific about height that we were not thinking about the process that needed to take place.

Mr. Asher said regarding the vertical housing tax abatement the MOU said that Milwaukie would pursue creation of its downtown vertical housing tax abatement zone for the project site. That was so the developer could apply for the abatement, which would provide a partial tax exemption for the condo owners. That was done at North Main Village. It was another way to help the developer sell the condos. It was a way to support the project without putting down the cash. It was something that the developer asked for in his proposal, and it was something they were agreeing to pursue. Everything on this project that could help they felt should be brought to bear to finish in a quality manner.

Mr. Swanson the vertical housing tax abatement benefited the condo owner because it affected the cost over a period of time. A lot of the time it was discussed as a tax benefit to the developer, but it related more to the sale. It gave an incentive to the buyer and to effectively increase the price.

Mr. Whitmore said when the State created the program the notion was that vertical mixed-use was not occurring in most areas, and it was a desirable thing. Only the portion above the ground floor could be abated. It was a different kind of philosophy than other kinds of abatements, and he thought it was a sound philosophy. All the other developers asked for that same tool.

Councilor Loomis said from what he heard it was like buying a car. It went into the sale price of the unit.

Mr. Kemper said that made the project feasible. It was an economic issue for the developer.

Mr. Asher said they talked about the purchase price, and the City was clear in the request for proposals (RFP) what the category for selection would be. Business deal was one category, but it had its own category and got its own look. They evaluated 3 proposals and which ones made the best business offer. In that category there was no contest. The other offers were nowhere near \$250,000. We need to keep in mind this was not a market transaction. If you were to get the property appraised it would be valued at something higher but the appraisal would assume that the buyer would be able to build anything on the site. This was not unusual at all and it was one of the ways in which governments and public entities help this kind of development happen. It had to do with achievable pricing and interventions. The committee and council had said pretty consistently that we want high quality materials, sustainability, meeting spaces and plazas. A mixed-use project where they were building housing over retail with structured parking is an expensive type of project. The market could not support that kind of project on its own. There was a reason why you don't see those type projects in downtown because, as Mr. Johnson explained, the market couldn't support that type of project on its own. We had a certain set of expectations about the project. If there were lingering concerns about the project it was good to hear about those.

Councilor Stone had many of same concerns as Councilor Loomis. She was also very concerned about the market and viability of constructing the project. We looked at North Main Village time and time again and it kept costing more and more and they kept putting more money into it. The portion of the North Main project that she was not in favor of was the affordable housing piece, and as it turned out we probably did not need to put that in there. She was concerned about the Code issue that was raised in Title 3, Revenue and Finance. It seemed like the cart was before the horse. A hearing before the Council had not happened. She supported the project from the beginning but had reservations because of the public outcry. This was a time to be honest. You were holding things here in the balance in terms of the development going forward. She could not support the way it was written. Until the Code was interpreted they could not be selling anything.

Mayor Bernard disagreed and said they had a public hearing and discussed the property extensively, and it was very open to the public. A group was formed and they selected this project. He would be open to consideration of all of the proposals, and he looked forward to this coming to the City Council in the future.

Councilor Barnes said her only concern was that this was a very difficult time for every market across the country. It was so unknown at this time, and that concerned her. The project itself could be a great one but not when things were not more solidified financially.

Mr. Kemper shared the concern. He addressed the sub prime issue. That was primarily driven by extremely lax borrowing standards. He would proceed cautiously, and they would not spend a lot of money until the market was right. He made a commitment to move this plan forward, and Main Street Partners' plan was to make an application for the Code changes they wanted to implement the project. That process would take 4-6 months. The forecasts said that by mid-2008 the market would start to improve. If that was true then the expectation was that they would spend dollars after getting the Code package approved.

Councilor Barnes said some of us did not believe it would improve until January 2009.

Mr. Kemper said even if it were January 2009 it would take a year to build the project.

Mr. Asher said according to the schedule they would break ground in July 2009 the condos will be in market place in July 2010. They were 2.5 years away from trying to sell the condos, and while he had the same concerns he was glad the developer was willing to do this. The City was not spending money to develop the property. They had the hopes that a developer could spend money up front. He felt they should try to keep moving through the 2-year process, and there was not a lot of risk in that if the developer felt like staying in the deal.

Mr. Swanson said often times in situations like this a lot of people look at a developer and think they are making tons of money. In this case he would like to keep Mr. Kemper on the hook, and if recovery begins in 2009 we want the process to be started. We do not want to start the process then. Unfortunately, the last time around that was where we began our process. When employees are being cut that was when you increase your training budget. When we are not expending any funds it was a desirable position to have a developer pursue it. There was no assurance he would stay around, but at least there was chance that we could begin whatever recovery with something in place by Mid-2008 or January 2009 when everyone else would be competing for something. He saw signs all over the place of a difficult economic situation, but he believed to the extent they can keep him interested they were positioning themselves for the beginning of the recovery.

It was moved by Mayor Bernard and seconded by Councilor Chaimov to adopt the Resolution Authorizing the City Manager to Execute a Memorandum Of Understanding with Metro and Main Street Partners for Redevelopment of the Town Center site.

Councilor Chaimov said he shared a number of Councilor Loomis's concerns about the project, but it was a project into which the City had entered into an agreement with Metro, and we had obliged ourselves to do our best to live up to the agreement. The MOU and letter of intent was a step in that direction, and he hoped as we moved in that direction that many of the concerns Councilor Loomis expressed could be addressed.

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

RESOLUTION NO: 12-2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH METRO AND MAIN STREET PARTNERS FOR REDEVELOPMENT OF THE TOWN CENTER SITE.

C. Balfour Property

Ms. Herrigel said she met with City Council October 2007 in executive session to request approval to pursue these properties. Based on Council input at that time the City made an offer contingent on an appraisal and environmental assessment. The appraisal was done in December 2007, and the Phase 1 environmental assessment results were received last week. It had been the sellers wish to complete this transaction swiftly since it had been several months since the process began. She asked that the resolution be added to the agenda for this meeting on Thursday of last week. She did not request that it be on the consent agenda, but accepted the offer when suggested. She had no intention of slipping anything by but having no notice of opposition at that time she opted to minimize the amount of time it would take on the agenda. To the issue of public process she went over the history of the City's work on

developing the list of local share projects for funding with Metro parks funds. The Ballot measure and funding resulting from it was for acquisition and enhancement of open space. It was never intended to provide funds for active parks and recreation facilities. It was intended and still was to be an open space and acquisition oriented ballot measure and funding.

Ms. Herrigel went over the public input. On January 6, 2006 she attended the neighborhood leadership meeting to provide them with an update of the priorities that the PARB and staff were proposing for local share funding. At that time she said to them there were 2 acquisition projects that they were really looking at in the City. One was west of 32nd Avenue and the other was south of Lake Road. In 1990, Charlene Richards had identified those two areas and others in the City as being underserved with parks. Other areas that had been identified at the time included Hector Campbell and Lewelling. Those two areas had acquisitions in the 1990's. The other projects were enhancement projects of property already publicly owned. The 3 enhancement projects she proposed at the time were Homewood Park, Spring Park, and Riverfront Park. These projects were in the hopper at the time, and she thought it only fair to complete them. She tried to distribute them across the neighborhood associations so that it was a fair and equitable distribution. In January 2006, she took those same priorities to the City Council with a report on the upcoming ballot measure. She listed the same priorities with priority 1 being acquisitions and 2 being enhancement projects and that included the properties west of 32nd Avenue and south of Lake Road. In February 2006, staff did a report to Council on the proposed list of local share projects. That was to go on the ballot measure so that when it went out to the voters they would know what each of the jurisdictions was likely to get and be funded by the ballot measure. The 2 acquisition projects were on the ballot. She then went to Park and Recreation Advisory Board (PARB) on February 20, 2006 and reiterated that discussion and the general consensus on PARB was to recommend that staff use the original list of projects and add to it if the funding went further than anticipated. In November 2006, voters approved the bond measure; she went back to the PARB on November 28, 2006 and said they needed to get back to the priorities and make sure this was really what they wanted. The notes stated that the PARB supported the acquisition as their highest priority and that the underserved areas were the highest priority in the City and that staff should coordinate with the Neighborhood District Association (NDA) up front before buying any property. At that point she spoke with the Ardenwald NDA but did not attend its meeting. She went to the Lake Road NDA and talked to them about various properties in their neighborhood and started to identify them. The Ardenwald NDA formed a subcommittee that in April 2007 toured identified park properties. They identified 2 top priorities: 1 was the Balfour properties and 2 was a property on Roswell that abutted Springwater Trail. In May 2007, staff submitted a list of park projects to Metro. That list included 2 land acquisition projects, west of 32nd Ave and south of Lake road, for a total of \$400,000. The 3 projects identified for enhancement with the remainder of funding were \$50,000 to Homewood, \$80,000 to Spring Park and \$120,000 to Riverfront Park. Metro said that looked fine and sent a draft IGA, which she brought to City Council on August 2, 2007. The staff report to Council had those same projects listed with those same amounts of money. The City Council approved that IGA unanimously and the IGA was approved. At this point to change the allocation of funds from enhancement to acquisition would require the City Council to amend the resolution and IGA with Metro. On October 2, 2007 she attended an executive session regarding the purchase of the Balfour sites. Based on that session she went forward on the negotiation with the property owner. Staff did offer less than the asking price and that was the price that was settled on. The appraisal was higher than what was offered. The purchase of the property would not impact any of the enhancement projects listed. It would make it more difficult to purchase property in the Lake Road area, but staff had

kept the Lake Road NDA apprised of the changes as they had went a long and was working with them to identify property and find additional funding for that project. Staff was also working with the Hector Campbell NDA to revise the final Homewood Park design. The land use approval was several years ago and in order to put it out for an RFP in March 2008 she would have to modify it slightly. Staff was also working with Island Station Neighborhood on Spring Park. There was a very sticky parking situation, which they were aware of, and heard about when they did the land use process. They would need to figure out how to put in 3 parking spots. They had a railroad right-of-way and City street right-of-way and they were in negotiations with the railroad about what they could use for free and what they would have to pay for. When they get that worked out they would know how to modify that plan and whether it was administrative or if they would have to go back to the Planning Commission. It was a difficult project, but they were moving forward and they had a staff person dedicated to it. She was also working on the Riverfront Park project. They had submitted 3 land use applications as of last week and they anticipated submitting grant applications in March or April to the state parks and recreation department for phase 1 funding. The design is 30% complete and when she gets the approval she would move forward with the final design.

Ms. Herrigel said as far as parks were concerned nothing was on hold in the City. The result of not approving the resolution would be to jeopardize the real estate negotiation they had been working on for the last four months. They had spent money on the appraisal and on the environmental assessment. They would need to re-evaluate the IGA with Metro and the City's priorities in the IGA with them in order for us to change the allocation of funding for the projects.

Mr. Swanson added putting the item on the consent agenda was his idea and responsibility. He made the judgment that this was something that appeared to him to have moved along with a great amount of consensus. If anyone felt this was slipped on the consent agenda to escape scrutiny, the whole project had been through a number of hearings. It was his judgment and he did so based on the fact that this had been talked about a number of times. Right after the City joined the district that we started creating another parks department, which had always been something of great amusement to him. We had a bigger inventory than when we joined the District. It was a puzzling thing to figure out how we are ever able to do it all because we have a smaller staff with no equipment. He was involved in this one and he understood David and Lisa's arguments. There had been a great deal of effort going into making this happen. We had relied on Metro to do a lot of work in terms of putting the paperwork and deal together. If there was any responsibility on issues regarding not vetting this sufficiently they were his. He understood there had been a great deal of consensus.

Councilor Barnes said the only reason she asked to have it pulled was when they had an NDA chair voicing concern over something getting pushed through on the consent agenda. Ms. Herrigel brought up valuable points that she was sure people had forgotten about. She said her work was tremendous and it was in no way a reflection of her or her work. She had not meant to offend anyone.

Councilor Loomis said he had been on PARB and admired Ms. Herrigel for being straightforward. She answered all of the questions he had and jogged his memory. Sometimes things take so long that you forgot.

Mayor Bernard thanked Ms. Herrigel for jogging his memory. It was a great piece of property, and the neighbors seemed to like it. He thought that the process was very open and very clear. It had been in front of Council numerous times and he looked forward to voting in favor.

It was moved by Councilor Barnes and seconded by Councilor Loomis For Approval of a Resolution Approving the Purchase of Real Properties located at 3039 and 3103 SE Balfour St. Motion passed unanimously. [5:0]

D. Intergovernmental Agreement for Imposition of a Vehicle Registration Fee

Mayor Bernard introduced a letter from Ted Wheeler, Multnomah County Chair. They were proposing a vehicle registration fee increase in an IGA. There was some debate whether it was really true, that they had to come to all of the cities that they intersect and also, West Linn, Lake Oswego, Gresham, Hillsboro and ask them if it is okay if they put on the Multnomah County ballot for the Multnomah County voters to vote on a vehicle registration fee increase to help pay for the Sellwood Bridge replacement, and to also help with some of Multnomah County bridges. He said they would not be voting on it and it would not increase our registration fees, but it allowed the Multnomah County voters to make that decision. He would like to suggest that Council allow the City Manager and attorney to review the IGA presented by Multnomah County and if they felt it is okay to sign that the mayor be allowed to sign it.

Mr. Swanson said the statute 8.01.041, which they stated required a lot more cities than it does. It required 2 things. First it provided that money from a registration fee that was established by a county ordinance voted on by the people shall provide of a payment of at least 40% of the money to cities within the county unless a different distribution was agreed on between the County and the City. One thing it had to provide for was mutual understanding that no distribution was to be made to cities and that 100% of the revenue derived was to be used for one project. The second thing it required was that it must enter into an IGA with the governing body of any overlapping district and all counties, districts and cities with population of over 300,000, which we were not. He went on to read the rest of the statute, which said the second thing to be required was that we acknowledge that they had consulted with us and that as long as and IGA provided those 2 provisions that the Mayor be allowed to sign it. There would be a vote, but his understanding was that we had no voters in the Multnomah County portion of the City.

Mayor Bernard said that Mr. Wheeler was going to come to the City but had scheduling difficulties.

It was moved by Mayor Bernard and seconded by Councilor Stone to allow the Mayor to Sign an Agreement with Multnomah County relating to the Vehicle Registration Fee they Propose to put on the Ballot to Fund the Sellwood Bridge Project as long as that IGA dealt with 2 issues. The 40% allocation to City and that it acknowledged that the County had consulted with the City of Milwaukie on the Vehicle Registration Fee. Motion passed. [5:0]

E. Council Reports

ADJOURNMENT

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

Mayor Bernard adjourned the regular session at 10:09 p.m.

Pat DuVal, Recorder

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION

February 5, 2008

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

Council Present: Mayor Bernard and Councilors Barnes, Chaimov, Loomis, and Stone

Staff Present: City Manager Mike Swanson, Community Development and Public Works Director Kenny Asher, Planning Director Katie Mangle, Resource and Economic Development Specialist Alex Campbell

Library District

Mayor Bernard welcomed Lynn Peterson, Clackamas County Commissioner, Gary Barth, Deputy Director of Business and Community Services and Dan Zinzer, Director of Business and Community Services.

Commissioner Peterson started by going over the history. In 1991, the County passed a 3-year levy at \$.29 per thousand and then 3 years later it went back out for a levy for \$0.35 per thousand. In 1997, at the end of that levy, they went out for a 5-year levy and it was approved by the voters, but failed to meet the double majority requirement and because of the timing it ended up getting rolled into the General Fund because of Measure 47. It did not go away even though it was not approved. Clackamas County decided to extend the library funding for 5 years. They did that and decided that over those 5 years they would develop a long-term strategy.

They were now in the second five-year extension and were looking at more specifics. The reason that it had now become an issue was because the County was losing timber receipts and there was a low probability if any that they would receive any more federal money to backfill the loss. \$12.5 million was given to the County under the timber receipts and \$1.5 million was going to the County libraries. \$4.5 million was going to County roads and then there was the increasing demand on the general fund in all other areas, including dog services, DA's office, juvenile court and the rest of public safety as well as backfilling administrative costs on the health and human service side. They wanted to make sure at the least the admin staff was supported to maintain a high level of customer service. Due to those demands they had not been the most stable library partner for the cities and it had come to the discussion of a library district. She showed a graph of the declining amount of money the BCC decided that over the next 5 years starting in 2009 the County would decrease funding out of \$7 million to the network by about 20% annually to zero. That would happen whether or not the district passes – both were on glide path to zero because they could no longer be a stable partner due to other demands.

Mr. Zinzer said there was a group called Local Network Intergovernmental Board (LNIB) that worked on library issues and meet to represent all the cities. They looked at some possibilities. They started by looking at what it would take to have an excellent level of libraries per the Oregon Library Association (OLA), but it

was far too expensive. The County proposed the threshold level and in order to get every city to the threshold level it would cost about \$.39 per thousand. They were proposing \$.3974 per thousand as the rate for the library district. That ensured every library provider got to the threshold level, plus it required the County to get out of the retail business of libraries. The Oak Lodge library would be a shared facility with Gladstone. The Town Center library would move east and be a shared facility with Happy Valley and Damascus and the Hoodland facility would become the responsibility of the City of Sandy. The County would not longer be in the retail business but would continue to provide the library network out of the County general fund. There was a lot of contention over the distribution formulas and a big debate over whether videotapes and books should be counted the same. They looked at something simple that everyone could understand and seemed fair. It was based on \$.39 for the assessed value of that City. He provided a graph showing the service area boundaries that included the city plus the surrounding unincorporated area to make up the balance.

Councilor Barnes asked who made that decision.

Mr. Zinzer said it was a function of a sub committee of the LNIB called SAPS (Strategic Action Planning Subcommittee) that came up with the formula.

Mr. Barth said they looked at the existing boundaries and tweaked them modestly to ensure that every library achieved threshold level funding. There were only a couple of minor adjustments that had to be made.

Mr. Zinzer showed a slide with the 2008 – 2009 level of funding under the present County general fund distribution, and with the OLA threshold, and then the amount of funding for 2010 – 2011 under the new scenario. Each of the cities would achieve the threshold level of service.

Mr. Barth said that no library was at the threshold level today with just County funding.

Mr. Zinzer said they took the existing service area boundaries of the providers and did a few tweaks on some that didn't make sense. When they did the original distribution they followed precinct lines and didn't have a good mechanism to divide voter precincts. They could easily do that now. They also looked at areas close to urban growth boundaries (UBG), and tried to eliminate the possibility of being in someone else's boundary.

Commissioner Peterson said regarding the distribution by AV there had been a lot of angst over the distribution formula. With this plan one can see the equity and fairness between the cities. It was not just a competition of who could check out the most books, but it was based on more stable funding.

Mr. Zinzer said one of the issues was win or lose there was a declining allocation of the County general fund. In the event it is successful they still want to use the County general fund, but they propose to use it as a capital improvement fund. Since everyone would be at the threshold operation level they could use that \$12 million over the next 5 years to divide among the 12 providers for \$1 million each. They were drafting intergovernmental agreements (IGA) at this point. Once the district was formed they could enter into the IGA's with capital improvement plans for expanded or improved facilities.

Mr. Barth said the guiding principle would be the OLA standards to achieve that level.

Mr. Zinzer said the first step was that the Board of County Commissioners (BCC) needed to define the boundary of the district, which right now they were

proposing be County-wide. In order to include cities within that boundary Council would need to sign a resolution that the City would be a part of the District. Once that was done the BCC would initiate the formation of the district and put it on the November 2008 ballot and funding would begin July 2009. During the process they want to make sure everyone in the County understands so they proposed a \$170,000 information effort, which was made up of \$50,000 from the County and \$10,000 from each city. It would consist of producing information that could be available in the libraries; articles for the citizen news; use of cable access, and to produce a mailer this summer for the fall, a postcard, and a reminder to vote.

Question #1 - Why is the \$12.5 million being distributed the way it is proposed?

Mr. Zinzer said right now \$4.5 million would be a reduction in the County road fund, \$1.5 million that would come from the elimination of the County retail libraries, \$2 million reduction in Title 2 and Title 3 funding, which affects soil and water conservation funds, outdoor school, search and rescue and 4.5 million would come from the elimination of the city share of the County libraries.

Commissioner Peterson said the question to go away from the more specifics was has the County hurt like the cities may hurt if the district failed? The answer was yes. Sitting on the budget last year there were a lot of people on the Committee that had been there a long time and one person said the County had been able to do more with less for every budget cycle that they had been there. This was the first time they were doing less with less. Because they did have to make the cuts they did take into account the fact that they knew it was coming. They had already started making the hits on their budget across the board. They already made the small cuts so not an easy answer. Doing less with less.

Mr. Swanson said he sat on the SAPS committee and admitted he should have asked how the cuts would be distributed. His problem was that he knew Milwaukie would suffer because \$12.5 million was significant, but he didn't understand the extent of that or that it was going to be as large as it was. \$480,000 out of a \$13 million general fund would be a real hit. It was not a simple process because we had to look at the whole system. It wouldn't be that the library is losing \$480,000 the whole system was losing. In this scenario the sheriff's department came out well. The irony was that Milwaukie has a system and we look at police and library as part of that system. If the district passes that was great with qualifiers. It would provide funding, but we were going to have higher demands on Ledding and we would have to deal with that. He was concerned about the scenario where it did not pass, and Milwaukie would suffer significantly. It appeared that 75% of the County general fund didn't appear to get hit very hard, but 100% of the cities did.

Commissioner Peterson had a list of things that would come out of the general fund. It was a big step to do the district. If it passed it would make a big difference in stabilizing funding for libraries. If it did not pass there would be some hard decisions made. The question was, were you willing to take the risk or go on the glide path.

Mayor Bernard said the City supported the district, but he was concerned about taking this large a hit.

Mr. Zinzer said public safety was 75% and was the priority.

Commissioner Peterson acknowledged that she had heard it said in many different meetings there was support for the district. If there were another option they would like to have heard it. They were closing 3 County libraries and those communities were in the same world of hurt and worse than the cities. It was an

issue and seemed to be overlooked that they were closing 3 County libraries and those communities will be at a loss.

Mr. Swanson said he did not think it was a question of district. It was a question of what happened if the district did not succeed. If the district succeeded then it was a win-win. If the district did not succeed Milwaukie and other cities with libraries would be hit hard. He understood there were other services that were going to be hit within the County, but Milwaukie's hit was 100% and there were other services not being hit. The City already had an issue that the DA was funded at a level that it did not allow for the prosecution of misdemeanors; and Milwaukie had to look at expanding its court. The City was looking at having to increase services to deal with what had been cut, and with a loss of \$480,000 it would be very difficult to do that.

Mr. Barth said one assumption was that if it failed and people did not want to fund libraries keeping them open would create a real hardship. So if you close the libraries you then recapture what was coming from general fund.

Mr. Swanson said it was not that easy because he was not sure the question was if the district did not pass were the voters saying they did not want a library? He thought what they were saying on a county-wide basis was we were not willing to tax ourselves another \$.39 per thousand. It was a difficult decision because every City department was a part of the system. If one department was weakened the system was weakened. He firmly believed if we weakened the library we would weaken our police capabilities, code enforcement and others because they are all apart of the system. A well-funded operating library contributed as much to every other service as it likewise contribute back.

Commissioner Peterson said there was an article on Sunday in the paper that talked about this and every jurisdiction that was interviewed in that article paralleled Mr. Swanson's thoughts. The question was that when the revenues decreased you still had to make priorities, and she agreed that any impact to the library had secondary impacts across the system. They were going to have to start making priorities, and they were going to have to start to figure out different ways to fund things. They were trying to figure out how to backfill to meet their needs because they did not have the overall tax structure to do it.

Mayor Bernard said one of the reasons we cannot increase revenue was because the County was providing urban services. If the County was going to get out of library business because you are getting out of the city service business was it the intention to get out of providing city services outside of cities. If the County did not provide those services then those areas would be begging to annex because they would need water, sewer and road systems.

Commissioner Peterson said another question was more far reaching than the library. She said they have not had that discussion on the Board recently. It was a difficult to have a discussion with the unincorporated area. It was not an easy question. As the county had less ability to fund those urban levels of service people would be looking at incorporating or annexing and there had to be incentives. It would be a long-term discussion because you cannot force people. If we forced people we end up with angry citizens.

Mayor Bernard said we provide an excellent police force that was willing to expand outside the City boundaries because Milwaukie believed it could provide better service at a better rate. If the county were providing police, sewer and water services there never would be an incentive. He thought it should be a short-term discussion.

Commissioner Peterson said she felt Mayor Bernard's angst. The police/sheriff issue was discussed in the last 5 years and there was a committee of the chiefs and sheriff and they got together to look at how they could provide that service more efficiently. The recommendation that came back was no change. It might be time to look at it again.

Mr. Swanson said he roughly calculated the tax payment of what the county's permanent rate and the urban area would raise for Milwaukie taxpayers, which was \$3.4 million. One of the things they did see as a service was the return of the \$480,000. The disappearance of \$480,000 was 14% of the total transfer what would we be able to say we receive for that \$3.4 million dollars?

Commissioner Peterson said the county was legally required to continue public safety, which was beyond the sheriff and included the jail, juvenile detention, juvenile system, community corrections, DA and the Court which was the \$75 million; The assessors office was paid by the general fund, library network funding that would continue to fund all the libraries; central dispatch; veterans services; community solutions; community health clinics; homeland security and emergency management; arts and cultural affairs; public health; weatherization; public housing; planning; community environment; clerk; elections; treasurer; social services; parks; and dog services were all paid out of the general fund.

Mr. Swanson said it would be beneficial to value each of those services and see what Milwaukie taxpayers were getting, especially with the loss of \$480,000.

Mr. Zinzer thought they were in the process of pulling those numbers together from Mr. Swanson's questions. They should be able to get some good numbers of how that broke out across the county on those services provided by the general fund.

Mr. Swanson said he would never claim that there was any responsibility or requirement that the County fund libraries out of general fund. \$.35 of that general fund was there by virtue of hard work of the library volunteers from many years ago. In 1994, he recommended the \$.35 levy, and the volunteers made it happen. Now the library volunteers were going to be in the position of selling in some cases survival in some of the smaller cities that operate on 100% of the county money. The question was how can we exempt some offices from doing that, but we call upon the library volunteers again to raise money and in some cases keep the doors open. He realized it was a choice he was just saying there were other choices that could have been made. It was more of a statement than a question. He was marveled at the hard work the volunteers did in 1994 to make that \$.35 a reality.

Commissioner Peterson said it was the same answer as before. They had to make some priority decisions. She acknowledged the hard work that went into getting that levy, but we have to do it again for a district so we don't ever have to do that again.

Councilor Chaimov appreciated the difficult position that Commissioner Peterson was in as far as setting priorities from a diminishing pot of money. Although he may disagree with the decision made he understood it was a decision that was made and did not plan to argue that. Milwaukie was a town that was passionate about its library and all of the members of the board were at this meeting because they cared about the continued vitality of the Ledding Library. A levy may be a good policy despite their disagreement with the decision not to fund out of general fund. They were faced with having to sell this measure to not only Milwaukie neighbors but also the surrounding area. A

concern was that if he lived in Oak Grove the choices were if the levy failed he would not have a library, and he would have to go to Milwaukie or Gladstone to check out books. If the levy passes and he paid the additional \$0.39 per thousand he had to go to Milwaukie or Gladstone to check out books. How did we convince those people to vote in support, and if all of those people were coming into our library, which is already at half of the size it is suppose to be for the number of people that it served, how did we survive and convince the people in Milwaukie that opening our doors to more people was a good thing to do?

Mr. Zinzer said the hope would be that with the capital improvement fund would help pay for the improvements to the individual libraries. The Oak Lodge area that is to the south will be in the Gladstone service area and they would work with them to build a new facility going from a 5,000 square foot library to a 25,000 square foot library that would be close to the border between Oak Lodge and Gladstone. They are working together to set up a committee with Oak Lodge and Gladstone. The library would have a neutral name and the committee would work together on what that new facility would be. They had the site and some money. The hope was that the libraries will get better and meet the threshold levels of service and that the \$1 million that the county was giving would be a step towards that. He didn't know if \$1 million would get Milwaukie were they need to be or to expand, but that was part of the hope of what they were trying to do.

Commissioner Peterson said the district would raise \$1.4 million for Milwaukie and currently the City was getting \$480,000. Not all of that money had to go into operations and maintenance. It could be used for capital. Some of that money could be put aside to create a capital fund that went along with the seed money of \$1 million, and you could end up with several million dollars over a 5-year period. It could staff up slowly to the levels that were needed. If this did not pass, a lot of the cities would have to look at how they charge the unincorporated citizens to use the library and she would hate to see that happen, but that was one of the ways the cities would be looking at to fund that gap.

Mr. Swanson said if it did not pass and if people from unincorporated wanted to use the library Milwaukie would come up with something like buying a library card, which took us back to 1977. The people on the frontlines will be our librarians having to deal with the anger over that. That was something he wanted to acknowledge because they would have to be explaining and dealing with some fairly angry people. He was guessing that if it did not pass without any kind of backup funding, the network would lose some libraries. The Ledding Library was the library that he used because of circulation. One of the strengths is the network system. He was always intrigued by where he ends up getting a book from. They come from Estacada, Oregon City or Canby. He was not sure which libraries would survive, but it was an incredible system. He wanted to clarify what was being requested tonight. The County was really requesting approval of the resolution and for our purpose the 2 things to include were the geographical territory of the City of Milwaukie within any proposed district and a commitment of the \$10,000. The IGA was not requested to be approved tonight only the resolution included in the material.

Councilor Barnes questioned the amount spent on the January activities for \$22,000. She did not see that creating a PowerPoint presentation, taking pictures and putting together a speakers bureau came up to that much money. Any library would provide great pictures and any student could put together a PowerPoint. The first 3 months was \$30,000. She did not really see the City's getting much for that \$30,000 that could not have been done better in house.

Mr. Zinzer said their public and government relations division prepared it.

Commissioner Peterson said a lot of this was just prepping so there was information in the libraries when people ask, what will happen to my library?

Councilor Barnes understood that, but the demographic was not a library patron. The demographic was anyone who did not go to the library and how we can get him or her to buy into this. People going into the library were people that already cared about that library. She did not wish for Milwaukie to pay \$10,000 for this kind of wastefulness.

Commissioner Peterson said January was over and the PowerPoint was done. She said for February through the spring if the City wanted to give them more specifics that was okay, but the line they cannot cross is into the political campaign. What they were doing to start out was more just within the library so that the library patrons understood. The second half was more about the facts of getting the educational campaign information out to the targeted people Councilor Barnes talked about. They were just trying to make sure they got information out to the library patrons.

Mr. Zinzer said the one expensive part in the January numbers was consultant expenses to help to build the website and establish the speakers bureau and information packets. They were going to bring someone in to help with the information packets to ensure they did not cross the line and only provide information. They did not think about going to each individual library to get talking points. That could possibly be done without a consultant.

Commissioner Peterson said this presentation was prepared because everyone would want to know how the money was being spent.

Councilor Barnes suggested the County talk to all the City library directors and public information officers. They were the people that knew best about their libraries and their patrons. Those people should be brought together as a subgroup to talk about what would help to sell this and what we could do to educate people who do not use the library.

Mr. Zinzer said that the library directors had been included, but up to this point the public information officers had not. They had asked every City if they wanted to have someone be a part of the process, and several cities volunteered participants.

Councilor Barnes said all of this meant nothing without a good communications plan for those who were already being taxed and who did not go to the library. It would not mean anything to them.

Mr. Barth commented that viral marketing was absolutely critical. The people who supported the library were instrumental in building the message.

Councilor Stone said it looked like the levy history had been successful. Prior to 1991 how were libraries being funded?

Mr. Swanson said libraries were funded by a levy that began in approximately 1977. Prior to 1977 each county and city library was on its own. It was pretty segmented, and people realized they needed to do something more coordinated. He thought the firsts library levy was about \$900,000, and then the libraries lived on a series of 3-year levies between 1977-1997.

Councilor Stone asked if a 3-year or 5-year levy would we have a better chance of voter approval? She was looking at unincorporated areas in terms of what they were getting out of it.

Mr. Swanson said the SAPS committee was beginning to weigh the options and the chair attended a BCC meeting and came back and informed the committee that there was going to be a district proposal placed on the November ballot. They went from looking at alternatives to developing a district proposal. Another question he missed and should have asked was why that was the only option. The decision came from the BCC.

Commissioner Peterson said it came from the Clackamas County Coordinating Committee (C4) and other studies. The question again was did we want a stable funding source? Did you want to say this is always a priority or do you want to put it on a rollercoaster ride for the next 20 years? What was the best for the citizens of the County?

Councilor Stone said it bothered her that the decision was made by BCC and the committee that was put together to look at it never fully did its work. No one wanted to see services fail, but to look at what departments are funded by the general fund to pick on the library and not look at the \$75 million that goes to the Sheriff's Department. She would like to see what that would really meant before going ahead.

Commissioner Peterson said that Mr. Swanson already brought up one issue of not being able to charge misdemeanors. They were already under pressure about how soon people were released from jail. They would not be able to afford to pay for the juvenile beds that they lease from Multnomah County. Those were the types of decisions that would have to be made. There would have to be a look at what the voters meant by voting in the Sheriff's levy and what kinds of promises were made. She could send an email to Councilor Stone as to what it would mean.

Councilor Stone said that minds were made up, and cities were backed into a corner. We were being presented with a proposal - take it or not.

Commissioner Peterson said the City could decide to be a part of the district or go it alone.

Mr. Swanson said Milwaukie would need to build a new courtroom if it expanded to a misdemeanor court. The cost of the courtroom was estimated to be \$878,000. We have kept our employee level consistent since 2000, as the county continued to build new buildings. He was amazed that there were 2,272 county employees, which was a rather large increase in the number of employees. He had to explain to the Milwaukie employees there would be \$480,000 less and he wanted to know how to explain that. The buildings were still going up, and he doubted the FTE's had dropped. It appeared to have jumped quite dramatically.

Commissioner Peterson said that the County decided to keep a lot of the social services in house rather than contracting. There were a lot of employees that worked directly for the County providing those services. Almost every other County in the state worked with non-profits to provide those services. The county had grown and had funds to grow those services.

Mr. Zinzer said the new building did consolidate a lot of employees from all over. They took people from Marylhurst, downtown Oregon City. They were leasing a lot of buildings and there was some cost savings on facility expenses.

Councilor Loomis said the system we have now does not work. He thought it was a great idea, and they should work hard at passing it. The critical issues were a lack of stable funding and a need for additional space. That was going to

be there regardless even if the County funded the libraries the way they were. He thought this was a great solution. Oak Grove residents would pay one way or another. Being negative about it would not help pass it. He did not go to the library but he would vote for it.

Mayor Bernard did not disagree but was concerned about how the decision was made.

Councilor Loomis said they all knew the Commissioners personally and did not think any of them were anti-library. He did not think it was an easy decision, and as elected officials it was important for them to understand that and support it. The BCC came up with a solution. They were being frank and honest that the funding was going away. If we cannot do it out of the general fund we will find a solution on our own. The current system was not working. We struggled every year to find the funding. If this were to pass the City would have the ability to do something with the Pond House. He thought the majority of the Oak Grove people would go to the new facility, and Milwaukie would have the money to expand or improve to serve people better. He thought of it as a win-win. He was willing to work hard. He did not think it was good going over the doom and gloom – we needed to work hard to pass it.

Councilor Stone asked if the \$12.5 million that was going away from the County general fund was \$4.5 million going away for roads?

Mr. Zinzer said the \$4.5 million was what went into the library network. A piece of that money was Title 2 and Title 3, which was a grant program that they had used for dump stoppers, soil and water conservation and outdoor school. The split was \$4.5 million for roads and \$7 million for everything else. The library network would continue as long as there was network to provide for.

City Hall Court Facility and JCB Office Space Remodels

Mr. Swanson said the projects were both estimated to run in excess of \$800,000 and he did not see room in the budget at this time. He was going to try and find a way to fund one or both projects. At this time no decision was needed he just wanted to introduce the projects and keep the Council informed.

Mayor Bernard asked if there would be a revenue analysis of the court done.

Mr. Swanson said he would be doing one because that was one of the potentials in terms of the court facility.

Councilor Barnes asked where everyone would park at the new court facility?

Mr. Swanson he had not solved that issue. He had only come up with a design for the court at this time, and did not know.

Councilor Barnes asked if the parking had to be at City Hall.

Mr. Swanson answered no. He said the fire bay looked like a good option for the court, but it could be anywhere in the City.

City Logo

Mr. Swanson said it was he did not intend for Council to make a decision tonight. They were really looking at engaging in a process that started with the NDA's. The medallion brought the whole issue to a head. He just wanted to make sure Council was comfortable moving it forward to do some work on it. The medallion used a lot of color, which was more expensive for printing purposes.

Councilor Stone suggested a logo contest. She liked the idea of refreshing it.

Mr. Swanson said there was much more to come. He handed out the retreat dates.

Mayor Bernard adjourned the work session at 6:47 p.m.

Pat DuVal, City Recorder

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
February 5, 2008**

CALL TO ORDER

Mayor Bernard called the 2023rd meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Mayor James Bernard and Councilors Deborah Barnes, Greg Chaimov, Joe Loomis, and Susan Stone

Staff present: City Manager Mike Swanson, City Attorney Bill Monahan, and Associate Planner Susan Shanks

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

Parking in Historic Milwaukie Neighborhood

Thelma Savage, 2405 SE Lewellyn, reported that emergency vehicles have difficulty on her street because of on-street parking and when workmen were on the street. It was a dead-end street in both directions. There were no problems at the end of 24th Avenue because the people living there took up all the parking. The parking beside and in front of her house and her neighbors were the problem. They were taken up every day, morning until night, by Waldorf School faculty and occasionally students. They got out of their cars and walked down and were gone for 10 hours. She tried to get a roof on her house recently, but there was no where for the roofers to park their vans and trucks. This was a problem when her other neighbors had a fire; they had to do some remodeling and hauling out burned material. The Waldorf would not give an inch or a parking space. The cars had Waldorf parking tags on their car windows. Almost all of them had Waldorf Monroe Street parking, and some of them had Waldorf bumper stickers. She also saw them walk down the street, cross Harrison, and go into the School. It was pretty evident. There were problems with students but not until the weather was nicer. They came up and smoked and threw candy wrappers on residents' lawns, but they could live with that. What they could not live with were the problems with emergency vehicles. There was a recent incident where the fire truck could not get down to the end of the street. They were sprinting up the street pulling the gurney behind them because they could not drive the truck down there. She would be old someday and would like to know the emergency people could get to her if necessary.

Councilor Barnes asked Ms. Savage if she had talked with Waldorf representatives about her concerns.

Ms. Savage replied they had called but were always told it was not Waldorf people. She had written letters. Just this last weekend the school administrator came around and asked neighbors to respond to his questionnaire. This was the first residents had heard from Waldorf in 5 years. He asked how often residents noticed cars parked there and when they came and went. The only reason he came was because she got annoyed and wrote a letter and started shaking the trees. That was why they finally decided they had better talk to the neighbors.

Councilor Stone asked if the administrator gave any indication of when a response could be expected.

Ms. Savage replied he said people could not expect the teachers to leave their classrooms and move their cars every 2 hours. She responded by saying that was not what was expected but rather that they should park in their parking lot on Waldorf property. The administrator did not respond to that. She noted other neighbors were present.

Ms. Shanks provided background information and staff involvement with this issue. The Portland Waldorf School received approval to operate at the Harrison Street site in 2002 and approved by the Planning Commission to do so. As part of the approval to allow that operation there was a condition of approval that required a post-occupancy traffic study which Portland Waldorf School conducted. The reason for that condition was to ensure the School was operating within the parameters of how it was proposed. They looked at traffic impacts around intersections as well as parking and loading and unloading operations. The requirement in the original approval was that the Planning Commission would review post occupancy traffic study at public hearing which was done November 2007. At that hearing, the Planning Commission affirmed that the traffic study met the requirements of the original condition. The Commission made a note that the traffic impacts were within parameters. It also noted that the parking and loading impacts in terms of documentation that was provided in the traffic study were inconclusive. Because this was an unusual situation and not a new land use application the Planning Commission could not issue another decision or add more conditions to the original approval. Ms. Mangle wrote a letter on behalf of the Milwaukie Planning Commission that stated what she had outlined with the caveat that there was an ongoing condition of approval that the Portland Waldorf School had to develop a transportation demand manage plan and manage its parking and loading and unloading operations on an ongoing basis. That was an ongoing condition of approval for the Portland Waldorf School to operate at that site. That was a reminder from the Planning Commission of the existing, ongoing condition. That occurred in November 2007. The City Parking Officer, Sarah Lander, was alerted to the situation. Ms. Lander in her normal rounds took more detailed notes of license plate numbers and is continuing to issue citations when appropriate. She also added spot checks to her regular rounds to affected neighborhoods. She was hearing more from the neighbors as a result of that. The logs had been forwarded to the Portland Waldorf School. There was some disconnect in that Ms. Lander had cited people for parking too near a fire hydrant or for blocking a driveway; however, those were done through the City process through the court system. Those did not necessarily go to the Portland Waldorf School in terms of notification. That kind of information was actually being kept in a log that went to Portland Waldorf School so it had a better understanding of who was being cited for what. She also kept information on things that were not a citable offense. City staff was in the position of monitoring the situation, and Portland Waldorf School was aware this was an ongoing condition of approval that it needed to manage its parking and loading and unloading impacts. Staff was hopeful this could be resolved and believed this had to do with management of the existing parking onsite and not so much of a capacity issue. Staff had noticed on several occasions that the Monroe Street parking lot on the Portland Waldorf School campus was not full all the time if ever. Ms. Shanks felt Portland Waldorf School was trying to understand what was going on and why the lot was not being better utilized. City staff was monitoring the situation. The Planning Director could bring this issue back to the Planning Commission for review if she felt something was not being done in a reasonable amount of time to address the situation. That was not the feeling right now but could certainly change.

Councilor Stone asked if the parking lot was not full because it was a longer walk than it was from the street.

Ms. Shanks could not say for sure because the different buildings housed different activities and grades. She did know there was a lot of crossover between the different age groups. She felt Portland Waldorf School could answer Councilor Stone's question better. She imagined depending on where any individual was coming from might be more convenient than another depending on the final destination.

Councilor Loomis heard Ms. Savage say a fire truck could not get down that street and asked if there was any validity to that. Had measurements be taken? If a fire truck cannot get down the street because of parked cars no matter who the owner it was a problem the City needed to address.

Ms. Shanks had not heard anything from Clackamas County Fire District #1 (CCFD1) but assumed some department would have been informed of that issue. She spoke with Ms. Savage on the phone a couple of months ago, and she indicated the same concern. Ms. Shanks thought at the time it might not be so much that they could not get there because of parking. Sometimes when parking was allowed on both sides of an older street the passageway was narrow, and emergency vehicles could not actually pull into an area. She described a similar incident with the roofers that did not have a legitimate off-street parking space. An emergency vehicle would certainly be allowed to block traffic as needed to get to a fire or medical situation. She did not know what the situation was but would follow up with CCFD#1 to find out if there had been a problematic issue.

Ms. Savage said they got there on foot.

Councilor Loomis thought it would be as simple as taking measurements as there must be some standards.

Ms. Shanks replied if parking were allowed on both side and what was left over was not sufficient, then presumably staff would look at limiting parking to one side of the street. That was not something she could begin to comment upon at this time, but it was something she would look into. She could not imagine anyone was double-parked.

Mayor Bernard commented it was a very narrow street. This might be a good area to test neighborhood permitting if the neighborhood was interested. He would be happy to meet with the residents because there would be a little cost, and the neighborhood might want to discuss a test program. The Transportation System Plan (TSP) did consider a test permit program.

Ms. Shanks added that was an option for this neighborhood because of this particular problem, and Ms. Mangle was aware of that. She noted Portland Waldorf School representatives were in the audience.

CONSENT AGENDA

- A. Resolution 14-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving the Award of Contract for the Completion of the City's 2005 Wastewater Master Plan.**
- B. City Council Work Session Minutes of December 4, 2007**
- C. City Council Work Session Minutes of December 18, 2007**

It was moved by Councilor Barnes and seconded by Councilor Stone to adopt the consent agenda. Motion passed unanimously. [5:0]

AUDIENCE PARTICIPATION

- **Bryan Dorr, Milwaukie**

Mr. Dorr appreciated the effort in halting the Balfour Street house project. As a resident of the Ardenwald Neighborhood he greatly appreciated it. He wanted to discuss light rail. When he found out light rail was coming into Milwaukie he did some personal studies of his own. Light rail seemed to be the most inefficient means of travel than any other means of transportation. If he got on light rail from Milwaukie and went up to the Rose Garden, it would probably take longer than it would to just peddle his bike up the Springwater Corridor Trail. It was an ineffective mode of transportation plus there were other issues with it.

- **Punky Scott, Clackamas County**

Ms. Scott thought there would be some representation at this meeting from Metro and TriMet, but unfortunately they were not here. She expressed some of her thoughts about light rail. She prefaced her thoughts by saying she did not live in Milwaukie, but she grew up here. She had a business nearby. She went to high school here. Her heart was here. Because she lived close by and had a business nearby she thought what happened in Milwaukie would have some effect on all of the neighborhoods besides those actually within the City limits. Crime issues to her were still very big. Oak Grove was still suffering. She was not sure it would ever get past the point of being a much more livable community, but one of the biggest issues was crime. She knew they had talked about putting more police staffing on the facilities, but that was wishful thinking and would bring more problems into Oak Grove and even Milwaukie. If it came up to Park Avenue, then that was right at the Oak Grove back door. She definitely had some concerns about that. The City of Milwaukie was already kind of dissected by a lot of different modes of transportation. There was McLoughlin Boulevard, the Milwaukie expressway, and the railroad. Now if we put light rail through Milwaukie that would be very detrimental to traffic. Not everyone would ride light rail because there were still some who drove cars, and she was one of them. She drove a lot, so she had concerns about that. The time that it would take to install light rail. She was currently the victim of the Oregon Department of Transportation (ODOT). They were repaving McLoughlin Boulevard, and it definitely needed it. They were putting in curbs and sidewalks. They have been one month in front of her place. You cannot find a driveway. That was not the Milwaukie City Council's problem; it was ODOT's problem. She could see if the Council wanted to see businesses survive in Milwaukie, and she did not care what route it took through the City, it was going to be a big, big problem. The City would lose businesses. They cannot survive without customers. She went out to Interstate and talked with businesses. They thought they were going to do quite well, and it was going to be wonderful with light rail. Unfortunately because people cannot get to them because there were only certain intersections they could go through, they were not surviving. A lot more businesses were closing that once thought they would do extremely well. She did not want to be one of those, and she was sure a lot of Milwaukie people would not want to be victims of not only construction time and access. She was looking at everything at a business level, and that was what she did. If light rail was committed to coming into Milwaukie and obviously that was the plan she personally thought that stopping at the theater with the parking on the serious amount of land and not a lot of businesses then perhaps going out to the Milwaukie expressway where it would not be detrimental to businesses. There would still be close access to the City of Milwaukie and going to the Town Center area. That as where the growth was. Oak Grove and back you would not get the people. Eventually you would get people going through there, but that was not where the bulk of the people were. They were out on Sunnyside. She would guess picking up the light rail that came from

Gateway and have it go all the way to Oregon City where there was also growth. It needed to come to Milwaukie and then on out there. Those were her personal feelings. She had some concerns. She was all for progress, but....

- **Ralph Rigdon, Clackamas County**

Mr. Rigdon lived in the same house for 45 years and in the Milwaukie area for over 50 years. He was married in 1955 in the old St. John's Church. So far Milwaukie had been a nice, quiet, peaceful town, and he enjoyed it. He always used Milwaukie on his return address stickers on his letters instead of Portland. He thought not going through Milwaukie with light rail should be seriously considered. Having a train coming out of town every 6 to 8 minutes would ruin a lot of people. He agreed if the City had to have it, it should stop at the old theater at Southgate and keep it out of town and away from the schools.

- **Ed Zumwalt, Milwaukie**

Mr. Zumwalt noted a letter to the editor in the December 2007 *Portland Tribune*. "Every negative letter you get on MAX is right on. We had friends in our neighborhood near Rockwood who put their home up for sale as soon as they started putting tracks on E. Burnside. When we asked why, the response was wait until it's finished and you'll see crime, low income housing, unsafe neighborhoods, etc. That was exactly what happened here. Our once-proud family neighborhood now is an area to be afraid in at night. If you do not have MAX in your area, do everything possible to keep it out. SE Portland resident."

Mr. Zumwalt hoped that was not Milwaukie in 20 years. When he heard the Metro South Corridor Committee said everyone in Milwaukie wanted light rail he was stunned. That was inaccurate. In 1998 it was defeated by 24 points in Milwaukie and 11 points in Clackamas County. With the recent publicity on crime and costs, he was sure the figures would still be substantial. He heard it said everything was different now than it was 10 years ago. That was not true either. The issues in Milwaukie were the same today as in 1996, 1997, and 1998 elections. Light rail and forced density. Inviting light rail into our town and pushing for sardine-like density around the stations as Mr. Sam Adams, Portland Commissioner, demanded at a South Corridor meeting last spring the citizens were having 3 elections stolen from them. Democracy in little old river city was dead as a doornail. He had heard light rail called an economic engine, but it was more like a conduit for crime. He was sure the people from TriMet were sincere about controlling it, but in 20-plus years they have not shown the commitment necessary to sustain the system that would make the line safe despite many different approaches. Now would be no exception. In the 1996 and 1998 elections crime was a huge issue, Here we were 10 years later with no appreciable improvement. Cost of light rail had escalated from \$880 million to \$1.4 billion in less than 2 years. How high would it actually go? Even if the Feds picked up 60% of the tab, who closed the gap? The \$250 million from the legislature was not a lock. A ballot measure or urban renewal district – please don't go there. In reality matching money from the region was unconscionable when the highway infrastructure and education systems were in such dire need of financial support. Shortcomings in those 2 areas could smother the economy and turn us into a commercially blighted region. We were jeopardizing our future economic health in favor of a technology that has never proven itself. Every time Metro and TriMet came to us, they became more invasive to the neighborhoods and livability. Some of the station drawings now looked like we were in danger of becoming an extension of the Brooklyn yards. Two months ago the Council okayed in the name of livability and safety the purchase of the Balfour Street house intended as a home for the criminally insane. Light rail into Milwaukie would create more crime and problems in 1 week than that house would in 5 years. You can stop this very quickly, and it will not

cost \$240,000. Just pick up the phone and call TriMet and tell them the whole thing was off.

- **Les Poole, Clackamas County**

Mr. Poole like Ms. Scott lived just outside of town. This was a regional issue and why he had been involved in the past. He had a lot of the same concerns as Ms. Scott but at the same time understood the real problem in Milwaukie was parking. The downtown needed to be revitalized. How would you revitalize downtown without millions of dollars? There were only a few ways, and one of them was to go to the government with urban renewal through the TriMet plan. He wished 15 years ago the community could have gotten some urban renewal money without having to become salespeople for light rail. Light rail was designed with the idea that we were not going to see the technological advances we were seeing. Gas was \$3 a gallon. Mel Zucker had to file a lawsuit to get TriMet to say how few people were riding it. It was just not worth it. But having said that, Mr. Poole was not there to tell the Council not to move forward because he knew it would. He did have a few concerns about the City's moving forward. He hoped the Council would be very meticulous with the property around Kellogg Lake, Robert Kronberg Park. There was a crossing there already that was just a mess. He did not know how anyone would fix it because of the way River Road intersected with McLoughlin Boulevard. As Councilor Chaimov can attest, it was pretty problematic. One of his biggest concerns was that we were going to try to squeeze light rail in there, and he did not know how the Trolley Trail would fit safely. There was talk of 600 to 1,000 cars at Park Avenue. He hoped the City was not planning on dumping all of its parking up there. It could not fit. The neighbors would be in the Council's face. Enough said about that because the Council knew what it faced. It was ludicrous for anyone in this room to get too long-winded about the route until the final was on paper. He wanted to mention money because he was helping pay for this whether he lived in Portland or Bend. Carolyn Tomei got \$250 million lottery dollars based on a 2003 LPA bill of \$880 million. If she got \$250 million for light rail based on \$880 million and now we were up to \$1.3 or \$1.4 billion, he questioned the numbers, logic, and ethics of how we got there. 70% was the goal. Mr. Poole realized that if 70% of that money was raised then the citizens did not get a vote on this, and that was one of the goals. 70% of \$1.3 or \$1.4 billion was enough to make you get your pen out and start writing.

- **Philip Lisac, Clackamas County**

Mr. Lisac said it raised his hackles a little bit. He had been in this town more years than anyone here on the board are old. He knew Mayor Bernard's grandfather, so he went back a ways. From Hillsboro to Gresham to the Town Center the octopus tentacles of TriMet with the full intoxicating support of Metro has provided a very easy transportation style and condition which promoted the contiguous and violence and adequately provided the selection by the individual and perpetrators for the time and place that they chose. A \$1.4 billion price tag plus unmentioned overruns of how much – who knew? Like the tram that went from \$18.5 million to \$56 million this project was so obviously absurd and incongruous that it was laughable and ludicrous. If we, the common folks of the urban tri-county could look at Metro and TriMet with full disclosure we would find a symptomology of the reoccurring M&T disease identified as spending taxpayers' money. The complex study of the symptoms regarding this disease called Metroitis with its complications to the tri-octoped tinnitus with a fungus grows without local support. The local common folk had to pay for it with their tax dollars in whatever manner. The M&T disease compelled the common people to join in unison to express their distaste and feelings of repugnance towards any and all who wanted to foist the current tri-octoped tinnitus into Milwaukie. The attitude of manifest destiny projected by the M&T disease and all who were infected with it in turn came to the common folks of

Milwaukie as an imperialistic expansion defined as necessary and benevolent. Further projects considering the symptoms by infecting some individuals with the M&T disease of patronizing and being superior in their planning. At the station for pick-up and drop-off as well as enroute will the violence, fights, muggings, and beatings with bats have a cure if the M&T disease migrated into Milwaukie? Most likely not. Will it have committed security and how many officers to enforce it? Nobody knew. Private property would be graffitied – yes. Property crimes will increase – absolutely. Beatings and rape of the old and the young are very likely to happen for sure. Gangs commuting to Milwaukie will come at their will and leave at their choice. Confiscation of private property to enhance the rail and put it in position will absolutely take place. He urged all who were against the M&T disease to join together and be the individuals to write the prescription to put a strong stopping cure to the M&T fungus. A fungus was characterized chiefly by absence of chlorophyll. Chlorophyll was green just like money. Substituting subsistence on other matters living or dead us taxpayers.

- **Nancy Dietrich, Milwaukie business owner**

Ms. Dietrich worked at the Mill End Store on McLoughlin Boulevard and Milport. She came to hear the plans for light rail and was fortunate they were not here to expand on it. She was very impressed with what she had heard from the people here. She was very concerned about the traffic and how it would impact getting back and forth on McLoughlin Boulevard. She hoped the City would take a serious look at having light rail go through the town.

- **Cyndia Ashkar, Oregon City**

Ms. Ashkar served on the Light Rail Safety and Security Task Force which just had its last meeting. The needs for safety and security and open visibility were in direct opposition to the needs for protecting the learning environment for the students at Portland Waldorf School. She had promised Councilor Barnes to share something to gain more insight into that need for protection for the learning environment. There was a government article on line called *General Health Effects of Transportation Noise*. It talked about the cardiovascular system and such. There was also a book by a man named Daniel Goldman; he might be a psychiatrist but she could not remember. It might be Golman. It was called *Emotional Intelligence* that talked about the fight or flight response which she was in right now because she did not regularly speak to City Councils. Noise caused that in children and put them in a state where they could not receive what the teachers were wishing to give to them. There was an incident in Denver where the light rail train was derailed by the freight train by coal going onto the tracks. There was documentation of the Federal Railroad Administration citing the inadvisability of having light rail vehicles in the same corridor as freight trains. She knew that things were being done to help lessen danger in that kind of setting. It was being looked at and questioned. Sometimes she wished we could look down the road at what we wished we had or had not done. One of the things bringing light rail because it was so expensive was that money could not be given to bus routes. She knew more riders of buses could be there if the buses came close enough to their houses. Ms. Ashkar lived in the country and was 1.7 miles away so was not a good option for her 16-year old to walk that far. She went to one of the transportation meetings in the Public Safety Building where people were saying buses did not come close enough for people to use public transportation. She was concerned about that. The amount of room for light rail in Milwaukie was a big question. There was lots of room along the Milwaukie 212/224 expressway. She had been told by citizens of Milwaukie that was voted down and maybe another something might have been voted down. She was aware that the downtown Milwaukie had not had an opportunity to express that in the way of a vote. There were other nations looking at the quality of

children's lives. In Australia they were dead ending streets and slowing traffic on the streets to help protect children and their connection with nature because that was a learning environment for children as well.

- **Jerry Foy, Clackamas County**

Mr. Foy had been before the City Council 3 or 4 times talking about light rail. His issues had not changed. His major concern was safety for the children attending Portland Waldorf School, St. John's, Milwaukie High School, and Milwaukie Elementary. He was also a member of the light rail Security Task Force as was Ms. Ashkar. At the last meeting, the Milwaukie police chief was there, and Mr. Foy spend about 10 minutes talking with him after the meeting. He was very much concerned about the potential for gangs and crime and assaults and rapes and whatever. It was not a big question now. There had been enough proof from the existing lines that it happened. It did not appear that TriMet or Metro was willing to fund the 150 police officers that the Milwaukie police chief said were necessary. Right now they had something like 32 enforcement officers. Mr. Foy understood that included the people who collected the tickets which by the way was not happening. It did remain a vehicle that the undesirables can move about quickly on through the various cities and towns. Likely they would not be caught. Cameras were great, but as we just witnessed on McLoughlin Boulevard they did not have a clue who the guy was that murdered the station attendant. There were cameras there. His concern was that we needed police. His real concern was that light rail was not needed period. People were saying stop it at the theaters. That was a lot better than coming past the schools. If it was a definite fact that we would have light rail, he would say stop it at the theater. There was a big question of how this thing would be funded. When you think about \$1.4 billion, 40% of that was \$670 million. Where was that money going to come from? There was \$250 million, but the check has not been written. The concern even from the Feds was if it was worth the money. When you added the money and the danger and the amount of people it was going to move, it was an absolute 'no.' It was insane to be promoting this thing without giving it further study. At least ask questions and find out the bottom line before making a commitment.

- **Ann Stangle, Milwaukie**

Ms. Stangle asked why the Mayor had let Milwaukie get to this point. We used to have a nice City when Bernard's grandfather was here. What was happening now was too much garbage. She just wanted to know why Mayor Bernard let that happen.

Mayor Bernard asked Ms. Stangle if she felt the City was full of garbage now.

Ms. Stangle said it was full of a lot of people who were not working for the City and the people. They were working for what they felt would be a monetary gain. Money was not the only goal in life although everyone seemed to think that. You cannot eat it, you cannot drink it, or take it with you. Why worry about money. We should worry about what was good for every body.

- **Robert Cseko, Portland Waldorf School**

Mr. Cseko distributed some literature. He was the Director of Administration for the Portland Waldorf School in Milwaukie located at 2300 SE Harrison. He talked about the parking and the ongoing efforts the Council could see in the literature. The School recognized that parking could be an issue for the neighbors to the north. However, currently as it was delineated, it was public parking. Since the Portland Waldorf School moved here more than 40 families have moved into the City of Milwaukie. When the President talked about an economic stimulus package he believed the Portland Waldorf School was one for Milwaukie. As such he did continue to present efforts in working with the neighbors to the north. Information that was received after the November

meeting from Ms. Mangle was that the School was encouraged to investigate and actively work with its northern neighbors to resolve any parking issues. It was not a demand. It was not anything the School was obligated to do; it was just encouraged to do so. The School had done that. In today's environment where everyone wanted immediate answers and immediate gratification sometimes the process did not fulfill all the needs. The information before the Council would show there was a process that was in place, and that Portland Waldorf School took the education of its community members around parking very seriously and would continue to do so. They would continue to work with the neighbors to the north in finding common ground so that parking did not become such a dynamic issue that would resolve in Councilmembers using important time on items of this nature. He did concur with Councilor Loomis. He believed from his own observations of Lewellyn Street would indicate if there were parking on both sides of the street that it would be very difficult for emergency vehicles to respond in a timely way to the house at the furthest end of the street. That should be reviewed and looked at.

Mayor Bernard encouraged continuing to work with the neighborhood.

- **Mark Gamba, Milwaukie**

Mr. Gamba lived 2 doors north of Ms. Savage and was a Waldorf parent. He moved to Milwaukie for the Portland Waldorf School. He knew a few people from the School parked on 24th and Lewellyn. He also knew there were a number of people for park-and-ride there for the bus. That was determined because there was a crucial space at the end of 24th that kept getting parked in and causing a lot of near accidents when people tried to turn left on 24th and someone else was coming out on Harrison. There was no room for 3 cars. There were 2 or 3 cars habitually parking there, and they looked into that. They talked to the police about it. It turned out to be folks who were park-and-riding. All of the cars parked in the neighborhood were not Portland Waldorf School cars for starters. Secondly, it was public parking. Some of the Portland Waldorf School cars parked in the neighborhood were coming to visit his home. They were not necessarily going to the School. If a car was parked there for 10 hours it was highly unlikely it was a Waldorf person because school started at 8:30 and ended at 3:30. That was not 10 hours. The people who were there for 10 hours were park-and-riding and going downtown and working. He lived in that neighborhood and walked up and down that street 4 times a day because his business was downtown. It was not problematic typically. He understood Ms. Savage's issue when she was trying to get the roofing truck in. He agreed all of the streets were very narrow. If a fire truck had to get down to his end of the block 9 times out of 10 he would not be able to do it. Those were people who lived on the street and parked across from each other. Portland Waldorf School was being picked on for a problem that was really not its problem. It was public parking, and the people parking there were members of the public.

Mayor Bernard agreed he had seen some people parking and getting on the bus.

Mr. Gamba was not necessarily for a permit system and did not see how people could be asked not to park there who were members of the public. Limiting parking to 1 side of the street was not a bad idea if there was concern about emergency vehicles. He noted the trash trucks did not have any problems and could not imagine they were narrower than an ambulance.

- **Scott Churchill, Milwaukie**

Mr. Churchill appreciated Jerry Johnson's January report as he had great insight to downtown Milwaukie development. It was helpful to hear his thoughts and his perspective on the 2040 Plan. Quoting from the tape, Mr. Johnson said that was often times pie in the sky and we really needed to look closely at building amenities to the

downtown. As Councilor Barnes pointed out was it a chicken or egg issue or not. It could be but amenities would really help drive this. There had been a lot of concern about developers pulling out of downtown, and it was good to get some perspective about where that was really coming from. Mr. Churchill consulted with a number of developers in Portland as well as Seattle, and the condo market was suffering greatly. That was a much bigger driving factor in pulling out of a condo development in cities such as Milwaukie rather than comments from Councilmen or staff or the public about concerns about the downtown project. As Mr. Johnson said, one needed to look at economics first. If there was enough margin a smart developer would come in. If there was not enough margin everyone should pass on it and step back. He discussed the promotion of retail that would be followed by housing. He suggested re-looking at the Southgate site in a different way. Look at it as a transportation hub. The City of Emeryville, CA was a much bigger city but had some scale features about transportation links that made for a successful growth pattern. He encouraged the City Council to look closely at it as a transportation corridor model that had a reuse of industrial to office conversion. Certainly Holman Transfer and others might have other thoughts, but in the long run a re-look would benefit both the landowners and tenants as well and provide an expanded area. Councilor Stone mentioned the downtown area was so compact with only so many blocks and so many streets to deal with, so we wanted to be careful how this was done. If light rail had to come to the downtown or to Milwaukie consider stopping at Southgate and consider expanding the downtown and making it a node that tied it to downtown. The walking link under Hwy 224 could be enhanced, and the downtown could be expanded for jobs and housing and transportation but not necessarily bringing it through the downtown as people had referred to problems associated with schools and a tight corridor for transportation along the Tillamook line. He also supported it because of the rising project costs. Certainly urban development funds would be one way to do it, but another way would be to stop it at that point to help the funding overall. He encourage the Council to look at the Southgate site and consider it as a park-and-ride hub if indeed it had to come that far at all.

- **Greg Flynn, Milwaukie property owner**

Mr. Flynn had not moved to Milwaukie yet but owned a house on 27th Avenue next to the grade school. He had a parking problem too but knew that when he bought a house next to a grade school. There was a high school down the street, and you expect those kinds of things. The one thing we would find in the future was when you had to add density around the light rail a lot of the developments Metro would tell you, and you see this in his neighborhood in Gateway, there was 1 development that had zero parking. He got a tax break for building it close to light rail with zero parking. It was not built out yet, so he was not having a problem yet. When they do finish building out in that area, this property would have a lot of problems. There was a property on the old DMV site where they allowed .5 parking space per unit. This was what we were going to see when light rail came to Milwaukie. You will have to put in development that do not have enough parking. Parking problems would be rampant. He was not going to talk about parking but since it started out that way he could not help himself. He was moving away from the Gateway Neighborhood not because light rail caused crime but it attracted people who used it that tended to be involved in crime. It did not happen very fast. He grew up in Parkrose. The Rockwood area, Centennial, David Douglas – those were his stomping grounds. He lived there most of his 50 years. He did not want to live in the Parkrose Neighborhood any more because the crime and problems of light rail had moved all the way to his house. It happened slowly. Slowly the good people moved away because they did not want to deal with it. Other people moved in the neighborhood because for some reason they did not have a driver's license. They cannot afford a car. It was a way for them to get around. They push away the good

people. It will not happen overnight in Milwaukie either. He was still going to move here because he figured he had 10 years until the problems started to get really thick. Then he would talk his wife into moving again. Right now he was moving away from the problems of light rail. In one of the handouts it talked about all the promises. These were the promises he found online. There were probably a lot more news articles. Back in 1989 we all knew about the governor putting the police on the light rail. There was a reason why that story started going around. He started e-mailing it to everyone when he found it. He had forgotten all about that. He looked at the year after year of promises. There was one here now where Police Lt. Rosie Sizer was assigned to TriMet. She was now the Portland Police Chief. This was back in 1996, and she was saying cameras would be part of the solution. It went on to say they wanted to head this off before the problem got bad. 20 years later they still were not solving the problem. Light rail costs so much to operate. Jerry Milner, a PSU professor, wrote an article if they did not build the Interstate line that money could have been used to double the bus service on every single bus route in the Portland metro area. We were going to spend \$1.4 billion for light rail to Milwaukie to replace a perfectly good bus line. Maybe to make it nicer like light rail buy a couple of luxury buses and run them at certain times of day. It would cost a lot less than \$1.4 billion. He discussed the problems on BART. The whole line needed to be rebuilt. It was old enough now that everything needed to be replaced. They had to come up with \$11.4 billion. You build the light rail; it is not the end. The upkeep just kept coming. You had to rebuild crosswalks and intersections. His neighborhood was told if you build it you would not have to do all the replacement you do with buses. But look at BART. You needed to start planning for that. There was an article where downtown Portland was assessing condo owners to rebuild the mall. Was Milwaukie ready to start assessing people? Was that part of the plan when there was not enough money for amenities around light rail? Steve Buckstein wrote an article years ago. If we were doing this to create jobs, then just build a pyramid because at least there would be no operating costs once it was done.

Mayor Bernard said the Council received letters from Ann Favorite and Beth Wasko reiterating much of what was heard tonight.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. Interpretation of Milwaukie Municipal Code (MMC) Chapter 3.15 Addressing the Sale of City-owned Property

Mr. Monahan reported on Chapter 3.15 of the Milwaukie Municipal Code (MMC) which had to do with real property. The issue was raised in relationship to the Town Center project. He recalled the issue was whether or not the potential sale of land for the Town Center property would fit within the process allowed in Chapter 3.15. It allowed for the sale of 4 different types of property: substandard undeveloped property, standard undeveloped property, developed property, and special case property. He understood the sale of the Town Center property would not take place. As he looked at the potential sale, he identified the sale of the gas station purchased with Metro funds as well as the City of Milwaukie definitely fell under the special case property. That was property that was acquired by the City subject to an agreement that spelled out the manner in which the property would be disposed. Mr. Monahan thought the property that was now the present City parking lot could in fact qualify for special case property if certain steps were taken before the sale of that property. He thought with action to make clear that there was a public process to identify the property as special case, it

could have in fact been sold. However, since there was sufficient time now that a sale was not pending, he believed it was appropriate to take another look at Chapter 3.15 and actually enhance that section of the code to take into account the potential sale of property that could be used for public-private partnerships. The Code language as presently written did not take into account the possibility of selling property that had been under City ownership which then might be designated as appropriate for a public-private partnership. He would like to take some time over the next few months in developing some Code language to bring back for consideration to suit the purposes the Council had in mind for the Town Center property and also to enhance the opportunities should the City in the future wish to engage in public-private partnerships. His office would work with the city manager and community development staff to do so if the Council directed.

B. Council Reports

Councilor Loomis attended North Clackamas Visioning Progress Report that focused on the District's direction to meet the needs of its students.

Councilor Chaimov attended the same visioning session and felt City Council might emulate the process.

Councilor Stone planned to attend the debate between Greg Chaimov and David Miller who were vying for Council Position #1 in the March special election and the Milwaukie Poetry Series reading on February 13.

Mayor Bernard attended the Harmony Road Visioning session. He and Councilor Loomis met with County representatives to discuss the Campus visioning. He attended a Joint Policy Advisory Committee on Transportation (JPAT) retreat and a dinner meeting of the Urban Land Institute where transportation funding was discussed.

Mayor Bernard announced the City Council would meet in executive session pursuant to ORS 192.660(2)(i) performance evaluations of public officers.

ADJOURNMENT

It was moved by Councilor Barnes and seconded by Councilor Stone to adjourn the meeting. Motion passed unanimously

Mayor Bernard adjourned the regular session at 8:17 p.m.

Pat DuVal, Recorder

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
February 19, 2008**

3. D.

CALL TO ORDER

Mayor Bernard called the 2024th meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Mayor James Bernard and Councilors Deborah Barnes, Greg Chaimov, Joe Loomis, and Susan Stone

Staff present: City Manager Mike Swanson and Community Development and Public Works Director Kenny Asher

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

Mayor Bernard congratulated Monica Carlson for winning the American Gladiator contest.

Update on the South Corridor 2 Supplemental Draft Environmental Impact Statement Study

Mr. Asher reported TriMet and Metro would provide an update on March 18 that focused on the safety and security information recently produce by the Task Force and absorbed by the transit agency. By that time there would be more information out on the Environmental Impact Study (EIS). Tonight's update would focus on ridership and capital costs. The next major public meeting in Milwaukie would be a discussion of station location preferences in the community and especially focused on the downtown between Hwy 224 and the Bluebird station option. The City needed to come to some recommendation of how many stations were likely in that area. In order to do that the project needed to hear from people who lived and worked in the vicinity and from the broader community that might use this line about what was convenient and made sense. The March 19 meeting at Milwaukie High School would focus on what options made sense and listen to the community. There would be a full safety and security and Supplemental Draft Environmental Impact Statement (SDEIS) update at the regular Council meeting on March 18. Two of the three design options under study had a southern extension that would continue the alignment to Park Avenue, and a public meeting was scheduled for March 12 in Oak Grove to discuss that station.

Bridget Wieghart, Metro, reported initial draft chapters were being submitted to the Federal Transit Administration (FTA), and the document was still on schedule for early April. The line ridership looked very strong. The 2003 Locally Preferred Alternative (LPA) was being used for the comparison both in the river crossing and terminus area. The 2003 LPA had buses on the bridge which reduced light rail ridership a little bit but increased system ridership overall. It would likely be the most cost effective use of the infrastructure. It was anticipated to have 22,000 riders on the light rail line. From a system standpoint when taking into account all of the new transit riders, the LPA was anticipated to have 9,000 new riders which was a healthy system change for this length of light rail. Everything else above that added to the LPA. The Willamette River crossing options had between 22,000 and 27,000 line riders and between 8,000 and 12,000 new riders to the transit system. The terminus option, because of the additional

stations, park-and-rides, and length, added ridership over the 2003 LPA which terminated at Lake Road. An extension to park was 25,770 riders and added 12,000 system riders over the no-build option. The Tillamook Branch would have 24,660 line ridership with a system ridership increase from the no-build of 11,330. It was hard to compare the Park to the Tillamook Branch directly because both terminated in the same place but had different station configurations and total amounts of park-and-ride. She look at that as more of a range. Tillamook Branch had slightly lower line ridership because it had fewer park-and-ride spaces overall. The LPA to Park had 2,600 spaces, and it looked like there was more demand than that overall. The Tillamook branch had 2,200 where as the LPA had 1,400. There was a big demand. A lot of the park-and-riders were coming from south and east of Milwaukie. That Park Avenue station looked like it would be very attractive. These numbers seemed competitive with other lines elsewhere and especially in terms of system ridership increase.

Councilor Stone asked how these projections were done.

Ms. Wieghart replied all of the numbers were for 2030, so it was a projection. It was based on a well-developed and well-established travel-forecasting model. All of the agencies around the country that were competing for this federal funding had to develop travel-forecasting models. Metro's was one of the most well respected methodologies. The travel-forecasting model had been developed over the last 25 years. It was based initially on travel surveys of people's entire day for several days. Thousands of people throughout the region kept a diary, and that was one major input. There was input for TriMet in terms of its transit ridership. That gave the propensity for people in certain locations, socio-economic circumstances, number of cars, location, and that sort of thing for where they drove and where they took transit. That developed the basic model. The major inputs were population, and an economist provided information on projected population and employment. They knew the propensity and history of people to travel on certain corridors, then they projected forward in a travel-forecasting model. There was a detailed development of the system, the roads, the light rail, and bus lines as well as TriMet's projected increases.

Councilor Stone asked where those numbers reflected for bus users versus someone who was newly taking light rail.

Ms. Wieghart replied the line ridership, 22,000 to 27,000, were the actual light rail riders on this segment of the overall MAX system. The number of new riders was 8,000 to 12,000. New system riders may also be attracted to other portions of the system because they can make better connections. Those were counted as new riders if they were new to the system and not currently a transit rider.

Councilor Stone understood it did not break it down to a certain percentage of that plus 9,000 number were people who used to take bus transit that was no longer needed or was there because the light rail line was there.

Ms. Wieghart responded all of those were compared to the no-build option, so it was just the current bus system grown to 2030. The 9,000 to 12,000 new system riders were the new system riders when a bus-only system was compared to a light rail system. One could say those were people who were induced to take transit because of the light rail line. The City would be interested in the number of new system riders. In response to an audience comment, riders were boarding rides daily, so it was a trip.

Mayor Bernard understood a roundtrip to Portland was counted as 2 rides.

Dave Unsworth, TriMet, discussed capital costs and an additional point about ridership. TriMet would do cost-effectiveness calculations for the FTA which was measured in the travel time saved. They were finding with the bridge that it would be used not only for light rail but also for streetcar and bus. Bus riders coming from the east would save

quite a bit of travel time as they used that additional bridge. He touched on the Safety and Security Task Force which was an important process and a difficult time from TriMet in the past few months. It had to face up to some of the things recently in the press. General Manager Fred Hansen was taking this very seriously. The Executive Director of Operations was having direct conversations with Chief Kanzler who was very helpful on the Task Force in providing information. He expected that conversation to continue as the project moved forward, and there would be more detail at the March 18 City Council meeting.

TriMet had the benefit of the public trust to build a number of light rail lines in Portland, and it was currently constructing the I-205-Portland Mall project and the yellow line to Expo and PDX. All were being used and were successful. There was a lot of information on how much it costs to construct in-street and railroad right-of-way lines, stations, and structured park-and-rides. What TriMet did not know a lot about was constructing a new bridge. They had to look at endangered species, ships, and hazardous materials in the soil so they needed some expertise in calculating that cost. CH2MHill was hired to provide some information about the setting and what it would cost per square foot to build a bridge. Another engineering firm and a design-build firm out of Denver were asked what they would expect it to cost. All of that information was triangulated, so TriMet thought it had a good idea of what a bridge would actually cost. Designs from last September were taken and held constant. They looked at where they thought mitigation would be required and went through the process of applying a cost to each unit. While going through the costing process, they found that bridges were very complicated to build. Second, the bridge would probably take about 4 years to build meaning another year of approximately 5% inflation. The costs were estimated not on today's dollars but in the end what it would cost to build the bridge and the project. There were also extraordinary increases in unit costs for construction. It was related to the cost of diesel, petroleum-based products, steel, and concrete. All of the recent bids on the Portland Mall and I-205 were captured for a better understanding. The dollar has been devaluated which was important when some equipment was purchased from Europe. Projects at the federal level had to count the interest that was accrued by someone who provided money to the project. For example, TriMet was successful in securing \$250 million in lottery-backed bonds from the State for this project. There was a cost to the State for borrowing those dollars which needed to be accounted for in the project costs. The FTA would generally pay 60% of the project cost, so as the costs went up, more federal dollars would come into the region.

Mr. Unsworth reviewed the LPA to Lake Road. The current Portland Mall project ended at Lincoln at Portland State University (PSU). Section A would go down Lincoln and cross the Willamette River to about 8th, and section B was from Clinton Street to near Tacoma. This scenario has the 600-space Milwaukie park-and-ride at Southgate with station and Lake Road park-and-ride. If one built it today, the cost would be \$818 million. There were segments A, B, and C and systems. Systems was the cost of the light rail vehicles and upgrading Ruby Junction and other similar maintenance facilities. Engineering administration was the cost to design, preliminary engineering, final design, and the cost of monitoring construction all the way through along with the costs related to driver training. Inflation was 35% to 36%, so the project was \$1.2 billion.

If the line went to Park Avenue there were some different assumptions. Tacoma in this scenario was 1,000 instead of 600 spaces. Segment D was from Lake Road going across Kellogg Lake with a Bluebird Station going down to Park Avenue with 1,000 spaces. The idea of capturing those autos was an important factor. There was a demand for approximately 2,600 vehicles that wanted to use light rail based on the 2030 demand modeling. TriMet was trying to make sure those vehicles were captured before they came between the beautiful Riverfront Park and the Milwaukie downtown. The

cost of Segment D was \$86 million but did not include the additional light rail vehicles. It would take 4 or 5 more vehicles to operate all day long because there were more riders from Park Avenue. The trains coming to Milwaukie would probably be coming from the Expo line, so more light rail vehicles were necessary. Under this scenario the cost was \$1.4 billion. This was the number of vehicles needed to operate the system in 2030. One did not generally acquire all those vehicles in the initial contract with the federal government, so there were significant savings.

All of this design was based on what was known in September. The parties had been working diligently to understand where the tradeoffs were, where some of the impacts were, and where money could be saved. That would be done in the next phase, preliminary engineering.

The final version was the Tillamook Branch alignment. This went through the Working Group, and there were concerns with the Southgate park-and-ride location from the North Industrial businesses. This alignment avoided that issue by staying on the Tillamook Branch including an assumed set of stations and going down to Park Avenue. This was a little less expensive as it did not have as many park-and-ride spaces, but it was \$1.3 billion. Part of the LPA choice may include going further south, station choices, and the River crossing. There were 5 choices in the River crossing in Portland. In addition to the LPA there was the crossing that served the Schnitzer Campus which was OHSU's 19-acre site. He pointed out the length of the alignment including the bridge and discussed the range of costs and bridge types. There was a future bridge study if this moved forward that balanced aesthetics, cost, navigation, navigational clearances, and how it fit from an urban design standpoint within both banks of the River. In preliminary engineering there would be a re-examination and value engineering effort that looked at every project element and how to reduce costs and keep the value of the project.

Mayor Bernard received a report from the Technical Advisory Committee (TAC) on safety and talked with TriMet General Manager Hansen to discuss safety concerns. He felt confident an effort was being made and noted there were more security officers in the Milwaukie transit center.

Councilor Loomis appreciated the information and asked for copies for City Council.

Councilor Stone said this was in regard to Mr. Unsworth's comments about bridge costs. Was the contractor's profit not built in those numbers.

Mr. Unsworth replied the way design / builders actually looked at bridge costs depended on how it was set up. TriMet wanted to understand how much it would cost to actually build a bridge today without the profit that went on top of that. The assumption helped to triangulate between the engineering record and the 2 other sources for what a square foot of bridge would cost.

Councilor Stone understood the numbers City Council saw were not with the profit built in and would be higher.

Mr. Unsworth would say TriMet was trying to understand how much it would cost to build a bridge.

Councilor Stone understood Mr. Unsworth to say the costs would likely go down. She asked about his thinking on that when everything was going up.

Mr. Unsworth replied no one knew the future. TriMet did know that generally construction costs had cycles, and it was probably near the high part of those construction costs given how it was tracked over the past years. This design had not gone through a serious value engineering effort that generally takes place during preliminary engineering when it gets more precise.

Councilor Stone referred to the staff report. This project had to be 60% funded by the FTA, so 40% of the funding had to come from the local taxpayers. In the upcoming items on page 4 of the staff report it read, "in order to obtain federal funding the project would need to meet stringent cost-effectiveness criteria which examine the cost of the project as compared to the benefits provided to the transit system users." As the costs keep escalating upward, how can it be justified that this type of transportation was most cost-effective to serve the public when we had bus transportation that did it effectively right now if we would just improve that.

Mr. Unsworth replied the FTA had specific criteria: the amount of travel time, the hours of benefit you get when you compare a bus network to a light rail network. You were basically keeping everything the same and all you were doing was replacing the general trunk service with light rail. Then you were looking out to 2030 calculations. You were looking to determine how many hours of benefit you had divided by the delta, difference in capital cost between a baseline alternative and a build alternative and how much it costs to operate the baseline alternative to the build alternative. That calculation provided a ranking. In order to cost-effective you needed a medium rating or higher. All projects have been successful in securing that. In part because when one looked at what would happen by the year 2030, and there were a million new people expected in the region. That was what Portland State said. He guessed they were right. There were a lot of fast-growing areas in Clackamas County, so that had an effect on the roadway. It was difficult to build new roadways. The first project Mr. Unsworth was involved with was on a technical advisory committee for the Sunrise Corridor. There had been a lot of efforts to build that road, and it was still not constructed. He pointed to the Westside light rail line that went in at the same time as the highway expansion through the environmental impact statement. He thought the roadway was constructed a number of years after the light rail line. It took a long time for any of that to happen. It was hard to build roads, and it was hard to build light rail. McLoughlin Boulevard was certainly at the edge of breaking down. It would be at capacity if not most of the time now. It was going to get a lot worse, and these intersections would have a lot of backup. Not only was the car going to be in that but so were all the buses. The reliability of getting from here to there diminished dramatically, so it would take a lot longer. One of the beauties of light rail was that it was going to be as reliable on the day it was constructed in 2015 as it was in the year 2030 because it was in its own separate right-of-way. That travel time means a lot. The surveys show that people would get on light rail and not get on buses. That was what people were reporting back. If the region were to get federal funding for this at 60% that was over \$700 million, then the federal partners would run TriMet through the wringer to make sure it was a cost-effective project.

Councilor Stone thought of a few other things after listening to Mr. Unsworth. With 1 million new people coming in, the numbers projected to ride light rail did not reflect the big percentage of 1 million new people coming in. She also had a question about how travel times were estimated. Was that comparison between bus and rail travel times, and was the rail quicker than the bus? When you factored in travel time was the person's travel time from his door to their car, from the car to the light rail station, and waiting for the train taken into account?

Mr. Unsworth replied when one was driving there was a quick walk to the car. When one was in downtown Portland there was probably a 2 to 5 minute walk time, so it was pretty unencumbered. When one was waiting for a bus that was more personal time than actually being on a bus. It was measuring both in-vehicle time and the time spent waiting for a transfer to a bus or a light rail. The model took all of those into consideration. From a standpoint of how long it took a train or a bus to go through here. The speed of the bus was predicated on the speed of the adjacent auto traffic and

assumed stops per mile. For light rail it was going to take that long to go from here to here based on design. It would dwell 20 to 40 seconds at each station before it moved on.

Ms. Wieghart said that was accurate. People from the surveys indicated they did not like to wait for a bus or a light rail train, so that was considered more onerous and taken into account in the propensity to ride any kind of transit.

Councilor Stone did not get her answer about the 1 million people expected to come into Clackamas County and how that was accounted for in terms of the projected numbers of new ridership.

Mr. Unsworth replied it was 1 million people in the region, so it was the larger region including Clark County. It was not just Clackamas County. The model assumed the same land use for both. The no-build had the same assumptions for population-employment as the build alignment did. The delta was the increases being seen. The model took into consideration employment increases, population increases, and degradation in travel time for autos and the bus.

Councilor Barnes wanted to discuss employment costs and how much it would cost to be safe once this was in. How soon would the Milwaukie City Council know the number of officers that would be added to the overall system?

Mr. Unsworth said operating costs were assumed for both choices of bus versus build. There were increases in security for this year and next year as the project ramped up. He could not say if there would be 150 new officers in 20 years, and he suggested saving that question for the March 18 meeting where the appropriate representatives would be there. A couple of things were already being done including hiring a number of private security people and new radios. Rider Advocates were already on the system. One of the issues Portland and Beaverton had was finding people who wanted to be police.

Councilor Barnes asked for a rough estimate for the March 18 meeting.

Councilor Stone commented on the idea of light rail coming through the downtown and the neighborhood. She thought it was important that the Council fully realized what that meant. She did not know that people could really grasp what it meant because they had not seen what it was going to mean. It was really easy to look at a rendition on paper, but it was a whole other ballgame when it was there. She worked next to light rail, and it was not without noise – the train itself. It went by frequently, and it was huge. She would like a virtual reality computer simulation of what it means in scale. She would like to see that and have the public see that. What it meant to have this train run through a little neighborhood, behind a school. The tour was great, but it was like comparing apples and oranges to what was going to happen here in Milwaukie. We were on Interstate which was a multi-lane, all-directional highway. Yes, there were schools there, but they were not like right there. This was invasive to the neighborhood, frankly. She wanted to see a virtual reality of what it really meant to scale. You go out and build a life-sized model of what the train would look like sitting in your neighborhood and how big those stations were going to be. We really need to digest that before making any decisions about whether or not this was a good alignment.

Mr. Asher responded there would be a virtual simulation of the proposed MAX traveling through downtown Milwaukie. We were not planning on building a life-sized MAX train model. He thought that would help and invited people to the March 19 event where that could be seen in two dimensions. There would be far more detail in the public discussion about what stations might mean at the various options and the tracks as well. There would be a lot of useful new information. He did not think some would be satisfied because even that would not tell people exactly what the experience would be

of having the train built through Milwaukie. There would have been no way to say what the experience would have been for building it anywhere or any project of any size anywhere. We were talking about development projects in downtown Milwaukie. There were a couple that were talked about in the recent past which have required all of us to project as best they could on the appropriateness of the scale, look, and feel. This was a large project. All of those same questions were valid. All of those same issues were important. There was no way for a computer or cardboard model to simulate what the experiential effect of that project was going to be. It was incumbent on all of us in the community – staff, Council, neighbors, businesses, and everyone – to do their level best to try to come to the meetings and use the system in other places and imagine what that was going to be like. There was something that could be provided and be helpful. In the end if certain people had already concluded that it was invasive then it was probably difficult to show anything or provide anything that convinced them otherwise. He would give his best effort in illustrating the size of the platform, how much a station would take up, and how much room the right-of-way would take up. In the end there needed to be some faith involved that on net it was a positive or negative thing for the community on the whole.

CONSENT AGENDA

- A. City Council Regular Session Minutes of December 4, 2007;**
- B. Resolution 14-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Directing the City Manager to Enter into an Intergovernmental Agreement (IGA) with the Oregon Department of Transportation (ODOT) for the Provision of Appraisal Services for the Logus Road Improvement Project;**
- C. Resolution 15-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Directing the City Manager to Enter into an Intergovernmental Agreement (IGA) with Clackamas County Regarding the Expenditure of Community Development Block Grant Funds on the Logus Road Improvement Project; and**
- D. Authorization to Renew a Comcast Institutional Network Contract.**

It was moved by Councilor Barnes and seconded by Councilor Chaimov to adopt the consent agenda. Motion passed unanimously. [5:0]

AUDIENCE PARTICIPATION

- **Ralph Rigdon, Clackamas County**

Mr. Rigdon had lived in the Milwaukie area for over 50 years, and this was a nice quiet, peaceful town. He did not think people could realize what it was going to be like having this train run through the City every 6 or 8 minutes. If the citizens of Milwaukie still wanted the train to come in, then it should stop at Southgate and stay out of downtown. It would be a big mistake. It would help the schools and all the businesses that did not want it. He felt the City should seriously consider that. If this went through, there would be a lot of sorry people walking around town as far as he was concerned, and he would be one of them.

- **Ed Zumwalt, Milwaukie**

Mr. Zumwalt said the scale bothered him. Mr. Asher can say they will make models and do this and that. One day he was standing in the second a clinic on 99th. He stood there transfixed for 20-minutes looking at the mess at the Gateway station. It may be a beautiful station, but he was visualizing that in Milwaukie. Holy mackerel. What are we going to do? After that he systematically looked at all the stations around. Holy

mackerel. When asked by Mayor Bernard if he drove or took light rail, Mr. Zumwalt responded he could proudly say he had never been on one of those cotton-picking things. He was afraid he would be electrocuted. They were dangerous. They keep coming at us out here with our own money by the way and beating us up every 2 years. First they were going to go up Monroe. Then they were going to go with the North South Light Rail. \$1.7 billion. Then they got an LPA going in 2001 – 2002. He thought they had that worked out. They wrote the 14 Points and agreed to agree. There was an LPA transit center at Southgate. All of a sudden in 2003 – 2004 they came out and looked in their files. Southgate had to be a park-and-ride forever. We saw their internal e-mail. We knew what it said. Here we go skating south to Kellogg Lake. There went the 14 Points and obliterated them. We all know what happened at Kellogg Lake. Here we sit now. He had never seen such determination by these folks. They were all nice people, and he thought they all believed in what they were doing. They were going to create such chaos in this little town we might as well just wipe it off the face of the earth. They say MAX was the reason people came out to visit Oregon because they make postcards. Have they not heard of Mt. Hood or the Columbia Gorge or the beach? They even say it was like the Eiffel Tower. As a man said recently, thank God the French were smart enough to only build one Eiffel Tower. We were looking at building this thing and more and more of them. Mr. Zumwalt did not know what we were going to do. He did not know how we could look at this and rationalize putting this beast in our little, narrow town. The scale was not there.

- **Bryan Dorr, Milwaukie**

Mr. Dorr addressed a couple of things about the TriMet light rail. There had been a lot of talk about the safety issues, and after looking at some of the public safety reports from the Ardenwald Neighborhood meeting they usually got a map from Officer Kendrick from the City of Portland. It was not only light rail that would bring criminals to the Neighborhood. There were also other conveyances such as the Springwater Trail. It was not only light rail although a lot of people had spoken out about it because it might bring in crime. There were other conveyances including bikes, boxcars, and backs of pickup trucks. He discussed the cost of the light rail project. That number was \$1.3 billion with the inflation being at 5% each year. Most of us who worked only saw about a 3% increase on their paychecks. Property taxes go up 3% every year. How were we going to pay for it? He knew Metro probably thought it was a good idea to go ahead and dream up a \$1.3 billion project like it was a few cents, but for the rest of us that was a lot of money. He thought this was impractical. That was one of the reasons he did not want to have light rail come into this town. He referred to the illustration of having light rail come through Milwaukie. The train car was actually larger than the Oregon Pacific Railroad's locomotive that hauled about 1 or 2 boxcars down its tracks along the Springwater Corridor and down Ochoco. Just picture one of the Willamette Pacific trains coming through the City; this would be worse. He only lived 200-feet from the Union Pacific Railroad track, so he knew how bad the noise would be. There was a train that blasted its horn for at least 20-seconds at 1 a.m. It would be a mess and would drive people out of Milwaukie.

- **Gil Frey, Milwaukie**

Mr. Frey watched this on television and watched people speak. One citizen commented whatever he said really did not matter because the City Council would do its thing anyway. This was a very difficult decision, and Mr. Frey sympathized in that regard. If we could zap it in that would be really nice. Punky Scott went down Interstate and found that many of the businesses could not survive the construction period. He saw that in downtown Portland. Little businesses could not last that long when the streets were torn up for a year or so. He assumed that was what happened on

Interstate. Right over here was a new high rise with apartments and condos, but he always saw the parking spaces completely full including tonight. One restaurant was open. He was sorry there was not enough parking to run a business. He wondered when it would be functional. We all made mistakes, and this was a tough decision.

- **Cheryl Ausmann-Moreno, Milwaukie**

Ms. Ausmann-Moreno lived near 40th Avenue and King Road. She was the past Chair of the Ardenwald – Johnson Creek Neighborhood and continued to serve the community as a member of the Public Safety Advisory Committee (PSAC). She would like the City Council to consider the fact that the voices of families with children in the community were an under-represented group in the City processes. That population found it incredibly hard to attend work sessions, transportation meetings, and City Council meetings due to a high demand of their time which was devoted to work, their spouses, and their children and their activities. They did not have left over time, herself included. Throughout her 2 years' service as a neighborhood leader she was frequently asked about better public transportation. The Ardenwald Neighborhood was desperately underserved. She was especially asked when light rail would arrive. Through many surveys listing a dozen community issues, more than 90% responded that light rail was a major issue. The second hot issue was neighborhood traffic. This was all pretty well related. When she followed up and verbally asked these people if they were for or against light rail, they all replied they wanted light rail in the Neighborhood. It was unfortunate these respondents thought they were in a minority and would only respond in private. They thought this was an unpopular opinion. She had to assure them she would not put their names on anything and that there were a lot of other people who had the same opinion. These were people involved with PTA, sports, keeping their kids clean, working, feeding them, getting them to bed, getting their homework done, athletics, music programs, and everything. It was an incredible schedule to keep up. She was painfully aware she was not the only person who was extremely disappointed as a parent in 1998. Back in 1998 she was still working for Shriners' Hospital. In 1998 she had a 2-year old and was pregnant, and it took her over 1-1/2 hours to take public transportation to the top of the hill at OHSU. It was very difficult when it was only a 10-minute drive at that time. That travel time had not improved, and the commute by vehicle was a little over 20-minutes in good traffic. That was how much things had changed since 1998. For individuals with the aging population, people with minor disabilities and she with a chronic pain condition, light rail was definitely the preferred mode of transportation versus bus. Many could not manage getting up and down a steep bus, and we had an aging population. Ride light rail for at least a half hour and try it out. Ride the bus, and one sees the tremendous amount of difference and understand why people felt more comfortable and often times safer. She had been riding TriMet since the mid-1970's, and she felt things had improved. Mistake had occurred but things had improved. Improved public transportation and light rail will mean better access to jobs and families. People now had to decide whether to pay for child care or finance another vehicle. Young adults were forced to buy vehicles in order to get to their jobs because of the transportation problem. It would improve access to better jobs and improve the ability of families to purchase and keep their homes in this community plus have more funds to spend in the community. She hoped this was different than what Council had heard before and that the members make a decision that was best for the future of the community. Milwaukie would not stay the same.

- **Jim Karlock, Portland**

Mr. Karlock commented on a \$1.4 billion price tag for 10,000 riders that would not otherwise be on the bus. Since that was boardings, it was actually 5,000 riders. That was \$280,000 for each person you attracted out of a car. It would be cheaper to buy

those people condos in the Pearl District than to build this system. Was it wise to try to attract Yuppies out of their BMWs by building a deluxe system where you could spend 1/10th of that amount of money and have a super bus system that would attract a lot of poor people out their beaters? That made a lot more sense to him. He assembled some information from Portland's experiences with light rail. Light rail divided neighborhoods and added overhead lines. A quote from a Portland officer was, "MAX has been a living nightmare for us." He would not ride MAX at night even though he carried a gun. Light rail was dangerous. Not only did it have a crime problem, but it also happened to kill bystanders at about 2.5-times the rate that cars killed people. That was based on passenger miles. Each of the statements had a source, and there were links on his website to substantiate what he was saying at this meeting. Light rail was not that great a form of transportation. It was mostly a tool to encourage high-density development. The City of Milwaukie was going to get high-density development just as Interstate Avenue was beginning to realize what was in store for them. Light rail also caused congestion because it diverted money that could otherwise be spent on roads into light rail. Light rail according to TriMet data carried about the same number of people as 1/3 of one lane of traffic. That was after you accounted for the fact that 2/3 of the light rail riders would otherwise be on the bus. TriMet's published number was about 1-1/3 lanes worth of people. When you discounted that by the 2/3 of the people who would be on buses there was about 1/3 of one lane of traffic. That system cost \$1 billion to effectively add one lane of road. Light rail costs over \$.434 per mile or over \$1 per mile if construction costs were counted. A car costs \$.25 per passenger mile. Light rail did not really relieve congestion. Planners seem to like the idea of emulating Europe with the notion that people would move over to transit. European traffic lost about 20% of its market share in the past 20 years while the percentage of European travel by car has gone from 76% to 78%. Those numbers were not much different than here. Increasing density was one of the causes of increased congestion. You pack more people into an area and you get more cars. Each person drove a little less but no where near less to make up for the fact there were 2, 3, or 4 times as many people. You got the kind of congestion you saw in San Francisco, San Jose, New York City, Hong Kong, London, etc. It was because of the density. They want to increase density every place where there is light rail. A member on the Citizen Advisory Committee (CAC) said he was just getting to the point where he knew what was going on, and it was too late. They were not keeping people informed, and it was going to be the same story here. He provided a list of the 20 people who had died so far in the hand of Portland's MAX.

- **Craig Flynn**

Mr. Flynn asked when the EIS came out if there would only be a comparison between build and no-build. What the buses would do compared to no-build compared to light rail. Increased bus services; not just existing bus services.

Ms. Wieghart replied the no-build that was compared to all the light rail alignments and options assumed increases in bus service over today. It was a future bus system compared to all the different light rail alignments and options.

Mr. Flynn said most people when traveling used public transit to sightsee and then rented a car. He had never once in any city found that public transit was better than sightseeing in a car because he could not get there from here. A guy from TriMet said they took a poll of the people that parked in Gateway and found that most cars came from the Gresham end of the line. They drove all the way to the last free parking lot before they went downtown. When we build this new alignment and get these riders were they going to just try to beat downtown Portland parking. Was it cheaper to ride than pay parking? If we build this new alignment was congestion going to be reduced in the future? Or were we just going to reduce the increase in congestion? If we were

going to spend \$1.4 billion this should reduce congestion. In 2030 there should be fewer cars on McLoughlin Boulevard. Otherwise, why are we doing this? We were always able to build our way out of congestion in the past. Only in the past 20 years have we given up. When schools fill up we build more classrooms. When sewers overflow we build more sewers even in Portland. When we hit a problem we always solve it except for transportation in the Portland metropolitan area. Now we have decided congestion was a good thing and would not try to solve the problem. We will add density that will only make it worse. This was upside down. If we do this it had better relieve congestion otherwise what was the point?

- **Beth Wasko, Milwaukie**

Ms. Wasko registered her continued non-support of light rail as the public transportation solution. She recently sent a letter to the City Council and asked if members had received it.

Mayor Bernard replied the Council had received her comments, and he reviewed them at the last meeting.

Ms. Wasko acknowledged she was very grateful for this democratic process which did not exist in all nations around the world. As an American she was grateful to have it and all needed to be mindful of what we were called to in this process and that it was truly democratic. To that end she wanted to talk about why we were not going to vote on this. It was becoming clearer and clearer this was going to be very expensive, and we were going to be footing the bill, or at least half of it. The other half came from other hardworking taxpayers from around the country. She thought if they had any notion that we were all clambering and competing for these dollars that they would not be so excited about light rail for us here in Milwaukie and Portland. We need to really question that and understand how you could justify spending other people's money and hers to put something in where a ridership on an existing bus system was adequate. If you increase the bus system for increased ridership, there you go. The other day she was driving past Portland Waldorf School on Harrison going east. She saw a child getting off a public school bus at the apartments. His mother was waiting right there for him. He probably was a kinder or maybe a pre-schooler. He got off the bus and directly went toward the tracks. His mother ran after him. She was not fast enough. Luckily, there was no train coming. Right now all we had to worry about was rail. When light rail came through the likelihood of that scenario happening was pretty great with the number of schools in proximity to where light rail would be. That needed to be considered. She also wanted the City Council to consider in this democratic process was that the Metro and TriMet were government agencies. It was in the interest of their job security to think of reasons, to think of projects to build in order to use our tax dollars to create a new thing for them to do. The City Council needed to consider what its constituency wanted and what was best for the community. She did not know that was being considered when they got a soapbox and she had to come forward again and again to reiterate her nonsupport of this project. Many people were tiring of this. Mayor Bernard had told her verbally and in letters this would not come to a vote. She questioned whether this was a democratic process.

- **David Miller, Milwaukie**

Mr. Miller was doing the numbers as others were speaking. If they were right, he had \$12,000 per rider. That was 9,000 trips or 4,500 new riders working a 5-day week. That was 900 people. There were projections of 1 million people coming to this area. Ten percent of that coming to this area was 100,000 people. That meant there was room for 900 of them on the train. What about the other 99,100 people? Where were they going to drive? He felt the money could be better spent.

- **Jeff Loudon, Milwaukie**

Mr. Loudon was a parent of 4 children and heavily involved with the PTA. Consistently, he heard from a large number of people on the east side of Hwy 224 that they were very much in favor of having light rail in the area. He had no studies but heard it daily. Light rail was an opportunity for all those families both as potential commuters and single trips to downtown Portland to see a Blazer game or go to Hillsboro to the Air Show or go to the airport to catch a flight. The issues brought up previously all addressed commuters on a daily basis. They probably did not take into account all the MAX users on an irregular basis. Fossil fuel and traffic issues would have to be addressed. This was an option. It was a good option now and benefited so many people who would never come to the City Council meeting to speak. He considered himself to be representative of those people because he lived next to them and talked to them on a regular basis. He was unusual in that he would actually stand up and talk in a public setting as most of them would not. They were afraid of it and did not understand the process or were unfamiliar with all the issues, but they did want to see light rail. He wanted to support it. Crime was blown up as a major issue with respect to light rail. Undoubtedly any time there was a gathering of people, especially in a hub situation like this, there was a chance for some bad apples to commit some crimes. If you looked at the numbers, one would see it was blown completely out of proportion because of the ferocity of a very few attacks with respect to light rail. He was most excited about looking along Burnside Avenue in Gresham and Portland and seeing all of the nice, high-quality apartment buildings going up along light rail. It showed people wanted to move into those areas. Those facilities were full of tenants who used light rail on a daily basis in their commutes whether it be to the Gresham area or downtown Portland. That would happen here, but it will take time. One did not see that in the first few years because it took time for developers to recognize that people would use those buildings because light rail was there. It was unfortunate when any neighborhood was broken up, but in the long run the goal was going to be positive. Those neighborhoods would improve. He did not know if this was the best option; that was not his choice. The people who studied all the details looked at the best options. He definitely wanted to see light rail come into Milwaukie. If the City Council did not want to see it downtown, then he would be happy to see it behind Albertson's. He hoped Milwaukie had light rail soon.

Councilor Stone asked if Milwaukie light rail would reduce congestion on McLoughlin Boulevard.

Ms. Wieghart responded everything was compared in 2030 to the no-build. Without light rail there would be more traffic on McLoughlin Boulevard than with light rail in 2030. Compared to a system with buses light rail would reduce congestion. They did not pretend to replicate the entire highway system. The percentage reduction was small – 2% to 4% -- of the total traffic. In any case there would still be more congestion than there was today because of growth. By next year there would be more congestion regardless.

Councilor Stone said when light rail first came up that was one of the things that was touted was that it was going to reduce congestion. From what she remembered from 1997 – 1998 the statistics was that there was actually more congestion with light rail than without it because it was forcing people that would take the bus into their cars to go to a light rail stations and thereby increasing congestion in peak hour traffic times.

Ms. Wieghart responded that was not what Metro was seeing in its analysis. There would be a reduction of traffic on McLoughlin Boulevard and parallel streets after light rail in 2030. The numbers looked bigger when one looked at vehicle miles traveled. It would be 50,000 to 70,000 miles of vehicle miles traveled over no-build in 2030.

Mayor Bernard asked what \$1.4 billion dollars would buy if McLoughlin Boulevard were expanded. How many lanes would it add? Would part of the Park be taken? How would that money be spent on McLoughlin Boulevard to carry the same number of people and in theory reduce the congestion? He understood TriMet and Metro would answer that question.

PUBLIC HEARING

Motion to Consider Continuation of Amendments to Milwaukie Municipal Code (MMC) Section 19.321.7 and 19.321.3

Mr. Swanson said this was a monthly process that began June 2006 when amendments were considered to 3 sections of the code. Council adopted the Comprehensive Plan changes that provided for the Kellogg Treatment Plant being a nonconforming use and required its removal by December 31, 2015. That was in the middle of the Citizen Advisory Council (CAC) process, so it was thought best at that time and had continued to be policy of the Council to consider those amendments. Those considerations will be brought up monthly so that Council may adopt them in the future.

It was moved by Councilor Chaimov and seconded by Councilor Stone to consider continuation amendment to MMC 19.321.7 and 19.321.3 to a date certain of March 18, 2008 regular City Council meeting. Motion passed unanimously. [5:0]

OTHER BUSINESS

A. City Manager Performance Review

Ms. Rowe said the request was to take formal action on what was previously discussed by the Mayor and Council in an executive session. She outlined the discussion.

Mayor Bernard met with Mr. Swanson, and the overview was that he was doing an excellent job as city manager. Council felt his performance exceeded expectations in all areas. This past year Mr. Swanson received the Herman Kehrli Award for outstanding public service from the League of Oregon Cities with a focus on community stewardship. Milwaukie was chosen as a tour city during the past League Conference due to creative partnerships established to move forward with its downtown development. This past year the City had seen many changes which were a result of Mr. Swanson's leadership and work of the staff he assembled. He took it upon himself to be a staff liaison to one of the neighborhood associations to help re-establish lines of communication. His accomplishments included completion of the North Main Village Project, McLoughlin Boulevard Enhancement Project, waterfront property acquisition, the joint Metro / City partnership on the Town Center project, support of the Farmers' Market, the Street Surface Maintenance Program, and acquisition of property adjacent to the Ledding Library. People commented he was a remarkable manager and fine steward of the community, thought strategically, had high ethical standards, and prepared a usable budget for the community. Council felt he should continue to work on the decommissioning of the Kellogg Treatment Plant, downtown development, transportation options, resolve downtown parking issues, move forward with the Transportation System Plan (TSP), look at the feasibility and profitability of annexation, and pursue ways to delegate more work to prevent burnout.

Councilor Barnes commented on Mr. Swanson's ability to reach out to the public and connect with people. She valued his ethics and the importance he placed on making the right decision for the community. She appreciated the fact that Mr. Swanson worked for Milwaukie and not some other city.

Councilor Stone thanked Mr. Swanson for all of his hard work and encouraged him to take some time off because he put in so many hours. He was well-loved by those who worked for him.

Councilor Loomis agreed and encouraged Mr. Swanson to take time to recharge and think about himself.

Mayor Bernard considered Mr. Swanson a mentor and thanked him for his work.

It was moved by Councilor Chaimov and seconded by to adopt the city manager's performance review, to extend his employment agreement with the city manager for another year, and to increase his base salary by 3.5% based on his outstanding performance over the past year. Motion passed unanimously. [5:0]

Mr. Swanson said it had been enjoyable, and the staff was great. Though times had been difficult in the Chambers at times, staff and the Council cared a great deal about what was happening.

B. Council Reports

Councilor Stone attended the Historic Milwaukie and Ardenwald Neighborhood Association meetings.

Councilor Barnes would attend the Officer of the Year dinner where Officer John Troung and Reserve Officer Lindsey Nold would be recognized and reminded citizens of the upcoming Arts Committee meeting for those interested in becoming involved.

Councilor Chaimov represented the City Council at the Poetry Reading and encouraged people to attend future events. He would meet this week with his Island Station neighbors.

Mayor Bernard met with TriMet General Manager Fred Hansen to discuss concerns with safety and security. He would go on his annual trip to Washington, DC to seek funding for local projects such as the recently completed McLoughlin Boulevard Enhancement Project. Council President Stone would preside over the next City Council meeting.

ADJOURNMENT

It was moved by Councilor Stone and seconded by Councilor Barnes to adjourn the meeting. Motion passed unanimously

Mayor Bernard adjourned the regular session at 8:55 p.m.

Pat DuVal, Recorder



To: Mayor and City Council

**Through: Mike Swanson, City Manager, and
Kenneth Asher, Community Development and Public Works Director**

From: Alex Campbell, Resource & Economic Development Specialist

Subject: Revised ODOT Appraisal Logus Road Improvement Project IGA

Date: April 2 for April 15, 2008 Regular Session

Action Requested

Approve a Resolution authorizing the City Manager to sign an IGA with ODOT for \$10,000 in appraisal services for Right-of-Way acquisition for Logus Road Improvement Project. This action will supersede Resolution 14-2008, adopted February 19, 2008. Prior to execution of the Inter-Governmental Agreement (IGA) approved by Milwaukie City Council under that Resolution, ODOT requested a minor modification to the IGA.

Background

The Logus Road Improvement project will construct a sidewalk along the south side of Logus Road between Stanley Ave. and 49th Avenue in the summer of 2008.

City Council approved an IGA with ODOT for ODOT appraisal services for any right-of-way dedications/easements that must be purchased for the project on February 19, 2008. Since that time, ODOT's internal contract review team has requested that the expiration date for the contract be changed to December 31, 2008 (from June 30, 2008). Staff feels that this would be a logical change and may avoid the need for a future amendment. Because the agreement has not yet been counter-signed by ODOT, this is not a contract amendment, but rather a new contract. Thus staff is returning for Council's approval.

The IGA is Attachment 1. It is similar to other City IGAs with ODOT for similar services in the past. The cost to the City is based on hours worked by ODOT appraising property. ODOT has provided an estimate of approximately \$7,500 for developing appraisals of five Right-of-Way dedications. The IGA "not to exceed" amount is listed as \$10,000 to allow for possible additional work. Staff is permitted in selecting

qualified appraisers that can do this kind of work, given that state is contributing financially to the project and the City must follow detailed federal property acquisition rules. Staff did consider private appraisal services but determined that ODOT would be able to provide the needed services at a lower cost.

All necessary funds were previously budgeted for within the Logus Road Improvement Project budget.

Concurrence

Community Development staff have been working closely with Engineering on all aspects of the project and consulting with Community Services on project outreach. ODOT provided the original IGA language and agreed to minor changes requested by the City. The IGA has been reviewed by the City attorney.

Fiscal Impact

None. Funds for appraisal services are included in project budget.

Work Load Impacts

Engineering and Community Development staff are devoting substantial time to this project. The two requested IGAs will allow staff to carry out work as outlined in existing work plans.

Alternatives

Council may direct staff to seek private sector appraisal services or seek an IGA with another jurisdiction qualified to carry out this type of appraisal work.

Attachments

Attachment 1. Resolution (ODOT IGA)

ATTACHMENT 1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DIRECTING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH THE OREGON DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE PROVISION OF APPRAISAL SERVICES FOR THE LOGUS ROAD IMPROVEMENT PROJECT, THIS RESOLUTION SUPERSEDING AND REPLACING CITY OF MILWAUKIE RESOLUTION 14-2008.

WHEREAS, The residents of the Lewelling Neighborhood have long sought the addition of sidewalk to Logus Road to improve pedestrian safety in the area; and

WHEREAS, The City, with the financial support of the Bike and Pedestrian program of the Oregon Department of Transportation and the Clackamas County Community Development Division, is undertaking a project to build a sidewalk on Logus Road between 49th Avenue and Stanley Avenue; and

WHEREAS, The State of Oregon is contributing grant funds to the project; and

WHEREAS, The City will comply with all State and Federal rules regarding property acquisition for public projects;

WHEREAS, ODOT is able to provide the City with the needed appraisal services in the most cost-effective manner; and

WHEREAS, The City Council expressed its approval for a similar IGA via Resolution 14-2008; and

WHEREAS, ODOT has requested a later end date than in the IGA originally approved by City Council,

NOW, THEREFORE, BE IT RESOLVED that the Mayor is directed to contract with ODOT through the IGA attached as Exhibit A, for ODOT to provide services to the City in the form of property appraisals for Right-of-Way Dedications and construction easements in return for compensation of such services.

Introduced and adopted by the City Council on April 15, 2008.

This resolution is effective on April 16, 2008.

James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

Pat DuVal, City Recorder

RS Page 66



To: Mayor and City Council

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

From: Gary Parkin, Engineering Director, and
Alex Campbell, Resource & Economic Development Specialist

Subject: Engineering Staff/Consultant Work Balance Adjustments

Date: March 28 for April 15, 2008 Regular Session

Action Requested

Approve a Resolution authorizing the City Manager to sign a contract with Harper Houf Peterson Righellis (HHPR) for \$50,000 to provide engineering drafting and design services for the Logus Road Improvement Project. Approve a Resolution providing budget authority to pay for an expansion of on-call engineering services.

Background

Because of a recent loss of personnel in the Engineering Department, some urgent work items can no longer be handled by City staff. Staff is requesting additional contracting authority and budget authority to lean more heavily on contracted engineering services until a new Civil Engineer can be hired and brought on staff.

First, to move the Logus Road Improvement project¹ forward expeditiously, staff has requested and received a scope of services (provided as an exhibit to attachment 1) for drafting and design services on the project. The original project management plan included an expectation that approximately \$25,000 in drafting services would be required for the project and staff had been moving toward a direct appointment for those services prior to the recent staffing loss. Now, in addition to those drafting services, the City requires a higher level of design input and design work.

¹ The Logus Road Improvement project will construct a sidewalk along the south side of Logus Road between Stanley Ave. and 49th Avenue in the summer of 2008.

Staff is requesting Council approval of a direct appointment under PCR 70.015, section C1b. Harper Houf Peterson Righellis (HHPR) is the firm that is most capable of rapidly moving the project forward. HHPR staff has already begun some drafting work on the project (under the contract authority provided by an on-call contract) and have capacity to increase their work effort immediately. Staff has high confidence in the firm and has evaluated their cost-competitiveness through competitive bidding for on-call services.

This contract does not require any additional budget authority; all necessary funds have already been made available under the current budget within Fund 327. Fund sources for the project include a ODOT Bike/Ped Program grant, a CDBG grant, FILOC collections, and Stormwater Capital and Reserve funds.

Second, staff would like to request proposals for additional on-call services. The City currently has an on-call contract with a not-to-exceed limit of \$15,000 with HHPR. Staff would like to seek another \$25,000-worth of on-call services. Because that amount would exceed the 25% contract amendment limit, staff will carry out a formal selection process. Staff is seeking Council's approval of a budget transfer of \$25,000 from engineering personal services to engineering materials and services to be available to pay for those services, as necessary. The amount (\$25,000) is slightly less than the expected personal services savings due to having an engineering position vacant for three months (the minimum period expected to be necessary to fill the position). The second attached Resolution would provide for the budget transfer.

Concurrence

The City Attorney was consulted on the best way to handle the Logus Road Improvement project contract need within state statute and the City's Public Contracting Rules. Human Resources provided an estimate of likely personal service cost savings. The Finance Director also concurred with the suggested approach and confirmed the availability of adequate unexpended funds in the Engineering personal services budget.

Fiscal Impact

None. Neither action has any net impact on the current fiscal year budget. Some additional cost for the Logus Road Improvement project may be incurred under this scenario than under the original work plan. However, given the circumstances, that is unavoidable and the impact can be absorbed within the project budget.

Work Load Impacts

Engineering and Community Development staff are devoting substantial time to the Logus Road project. HHPR support will minimize that impact to the extent possible.

Alternatives

Council may direct staff to seek competitive bids for the Logus Road Improvement project design and engineering work. That step, at the current stage of the Logus Road Improvement project, could push construction beyond the coming construction season and potentially jeopardize some project grant funds.

Attachments

- Attachment 1. Resolution Providing Contract Authority
- Attachment 2. Resolution Providing Budget Authority for Transfer

ATTACHMENT 1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TRANSFERRING APPROPRIATION AUTHORITY.

WHEREAS, HHPR had been previously selected as the preferred on-call provider of engineering drafting and design services through a formal competitive process; and

WHEREAS, due to unforeseen personnel changes, the City now expects to require a higher level of on-call engineering support; and

WHEREAS, Oregon Local Budget Law allows a governing body to transfer appropriation authority by passing a resolution or ordinance (ORS 294.450(1)&(3));

NOW, THEREFORE, BE IT RESOLVED that the transfer of appropriation in the Engineering fund (Fund 650) is hereby approved as follows:

From: Personal Services \$25,000.00	To: Materials & Services (Contractual Services) \$25,000.00
---	--

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

James Bernard, Mayor

ATTEST:

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

Pat DuVal, City Recorder

City Attorney

ATTACHMENT 2

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO SIGN A PERSONAL SERVICES CONTRACT FOR \$50,000 WITH HARPER HOUF PETERSON RIGHELLIS INC. (HHPR) TO PROVIDE DESIGN AND DRAFTING SERVICES FOR THE LOGUS ROAD IMPROVEMENT PROJECT.

WHEREAS, the City of Milwaukie has identified the need to improve the pedestrian infrastructure on Logus Road in the School Trip Safety Program and the Capital Improvement Plan; and

WHEREAS, the City Council has committed to complete the Logus Road Improvement Project in Resolution No. 33-2006, No. 13-2007, and No. 15-2008; and

WHEREAS, the Logus Road Improvement project will benefit the neighborhood as a whole by improving pedestrian safety in the vicinity of Seth Lewelling Elementary and along a TriMet bus route; and

WHEREAS, HHPR had been previously selected as the preferred on-call provider of engineering drafting and design services through a formal contracting process and has provided drafting services on the Logus Road Improvement project under that contract; and

WHEREAS, City of Milwaukie Public Contracting Rules provide for direct appointment of consultants in cases where the project consists of work that has been substantially described, planned, or otherwise previously studied or rendered in an earlier departmental contract;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Milwaukie authorize the City Manager to contract with HHPR through Personal Services Contract attached as Exhibit A to provide engineering and design drafting services on the Logus Road Improvement project between SE Stanley Ave and SE 49th Ave., total cost of services not to exceed \$50,000.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

James Bernard, Mayor

ATTEST:

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

Pat DuVal, City Recorder

RS Page 71

City Attorney

EXHIBIT A

Misc. Contracts & Agreements
Number 24,270
Page 1 of 6

INTERGOVERNMENTAL AGREEMENT FOR RIGHT OF WAY SERVICES Logus Road Street Improvement City of Milwaukie

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "ODOT"; and City of Milwaukie, acting by and through its City Council, hereinafter referred to as "Agency", collectively referred to as the "Parties."

RECITALS

1. By the authority granted in ORS 190.110, 283.110, 366.572 and 366.576, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. That certain Logus Road is a City Street, under the jurisdiction and control of Agency, and Agency may enter into an agreement for the acquisition of real property by ODOT.
3. This Agreement shall define roles and responsibilities for the real property to be used as part of right of way for road, street or construction of public improvement. Hereinafter, all acts necessary to accomplish services in this Agreement shall be referred to as "Project."

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, Agency wishes to retain the services of ODOT to perform the Project identified in Recitals, Paragraph 3 and shown in Special Provisions Exhibit A, attached hereto and by this reference made a part hereof. Under no conditions shall Agency's obligations for said services exceed a maximum of \$10,000, including all expenses, unless agreed upon by both Parties.
2. The work shall begin on the date all required signatures are obtained and shall be completed no later than December 31, 2008, on which date this Agreement automatically terminates unless extended by a fully executed amendment.
3. The process to be followed by the Parties in carrying out this Agreement is set out in the Exhibit A.
4. It is further agreed both Parties will strictly follow the rules, policies and procedures of the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" as amended, ORS Chapter 35, ODOT Right of Way Manual, and Federal Highway Administration Federal Aid Policy Guide.

ODOT OBLIGATIONS

1. ODOT shall perform the work described for it in Special Provisions Exhibit A.

2. With the exception of work related to appraisals, ODOT shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from Agency.
3. ODOT shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
4. ODOT's right of way contact person for this Agreement is Wayne Kwong, Right of Way Project Manager, 123 Flanders, Portland, OR 97209 (503)731-8439 or assigned designee upon individual's absence.

AGENCY OBLIGATIONS

1. Agency shall perform the work described for it in Special Provisions, Exhibit A.
2. Agency certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within Agency's current appropriation or limitation of current budget. Agency is willing and able to finance all, or its pro-rata share of all, costs and expenses incurred in the Project up to its maximum.
3. Agency's right of way contact person for this Agreement is Alex Campbell (Resource and Economic Development Specialist, 6101 SE Johnson Creek Boulevard/Milwaukie, OR 97203, (503) 786-7608) or assigned designee upon individuals absence.

PAYMENT FOR SERVICES AND EXPENDITURES:

1. In consideration for the services performed by ODOT, Agency agrees to pay or reimburse ODOT a maximum amount of \$10,000. Said maximum amount shall include reimbursement for all expenses, including travel expenses. Travel expenses shall be reimbursed to ODOT in accordance with the current State Department of Administrative Services' rates. Payment in Agency funds shall not exceed said maximum, unless agreed upon by both Parties.
2.
 - a. ODOT shall upon execution of this Agreement, forward to Agency either: 1) a request to sign an irrevocable limited power of attorney to access the Local Government Investment Pool account of the agency, or 2) a letter of request for an advance deposit. Agency shall make any advance deposit to the Department of Transportation's Financial Services Branch, in an amount equal to the estimate of costs to be incurred by ODOT for the Project. The preliminary estimate of costs is \$ 7,500. Additional deposits, if any, shall be made as needed upon request from ODOT and acceptance by Agency. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete Project.
 - b. Agency agrees to pay or reimburse all salaries and payroll reserves of ODOT employees working on Project, direct costs, costs of rental equipment used, and per-diem expenditures, plus 10 percent surcharge on salary costs to cover administrative costs of Right of Way Section.
 - c. ODOT shall present invoices for 100 percent of actual costs incurred by ODOT on behalf of the Project directly to Agency's right of way contact for review and approval. Such invoices shall be in a form identifying the Project and agreement number, and shall itemize and explain all expenses for which reimbursement is claimed. Invoices shall be presented for periods of not less than one (1) month duration, based on actual expenses incurred.
 - d. Upon completion of right of way acquisition and receipt by ODOT of a final itemized statement, Agency shall pay an amount which, when added to said advance deposit, will equal 100 percent of

the final total actual cost. Any portion of deposits made in excess of the final total costs of Project shall be refunded to Agency.

GENERAL PROVISIONS:

1. This Agreement may be terminated by either party upon thirty (30) days' notice, in writing and delivered by certified mail or in person, under any of the following conditions:
 - a. If either party fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If either party fails to perform any of the other provisions of this Agreement or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice fails to correct such failures within ten (10) days or such longer period as may be authorized.
 - c. If Agency fails to provide payment of its share of the cost of the Project.

Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

2. Agency acknowledges and agrees that ODOT, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.
3. Both Parties agree to comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270, which hereby are incorporated by reference. Without limiting the generality of the foregoing, both Parties expressly agree to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
4. All employers that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Both Parties shall ensure that each of its subcontractors complies with these requirements.
5. The Parties shall, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, indemnify, defend, save, and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation, its officers and employees from any and all claims, suits, and liabilities which may occur in the performance of this Project.
6. Notwithstanding the foregoing defense obligations under the paragraph above, neither Agency nor any attorney engaged by Agency shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Agency is prohibited from defending the State of Oregon, or that Agency is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue any claims it may have against Agency if the State of Oregon elects to assume its own defense.

7. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
8. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program or a line item in the biennial budget approved by the Commission.

SIGNATURE PAGE TO FOLLOW

On October 8, 2004, the Director and Deputy Director, Highways approved Subdelegation Order No. 4, in which the Director and Deputy Director, Highways delegates authority to the Technical Services Manager/Chief Engineer to approve and execute all agreements pertaining to real property transactions.

Pursuant to a Letter of Authority dated February 22, 2002, the Technical Services Manager/Chief Engineer authorized the Right of Way Manager to approve and execute with other governmental jurisdictions to employ Right of Way Section Staff.

CITY OF MILWAUKIE, by and through its
City Council

By _____
Mayor

Date _____

By _____
City Recorder

Date _____

STATE OF OREGON, by and through its
Department of Transportation

By _____
Deolinda G. Jones
State Right of Way Manager

Date _____

APPROVAL RECOMMENDED

By _____
Region 1 Manager

Date _____

By _____
Region 1 Right of Way Manager

Date _____

APPROVED AS TO FORM:

City Attorney

Date _____

SPECIAL PROVISIONS EXHIBIT A

THINGS TO BE DONE BY ODOT OR AGENCY

* By using the term "Agency" below, it can be implied that the work performed on behalf of the Agency can be performed by the Agency, the Agency's consultant, or ODOT's Flex Services consultant. The work may be performed by any of these representatives on behalf of Agency individually or collectively if qualified to perform such functions and after receipt of approval from ODOT's Region 1 Right of Way Manager. Said approval must be obtained prior to the performance of said activities.

Both Parties will strictly follow the rules, policies and procedures of the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" as amended, ORS Chapter 35, State Right of Way Manual, and Federal Highway Administration Federal Aid Policy Guide.

Scope of Work for Project

1. General:
 - a. When doing the Appraisal and Appraisal Review work, ODOT shall provide Agency with a status report of the project upon request.
 - b. Title to properties acquired shall be in the name of the Agency.
 - c. Appraisal/Valuation for properties to be acquired shall consist of one Value Finding Appraisal Report and four Administrative Determination of Just Compensation Reports. In the event of change or additional scope of work, both parties shall negotiate for a revised fee and time schedule.
2. Legal Descriptions:
 - a. Agency shall provide sufficient horizontal control, recovery and retracement surveys, vesting deeds, maps and other data so that legal descriptions can be written.
 - b. Agency shall provide construction plans and cross-section information for the project.
 - c. Agency shall write legal descriptions and prepare right of way maps.
 - d. Agency shall specify the degree of title to be acquired (e.g., fee, easement).
3. Real Property and Title Insurance:
 - a. Agency shall provide adequate title and/or property ownership information on properties affected by project.
 - b. Agency shall be responsible for testing for presence of hazardous materials.
 - c. Agency shall conduct reasonable testing, if requested.
 - d. Agency shall be responsible for any necessary remediation for hazardous materials.
4. Appraisal:
 - a. ODOT shall conduct the valuation process of properties to be acquired using ODOT's approved appraisal/valuation methods and standards.
 - b. ODOT shall review the appraisal/valuation reports in accordance with ODOT's approved standards by qualified personnel.
 - c. ODOT shall recommend just compensation, based upon a review of the valuation.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CERTIFYING ELECTION RESULTS FOR THE MARCH 11, 2008 SPECIAL ELECTION.

WHEREAS, Section 13 of the Charter requires the certified elections results be made a part of the record of proceedings of the City Council; and

WHEREAS, the election results from the March 22, 2008 Special Election have been certified by the Office of the Clackamas County Clerk and Multnomah County Elections; now, therefore;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON THAT:

Section 1: The certified election results, attached hereto as Exhibit "A" and incorporated herein, are hereby made a part of the record of proceedings of the City Council.

Section 2: This resolution if effective immediately upon adoption.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon, on April 15, 2008.

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:

Jordan Schrader Ramis PC

NUMBERED KEY CANVASS

Clackamas County, Oregon
Special Election
March 11, 2008

FINAL RESULTS

RUN DATE:03/27/08 10:26 AM

REPORT-EL52 PAGE 0006

Councilor, Position 1 CITY OF MILWAUKIE

VOTES PERCENT

VOTES PERCENT

Vote For 1

01 = Greg Chaimov
02 = David Miller
03 = WRITE-IN

1,538 63.06
871 35.71
30 1.23

04 = OVER VOTES
05 = UNDER VOTES

1
9

	01	02	03	04	05
J051 51	223	79	7	0	2
J053 53	127	84	0	0	1
J054 54	113	76	1	0	2
J056 56	128	71	2	0	0
J057 57	155	91	5	0	0
J058 58	148	73	3	0	1
J060 60	191	112	2	0	1
J062 62	163	108	5	0	1
J063 63	134	80	3	1	0
J064 64	156	97	2	0	1

CERTIFIED COPY OF THE ORIGINAL
SHERRY HALL, COUNTY CLERK
BY: *Sherry Hall*
MAR 31 2008



3. H.

To: Mayor Bernard and Milwaukie City Council
Through: Mike Swanson, City Manager
From: Larry R. Kanzler, Chief of Police 
Date: March 26, 2008
Subject: **O.L.C.C. Application – Sunny Corner Market – 5010 SE Monroe Street**

Action Requested:

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from Sunny Corner Market – 5010 S.E. Monroe Street.

Background:

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

7. INFORMATION

**Design and Landmarks Committee
Meeting Notes (Conference Call)
Thursday, February 21, 2008**

Members Present

Patty Wisner, Chair
Andrew Tull, Vice Chair (got on the call at 12:40 p.m.)
Parker Fitzpatrick
Becky Ives

Members Absent

Barb Cartmill

Staff Present

Brett Kelper, Assistant Planner (DLC liaison)
Ryan Marquardt, Assistant Planner (Planning liaison Riverfront Park)
JoAnn Herrigel, Community Services Director (project manager Riverfront Park)

1. Call To Order

Assistant Planner Brett Kelper called the special conference call with the Design and Landmarks Committee (DLC) to order at approximately 12:03 p.m.

2. Riverfront Park

Mr. Kelper began the conversation by reiterating that the DLC is being asked to comment on the question of removing the Portland Traction Line from the City's list of historic resources. At its last meeting on January 23, 2008, the DLC asked for more information before making a decision. Staff had returned with the requested information, some of which was sent to the DLC in advance of the meeting (i.e., a memo from **Assistant Planner Ryan Marquardt** addressing many of the DLC's earlier questions, as well as old aerial photographs of the traction line area). The traction line was never officially scored—no evaluation score sheet has been found.

Community Services Director JoAnn Herrigel was on hand to answer questions about the park design. **Mr. Marquardt** explained the ramifications of removing the traction line from the historic resources list versus making it a ranked historic property.

Mr. Kelper noted that if the group was able to reach consensus during the course of the conference call, staff could draft a memo to deliver the group's comment to the Planning Commission (PC). Otherwise, individual members would be free to provide comments on their own. The Riverfront Park hearing before the PC is set for March 11, 2008.

Committee Member Parker Fitzpatrick had sent an e-mail earlier in the day to the DLC and Planning staff that raised questions related to removing the traction line from the historic resources list. **Mr. Marquardt** read Mr. Fitzpatrick's e-mail aloud for the benefit of anyone who had not been able to read it before the call. **Mr. Fitzpatrick** reported that he had talked earlier with **Vice Chair Andrew Tull** (not yet on the call) about the e-mail. **Mr. Fitzpatrick** had understood Vice Chair Tull's position to be in line with the preliminary recommendation of the DLC; that delisting might be supported

if there could first be some guarantee that the line would somehow be incorporated into the design of the park.

Ms. Herrigel responded to some of the questions raised in Mr. Fitzpatrick's e-mail and explained more about the overall park project and its complexities. She noted that there are already a number of competing elements in the park design. The Riverfront Board, Daughters of the American Revolution, advocates of the boat ramp, the property owners who have donated land to the park (Klein family), and proponents of the Trolley Trail are a few of the participating interests. The historic traction line adds yet another layer of complication to an already patchwork design.

Ms. Herrigel added that the Trolley Trail master plan includes provisions for providing interpretation of the historic trolley line. According to Michelle Healy with the North Clackamas Parks District, it would be easy to include related signage at Riverfront Park as part of the Trolley Trail interpretive project. Ms. Herrigel suggested that the DLC might want to write a letter to the Riverfront Board explaining its ideas for commemorating the traction line as part of the park and trail projects. (Such a letter should be copied to Ms. Herrigel as well as to Gil Williams with David Evans and Associates, the consulting firm working with the City on the Riverfront Park project.)

Mr. Fitzpatrick raised a concern about the concept of "commemoration," stating a desire for assurance that commemoration of the traction line would include more than simply a sign. When asked by Ms. Herrigel to describe how else the Traction Line site could be commemorated, Mr. Fitzpatrick stated that he would not make a specific design recommendation, that the project designers (David Evans and Associates) should be consulted, and that members of the DLC had previously discussed approaches like hardscaping, creative landscaping, or public art to reflect the path of the old rail line and incorporate any remaining elements.

Chair Wisner said that she would like to see some first steps put down on paper related to how the historic resource can be incorporated into the park design. There was some discussion about what constituted the historic resource in the case of the traction line (since only the remnants of trestle footings remain). **Chair Wisner** wondered if a special category should be added to the Historic Resources section of the code, one to deal with historic sites or properties instead of just structures.

After additional discussion of the issue, **Mr. Kelver** attempted to summarize the DLC position as he understood it: 1) the DLC wants the traction line to be scored; 2) the level of any commemoration for the traction line should be proportional to its ranking; and 3) the DLC would like to work with Ms. Herrigel and the consultant to determine what kind of commemoration would be most appropriate. The group agreed with this summary.

Vice Chair Tull stated his opinion that the Milwaukie section of the traction line is special because of its location between the river and downtown. In addition, he suggested that the fact that this section is on its own taxlot (i.e., that the title to the property was acquired for the traction line, instead of simply using an easement) signifies a certain level of importance. **Chair Wisner** agreed that some degree of commemoration is necessary for the traction line because of its historic importance to the community.

Ms. Herrigel stated her understanding of the Committee's position to be that "the resource must be scored" and asked for a recommendation that the Committee would then

recommend a level of commemoration equal to that score. **Chair Wisner** expressed some concern over the expense of having a consultant evaluate the traction line and stressed her priority for determining how the DLC could communicate its strong interest in incorporating some sort of "physical or visible" design element that would draw attention to the presence of the historic traction line. She was concerned that the knowledge of the line's existence would be lost to the general public unless the DLC and the City were to take some steps to keep it in the public eye in some way and incorporate it into the new park design. **Mr. Fitzpatrick** stated his agreement with those on the DLC who were not insisting the resource be professionally scored, but that the Traction Line site would be integrated into the design of the park before it was delisted.

Mr. Kelper said that staff could draft a memo from the DLC to the PC, one that would express the points summarized above, or that members of the committee could do that themselves. The group agreed to draft a memo or letter on its own and forward it to staff, to be put on letterhead and included in the meeting packet being prepared for the PC hearing on Riverfront Park. **Mr. Kelper** provided a deadline of Monday morning, February 25, 2008, for the draft to be sent to staff, and the group agreed to this. *[Note: The DLC subsequently sent staff a letter from the committee that was incorporated in the staff report for the Riverfront Park land use application.]*

Committee Member Becky Ives asked whether there was any possibility of constructing a footbridge across Johnson Creek where the old trestle remnants are located. **Ms. Herrigel** responded that a bridge in that location is not feasible because the bank across the creek in that spot is private property; however, there is a possibility for a bridge across Kellogg Creek in the park.

3. Adjourn

Mr. Kelper adjourned the conference call at approximately 1:00 p.m.



Patty Wisner, Chair



Brett Kelper, Scribe