REGULAR SESSION

AGENDA

MILWAUKIE CITY COUNCIL
SEPTEMBER 2, 2008

MILWAUKIE CITY HALL **2037th MEETING**
10722 SE Main Street

REGULAR SESSION – 7:00 p.m.

I. CALL TO ORDER **Page #**
Pledge of Allegiance

2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Constitution Week Proclamation

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

A. City Council Minutes of July 15, 2008 Regular Session
B. Resolution Reappointing Ray Bryan to the Public Safety Advisory Committee as the Historic Milwaukie Neighborhood Representative

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

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

A. File A-07-02 (Annexation)
Applicant: Frank Walker & Associates
Owner(s): Genevieve Holton Bentz and Hans Thygeson
Address: 5900 and 6011 SE Harmony Road
Legal Description: Map 1S2E 31D, TLID 1800, 1900, and 1990
NDA: Adjacent to Lake Road NDA, Linwood NDA, and N. Clackamas Citizens Association – Ordinance (Susan Shanks)

B. Proposed Amendments to Milwaukie Municipal Code Chapter 13.12.063, Fats, Oils, and Grease (FOG) Control – Ordinance (Paul Shirey)

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

Council Reports

7. INFORMATION

Milwaukie Center/Community Advisory Board Minutes July 11, 2008

EXECUTIVE SESSION, ORS 192.660(2)(h) to consult with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

RETURN TO OPEN SESSION

8. ADJOURNMENT

<u>Public Information</u>

- 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

PROCLAMATION

WHEREAS, September 17, 2007, marks the two hundred twenty-first anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the celebrations which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week,

NOW, THEREFORE, I, James Bernard, by virtue of the authority vested in me as Mayor of the City of Milwaukie in the State of Oregon do hereby proclaim September the week of September 17 through 23 as

Constitution Week

And ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

IN WITNESS WHEREOF, I hereunto set my hand this
2nd day of September 2008.

_____
James Bernard, Mayor

ATTEST:

_____
Pat DuVal, City Recorder

3.
CONSENT AGENDA

CITY OF MILWAUKIE
CITY COUNCIL MEETING
JULY 15, 2008

CALL TO ORDER

Mayor Bernard called the 2034th meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Council President Joe Loomis and Councilors, Deborah Barnes, Greg Chaimov, and Susan Stone

Staff present: City Manager Mike Swanson, City Attorney Bill Monahan, Police Chief Larry Kanzler, Human Resources Director Mary Rowe, Community Development and Public Works Director Kenny Asher, Planning Director Katie Mangle, Community Services Director JoAnn Herrigel

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

CONSENT AGENDA

It was moved by Councilor Barnes and seconded by Councilor Stone to approve the consent agenda:

A. City Council Minutes June 3, 2008 Regular Session;
B. Resolution 66-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the City Manager to Sign and Renew the Intergovernmental Agreement (Addendum No. 1) with the Tri-County Metropolitan Transportation District of Oregon to Provide Police Services to the TriMet Police Division;
C. Resolution 67-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Directing the Mayor to Approve an Amendment to an Intergovernmental Agreement (IGA) with the Oregon Department of Transportation (ODOT) for the Provision of Appraisal Services for the Logus Road Improvement Project;
D. Resolution 68-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Expressing Appreciation for the Years of Valuable Professional Service to the City by Chief Larry Kanzler and Recognizing Him upon His Retirement; and
E. OLCC Application for Happy Baskets, 11097 SE 21st Avenue – Change of Ownership

Motion passed unanimously. [5:0]

AUDIENCE PARTICIPATION

- **Tom Hogan, Ledding Library Board Member, Milwaukie Poetry Series Project Director**

Mr. Hogan expressed his appreciation to the City Council and Mr. Swanson and staff for support of the Ledding Library and the Milwaukie Poetry Series. The Series was

successful, and the Committee was working hard on the next year's program that would start in the fall. There will be a summer picnic poetry reading as part of Milwaukie Daze on July 26 at the Ledding Library Amphitheater. On behalf of the Board and Poetry Series Committee he expressed his appreciation for the support and encouragement from Council, Mr. Swanson, and staff.

PUBLIC HEARING

2008 Locally Preferred Alternative for the South Corridor Phase 2 (Portland-Milwaukie) Light Rail Project

Mayor Bernard stated the hearing was continued from July 14, 2008. The purpose of the hearing was to consider public testimony on the proposed resolution supporting a Draft Portland to Milwaukie Project Locally Preferred Alternative Report for the Portland-Milwaukie Light Rail Project as approved and recommended by the South Corridor Steering Committee.

Mr. Monahan reviewed the proceedings. Each person would be given the opportunity to speak once. The Council would hear testimony only from those who did not speak or testify on July 14. Please make sure the remarks were about the issue being considered namely the locally preferred alternative and avoid repetitive testimony. The order of speakers was proponents, opponents, and neutral. He asked if anyone on the City Council wished to declare an actual or potential conflict of interest.

Mayor Bernard stated, "I am the owner of properties that are in the general vicinity of some of the sites that have been under consideration and could ultimately be selected as a location for a light rail station within downtown Milwaukie. As a result, I am declaring that I have a potential conflict of interest as I believe the action that is taken by this Council could have financial impact on me or my business as I am associated with it. The properties that I am referring to that are under my ownership are 2036 SE Washington Street and 11153 SE 21st Street. Since the conflict that I have identified is a potential conflict and not an actual conflict, I do plan to participate in Council discussions tonight whatever action Council takes on this agenda. In addition I would like to add that Bernard's Garage was actually named after my grandfather who purchased it in 1925 from his brother Fr. John Bernard, the pastor at St. John's Catholic Church. It was named after my grandfather and was called J.M. Bernard and Sons. The last piece of property that I purchased was in 1983 and is located on Main Street. In 1983 he was 23. I purchased those properties long before light rail was even part of the discussion. He wanted to make sure people understood – I wasn't 23 was I? He just wanted to make sure people understood that I had never purchased any property with the understanding I would profit from any alignment of light rail certainly since the discussion of light rail in Milwaukie had not even been discussed back then. I have owned the business since 1983."

Mr. Monahan asked if any other members of Council wished to declare any actual or potential conflicts of interest. Seeing none he asked if any member of the public wanted to challenge the participation of any individual member of the Council or the Council as a whole in their jurisdiction.

Mr. Parecki was there to challenge the Mayor's participation in these proceedings. The Mayor still claimed to have a potential conflict. Mr. Parecki claimed he had an actual. As was demonstrated at last night's meeting it was difficult to clarify the difference between an actual conflict and a potential. He apologized for his inability to articulate that difference. As most of you may have seen in today's paper, though, even the Mayor had a difficult time articulating the difference. If we were to take the law and apply it as written then the Mayor's comment in the paper further proved that he had an

actual conflict. In the fourth paragraph of the article the Mayor states that he "acknowledges he has a potential conflict. He said the value of his downtown Milwaukie properties probably would increase if light rail goes by his buildings and a station is built nearby." The key word was "would." As was made clear at last night's meeting an actual conflict exists if an action taken by a public official would affect the financial interest of that official. The Mayor clearly stated that indeed would happen. To further complicate the matter even the business manager and the city attorney have been confused about the definition. In a City Council meeting on August 7, 2007, Mr. Swanson stated, "The statute went on to say as Mr. Monahan the City Attorney stated that neither the declaration of a potential or actual conflict required any public official to announce the conflict of interest more than once on the occasion which the matter out of which the conflict arose was discussed." On May 18, 2004 when the City was looking at a proposed recommendation regarding a transit center siting, light rail alignment, and station siting the Mayor at that point announced he had a potential conflict and that he was a downtown property owner. The Mayor failed to disclose his conflict from May 18, 2004 until June of 2008. There had been many meetings and many decisions made without the required announcements. In today's article the Mayor stated, "He has always announced the potential conflict before voting on light rail." The City Council on August 7, 2007 resulted in a vote that removed the McLoughlin Boulevard option from being included in the SDEIS. One could say the Mayor was stretching the truth about always announcing his conflicts before a vote. Mr. Parecki urged the City Council to do the right thing and asked the Mayor to recuse himself.

Mr. Swanson would think the decision on whether or not there was a conflict, his reading of the statute and Mr. Monahan could correct him if he was wrong was that was an individual decision of the person declaring the conflict. Statute 244.130(2) provides that no decision or action of any public official or any board or commission on which the public official serves or agency by which the public official is employed shall be voided by any court solely for the reason of the failure of a public official to disclose an actual or potential conflict of interest. The remedy if a conflict was not disclosed or was improperly disclosed was by a complaint to the Ethics Commission and determination by the Ethics Commission and not a decision by the local body. Their decision regardless cannot be overturned solely by virtue of the fact that someone did or did not declare a conflict.

Mr. Monahan said the city manager's reading of statute was correct. The obligation to determine whether or not the actual or potential conflict of interest might arise was ultimately with the Ethics Commission and not the Council.

Mayor Bernard said he intended to participate and vote on this issue.

Councilor Stone commented this came up last night as well, and she agreed that the Mayor had a potential conflict of interest that could certainly become an actual one should these decisions keep going the way they had been going. With all due respect, Mr. Mayor, she thought it prudent to consider recusing himself from these discussions because he will profit by light rail coming into downtown Milwaukie. She asked that he do that.

Mayor Bernard thanked Councilor Stone and stated he would be participating.

Mr. Monahan commented staff had identified some alternatives to the resolution that was put forth in the staff report, and Councilor Chaimov had done the same. He would like to have copies of those versions made available to the City Council, so each of the alternatives identifying issues at this point and also copies of that draft were available for members of the public. The best process would be if the City Council took a quick look at those materials before opening the public hearing and get clarification if necessary on any of the subtleties within the language. Then take public testimony on

all of the issues before the City Council within the staff report as well as what was presented here. At the close of the public testimony portion of the meeting City Council would have an opportunity then to ask clarifying questions of the staff regarding the issues that were presented within those alternatives as well as any other issue that had come forth and identified by Council through the public hearing process and any other issues that members of the Council developed through its evaluation of the process. Mr. Swanson was distributing those copies.

Mr. Swanson added there was an alternative 3 that would be available shortly.

Councilor Chaimov suggested in order to shorten people's reading, alternatives 1(B) and 2(B) were slightly modified versions of alternative 1(A) and 2(A). The change between the two picked up some language suggested by Councilor Stone. It was not his intention to have the Council take its time reviewing alternative 1(A) or alternative 2(A) but only the "B" versions that included the language Councilor Stone suggested.

Mayor Bernard said for clarification alternative 1(B) basically said that, "whereas, the recommendation LPA by making use of the Tillamook Branch Railroad right-of-way through downtown Milwaukie is consistent with the Council request the Steering Committee regarding the section of the alignment in 2007 but which raises mitigation issues for nearby schools, neighborhoods, parks and businesses that are partially described in the SDEIS under the umbrella agreement with TriMet adopted by Council Resolution 59-2008 but which requires further action." All we were saying in this was we were adding consideration of neighborhoods and parks.

Councilor Chaimov said that was the only difference between 1(B) and 1(A) and between 2(B) and 2(A).

Mr. Swanson did a table that basically went through the staff proposed resolution, alternatives 1(A), 1(B), 2(A), and 2(B) that reflected what had just been talked about. It operated as a simple sort of review. He did not have alternative 3 in front of him when he finished this, but Council would see the major difference between it and the others. He handed out copies of the table.

Mr. Monahan said the order of business would be proponents, followed by opponents, and then by neutrals.

- **Carl Horn, Dark Horse Comics, Milwaukie**

Mr. Horn addressed the City Council last year in support of light rail. At the time he talked about how he had moved up here several years ago from the San Francisco Bay area because Milwaukie was a City of opportunity and one of the very few towns in the United States with an active comics industry. It was the largest industry outside of the New York City area. In the year he had been here, that opportunity continued to grow. The number 1 film in the country, *Hellboy 2, The Golden Army* was just one block away here in Milwaukie. The Monday after next the management of Clamp that sold 90 million books in Japan, that was his specialty Japanese comics, would be crossing the street and walking around seeing out town because we were going to be doing work directly with them. This was the first time a Japanese manga artist had decided to work directly with a US publisher. He had grown to appreciate the qualities in Milwaukie and could see the deep personal and corporate roots that Dark Horse Comics has had over the past 22 years in this town. It had become quite clear to him that it would not have become the company it was had it not been for the kind of town Milwaukie was. One of the strengths of Milwaukie, however, was also the fact that it was part of the greater Portland area. The Portland TriMet system was studied throughout the country and even throughout the world as a model of excellence. Since he had been here over the past four years gasoline prices had almost doubled. We do not expect them to go down dramatically any time soon. Therefore, he believed it was in the long-term interests of

Milwaukie and certainly of the businesses and people here that we approve the LPA and bring rail to Milwaukie as soon as possible. Mr. Horn did not believe it would change the character of Milwaukie in a way we did not want. He did believe it would link us up with a long-term future we all desired.

- **Roger Martin, Lake Oswego, Oregon Transit Association**

Mr. Martin noted for 12 years he was a State representative for Milwaukie in the Oregon Legislature at the time that public transportation first came into vogue and at the beginning of the very first part of light rail. He was drawn here because this morning he read in the paper the main issue seemed to be a conflict that existed. He would leave that to the legal brains; he was not an attorney. He had dealt with conflicts of interest for a long time. In every other case he had seen if it was announced you had taken care of the issue, but he would leave that to the attorneys. He wanted to help get this debate back into an area where it should be and that was the need for light rail to Milwaukie. He lived in a community that would love to be having this debate, and it never would. Lake Oswego at best may get a streetcar line from Portland, but it would never have light rail. That was because of the logistics. Milwaukie fortunately had the opportunity. He was the Executive Director of the Oregon Transit Association and had been for 30 years. Most of us appreciate but he reiterated light rail in the TriMet system in Portland was the envy of most cities of our size in the nation. He knew of no city of any size that did not have some form of transportation such as light rail. Bigger communities had underground or heavy commuter rail. A community the size of the Portland metropolitan area had light rail. This was, and he hoped the Council would consider this an investment not necessarily for us but for the future. Mr. Martin was old enough to remember when an interurban streetcar line went from downtown Portland through Milwaukie to Oregon City. If he had a dollar for every time someone said to him, "too bad we didn't keep at least the right-of-way" he would be better off than he was today. He thought it was very important that the City Council support this. In today's world of high gasoline prices, all members of the Oregon Transit Association which was about five dozen large and small systems in the State of Oregon were experiencing unbelievable growth. Generally, our systems were up 20% to 30% in the last six months. That was because people simply cannot afford to drive and were using more and more public transportation. The problem created for most because bus systems was that was choking them financially because buses ran on diesel for the most part, and diesel prices were out of sight. Every one of our operators was experiencing deficits trying to meet the demand. The beauty of light rail was it was electric and far more efficient because of its size. In the future people will look back and say, "thank God the City Council of Milwaukie accepted the idea and authorized light rail to come to Milwaukie." It will be invaluable in the future. There was a beautiful headline in the *Atlanta Constitutio*n several years ago that read, "Is 23 Enough?" It had a picture of an existing 18-lane freeway in Atlanta, Georgia totally choked and nothing moving. The proposal at the time was to add five more lanes which were recently completed to make 23-lanes across. The question was, was that enough, and the answer was it was not enough. He had a good friend, Dan Simmons, who spent many years in Oregon state government who for the past four years was running a company in Atlanta. There were several hundred employees in a nationwide operation. They just closed that office and were opening a virtual company and sending all of their employees home. The sole reason was a total traffic jam with which they could not deal. When they started the company half a dozen years ago, their employees took an average of 30-minutes at something less than $2 per gallon to commute. Today, that commute was 2-hours and the price of gasoline was over $4 per gallon. They cannot get employees to work, so they were going to totally change the operation and have a virtual company run out of homes. That was the kind of thing that was inevitably going to happen to every

community. Portland and the metropolitan area including Milwaukie will experience that. The solution was light rail. He hoped the Mayor and Council would support that.

- **Susan Storm, Milwaukie**

Ms. Storm was a 20-plus year resident of Milwaukie with 2 adult children and their spouses as well as three grandsons living in Milwaukie and attending North Clackamas School District. She came here tonight in support of the Milwaukie light rail project. She was an enthusiastic and realistic person. For years she had watched the development that put the Sellwood-Moreland neighborhood and commercial district on the map. She would like to that type of development for Milwaukie. She used Sellwood-Moreland as an example because of the blending of old businesses and the infusion new establishments that result in a unique area to shop, dine, and do business in. It was safe, well-lighted, and vibrant and open in the evening seven days a week. It too was served by mass transit. She also appreciated the development in Hillsboro as a result of the west side light rail. As a result of this project the Hillsboro Urban Renaissance project was strengthening the vision of the community and addressing the issues of diversity and redefining their community identify. The shared community vision was for cultural development in the downtown area. Rather than shutting down at 5 p.m. the area became a destination for people throughout the region to enjoy activities and patronize local business without concern for safety, where to park, or the price of fuel. We now have the opportunity to make the Milwaukie light rail project the centerpiece for the ongoing development of our downtown. The building of the Milwaukie light rail was a very positive thing. She visited the Sunday Farmers' market almost every week and imagine what it would be like to capture that vitality and sense of community each and every day. She did see how the downtown congestion affected traffic flows and presented pedestrian safety and parking issues. McLoughlin Boulevard was busy every day of the week. Light rail can help preserve the small town feel of our community by reducing congestion both in Milwaukie and the region and connecting the residents of our town with other important destinations such as downtown Portland, airport, Washington Park, and the Expo Center. Milwaukie had a fine long history. She thought it was important to share that history with the rest of the region and invite people into our core downtown area both as business owners and as visitors. Milwaukie light rail will help to accomplish this. With attractive stations and public art works our community can reflect the heritage and dreams of the residents in yet another way. An investment in community transportation carried on a long pioneering tradition that we can be proud of. She could imagine activities and community events that invited others to appreciate what Milwaukie had to offer. She could imagine the people of Milwaukie planning and attending broad range of inclusive community events that would serve to bridge cultural and socio-economic divides without the Anglo-centric outlook that had historically plagued other small Oregon towns that result in high levels of misunderstanding and distrust. At her age she may not be here to see the opening of Milwaukie light rail, she felt it would represent a legacy for her grandchildren and the young families of the area. Reducing the number of single-occupancy vehicles on the road had never been more important than it was today. It will continue to be important to our children and our grandchildren. She looked forward to the day when each and every citizen of Milwaukie can choose to access safe, clean, efficient transportation to travel to other regional destinations, and visitors to Milwaukie can step out from a safe, modern railcar and set foot in our forward-thinking community already planning their subsequent visit.

- **Peter Stark, Portland**

Mr. Stark focused on one aspect of alignment. He was the past president and served on the Board of the Central Eastside Industrial Council (CEIC) in Portland representing

industrial properties just east of downtown Portland which was also impacted by the Portland-Milwaukie light rail. Although he was not there to represent the views of the CEIC, his history and background with that group gave him a perspective on the importance of industrial uses in an urban context. As such, he had been asked by multiple property owners in the Milwaukie North Industrial Area to testify in support of the Tillamook Branch alignment. He really appreciated the fact this City Council had gone out to support the Tillamook Branch alignment including in what he had heard in testimony with other groups and eventually the support that had come from Metro's Steering Committee. Clearly, this City had shown its support for the North Industrial properties and was appreciated. When he was first asked to assist the North Industrial owners in Milwaukie it appeared the LPA would continue to be on Main Street. He remembered the first meeting when that was the case where there was a lot of discussion of the Main Street alignment. If it had been pursued, it would have created tremendous hardship to the industrial owners and specifically the loss of on-street parking, pedestrian access, impact to loading docks, and substantial reduction in intersection efficiencies that would likely cause relocation or closure of industrial uses. In addition, this alignment forced the taking of Harder Mechanical. It was a very successful business that provided clean room, high-grade, hi-tech piping for hi-tech industry. The Tillamook Branch avoided all of the issues. This was not the first time he had seen a potential rail alignment impacting industrial land. While president of the CEIC he fought vigorously to keep a streetcar alignment along the districts retail corridor to avoid impacting industrially sanctioned land. Yet there were many pushing to move the alignment right in the heart of the sanctuary to allow rezoning of the area for mixed-use development. Instead of selecting an alignment to create transit relief, the alignments were being used to create a catalyst for gentrifying the industrial lands. The reason he wanted to testify was to point out the decision to keep the Tillamook alignment was very important for the industrial lands residing in this City. Unfortunately, industrial land and more importantly urban industrial land was becoming a rare commodity. Given the substantial investments and risks taken by many of these businesses, it was not surprising that many did not survive economic downturns. Those that did survive and grow not only provided local jobs and tax revenue but also bolster regional traded sector economies. We need to protect industrial lands especially when they were vibrant and successful like the North Industrial Area. He thanked the City Council for its support and was happy to see we may have a light rail coming through Milwaukie.

- **Charles Bishop, Vice-President Pendleton Woolen Mills, 8500 SE McLoughlin Boulevard and 2515 SE Mailwell Drive**

Mr. Bishop stated Pendleton Woolen Mills supported light rail and the LPA through Milwaukie. Pendleton had previously submitted testimony to Metro on the Draft Environmental Impact Statement. He would not go through all the details of that testimony. Pendleton had also worked hard with its industrial neighbors in Milwaukie, Milwaukie City staff, Metro, and TriMet for several years on light rail planning. Pendleton was very familiar with it and urged the City Council to support the LPA and the Tillamook Branch alignment.

- **James Stilwell, Corporate Treasurer, Harder Mechanical Contractors, 2323 SE Hanna Harvester Drive**

Mr. Stilwell thanked the City of Milwaukie for what he saw as being on Harder's side throughout the long process. He served on the Committees to decide on some of the alignments. The City understood the value of jobs and industrial base in the area. The Main Street alignment of the light rail would result in the destruction of the Harder facility, so his company favored the Tillamook Branch alignment. The Harder facility

had 57,000 square of shop and warehouse and 8,700 square feet of office. There was an industrial fabrication area for steel pipe and a hi-tech class 100 clean room which was one of the largest in the Northwest. Harder served a lot of hi-tech customers including Intel, SEH America, and Wacker Siltronics. The company also produced products that were shipped outside the US in that shop. Harder made a large investment in the property after it was purchased. It had been a valve manufacturing company. Harder was also involved with a lot of green businesses in the region including solar panel and solar cell raw material production facilities for REC Silicone and Solar World. Ethanol storage and fueling facilities for Shell and Tesoro and the de-ink processing facility for Smurfit for recycling old newsprint. Mr. Stilwell felt this was in line with the Governor's recent emphasis on green business. Keeping Harder here would be beneficial in that regard. The former fabrication shop was in Vancouver. If Harder were forced out, the most likely outcome was that the company would build a combination main office and fabrication facility in Washington. That would result in the loss of high-paying, highly-skilled jobs. The pipe fitters at the Milwaukie facility make $35.69 an hour with a fringe benefit of $16.59. Those were some of the highest paying blue collar jobs any where around. Harder currently pay $70,000 in TriMet tax between the employees in the office and the fabrication ship, so if the company moved that would be lost. A lot of income tax for the State of Oregon would be lost. There would be quite an economic impact if Harder were forced out. Harder also did a lot of business out of state in California, Utah, Washington, and Arizona plus the fabricated projects sold outside the US. Harder was bringing in dollars from other states as opposed to just trading dollars around within Oregon. That was generally regarded as a positive for the economy. He concurred with the last speaker that losing industrial land was not a good thing. It was very difficult. Harder had looked for other properties, and it was very difficult because people did not seem to want it near them. If you do not have it, then everything will be built somewhere else. Harder Mechanical urged support for the Tillamook Branch alignment, and one would hope the final decision makers would listen to the local people because he felt they knew best.

- **David Aschenbrenner, Milwaukie**

Mr. Aschenbrenner observed this process had been going on for a long, long time. He had been involved with it for a long, long time. He had no prepared comments and would keep it short and sweet. The City Council heard a lot of good people with a lot of positive feedback and a lot of positive information about why this line needed to come through Milwaukie and beyond. It needed to go to Park Avenue. We all knew that. It would help make it a better alignment. He was on the Citizen Advisory Committee for TriMet and Metro that studied this part of the process. He was involved with the group that came up with the Tillamook Branch alignment and worked through getting to that alignment. He was a member of the group that studied the alternatives when light rail was not even being considered after the vote of the funding measure that went down. He had been involved in this for a long time and had done a lot of work on it. There were a lot of good people here. The Council heard a lot of people last night. We need to just do it. We need to get this done. We need to get it built. It was something that would improve Milwaukie and help Milwaukie. It was something that when we build it and how we build it was what was crucial. The eyes on it were crucial. Councilor Barnes brought up the security camera issue, and that was an important part. How the station was designed was an important part. All of those other pieces would come together. That was the next steps would do that. There were a lot of good people working on it. He encouraged Council to do it. Let's get going and make this happen.

- **Marilyn Goode, Clackamas County**

Ms. Goode supported the light rail project. It would bring an additional vitality and resources into Milwaukie. She had the opportunity to work for the Portland Mall Information Center in downtown Portland. She had a lot of visitors and tourists that came in from out of state. They came in and complimented the MAX system. They also informed her that they took it out to Hillsboro and Gresham. Why not bring them into Milwaukie and let them spend some of their resources here. Shop at our shops, eat at our restaurants, and enjoy the wonderful waterfront.

- **Shawna Dietz, Clackamas County**

Ms. Dietz was a TriMet rider. When she was in high school 13 to 14 years ago she heard people talk about this happening. She was glad to see now it was in the works. She rode the bus to work and home every day. Today coming home the bus was full in the aisles all the way back from the front. She sees light rail system would ease that.

- **Rob Kappa, Milwaukie**

Mr. Kappa was in favor of light rail. He had already stated his reasons why in previous testimony. He took the opportunity to answer a question asked of him by Councilor Barnes and a County Commissioner regarding 82hd Avenue. It was on the issue of connectivity and identifying how to connect people in the outer areas that work within the inner City. He thought one way to do that was right now we have transportation lines with light rail or bus. We need to connect those light rail lines. That meant going from the Clackamas Town Center into Oregon City and from Portland to Milwaukie to Oregon City. That way identifying the interconnectivity would be a little easier to see what streets would be needed and where down the line a trolley car might be appropriate. This would give people better transportation where they can park their cars somewhere else and ride light rail into inner city or a bus line. There were many bus lines that were destination only and no connection at the end. He thought connecting bus lines was another issue that needed to be addressed. His last point was again we were not trying to change habits. We were trying to change a culture. The culture of the automobile cannot be supported because of the cost of fuel. People cannot afford it any longer; they need transportation. He threw out a hypothetical figure he heard others state. He discussed raising bus and light rail fares by 50-cents and putting 25- or 30-cents into a security system whether it was more Milwaukie or Portland police. He thought that would go a long way to addressing peoples' concerns about mass transit. Mr. Kappa used it quite a bit and felt safe. Move it ahead and build it.

- **Mark Williams, Portland, Oregon Health and Science University**

Mr. Williams represented Oregon Health and Science University (OHSU) in the Campus Planning and Development Department. He was there to support the Milwaukie light rail line. One might ask what stake OHSU had in this. It was not a transit agency or general government entity. OHSU had a mission that was not restricted to the City of Portland. It was a statewide mission. OHSU was the only academic medical health center in the entire State of Oregon and southwest Washington. The mission was to provide health care, health care education, research and discoveries to improve the lot of Oregonians and southwest Washingtonians. It was extremely important to OHSU to be able to serve the entire region. It was the largest employer in the Portland area with 12,000 employees. It was the fourth largest employer in the State. One of the things OHSU needed to do was to get people in and out of the campus. OHSU was planning to build an entirely new campus on the waterfront near where the light rail line would go. Why was that needed? There was a dramatic shortage of healthcare professionals that already existed in the country,

region, and state; it was only going to get worse. He called it a triple whammy. The population was getting older. As get we get older we need dramatically more health care. The Baby Boomer bubble passing through the population included health care providers. Currently only 200 new doctors per year were being graduated and about 1,200 were being lost. Those numbers did not add up. There were similar numbers for nursing and just about every health care profession one might name. OHSU was attempting to address the health care needs of Oregonians. They needed to figure out how to get people in and out of the area without their cars. Those 12,000 employees included a lot of people who commuted from Clackamas County. Mr. Williams knew people who wished they could get there on transit but had a hard time getting there on time. The light rail line would help serve the health care needs of those living in this area and help people who work for OHSU get in without using the car. He felt it was a very positive development for the entire region and hoped the City Council would support it.

- **Neil Hankerson, Dark Horse Comics, Milwaukie**

Mr. Hankerson had sent correspondence expressing Dark Horse Comics' support of light rail. He saw an article in the morning paper about the Milwaukie Downtown Business Coalition and wanted to make it clear not all downtown Milwaukie employers were involved. Dark Horse Comics, Reliable Credit, and the Active Group were not part of that and were in support of light rail. Collectively the businesses had about 300 employees who needed to get to work and park. As everyone knew parking was an issue as well as getting in and out. He also supported the concept of the terminus at Park Avenue. Having the station there would help intercept some of the McLoughlin Boulevard traffic that at some point was going to clog McLoughlin Boulevard and force some other kinds of decisions. He had lived here his whole life and saw traffic on McLoughlin Boulevard increasing and increasing. He did not see it getting any better. At some point what do you do? Expert testimony had been given in the past about the challenges of downtown Milwaukie and establishing a thriving retail but the natural barriers and walls that surround it and getting access was important. Light rail should help that.

- **Heidi Graham** had completed a form to speak in support but had apparently left the meeting.

- **Bill Lake, Lake Oswego, representing interest holders in Kellogg Park LLC, Mailwell Building**

Mr. Lake did not represent any of the property owners in the North Industrial Area. He was a member and served on the Transportation System Plan (TSP) Freight Working Group this past fall and putting that group's recommendation together. There had been a tremendous amount of discussion with the light rail project which they were not allowed to discuss but obviously would have impact on the Working Group's recommendations on the TSP in the North Industrial Area. One of the things they were looking at was trying to avoid congestion and provide affordable transportation for the people working in that area. There were a tremendous number of people in the area that were not paid the highest wages in the State, and it was important to note that many of the people who worked there were part-time workers. Some were seasonal workers who came in when needed. They had to come in and move out. The streets in the area were not providing the amount of parking. If one looked at Main Street, parking was an absolute mess. If one looked at Mailwell Drive the curbs were broken due to trucks going in and out, which was a different discussion for a different day. It caused the closing down of parking in that area and reduced the availably of people to get in and out without congestion and without a lot of hassle. It was very important that these people were supported by light rail particularly considering the gentrification issues that

were starting to take place in Milwaukie as the City recreated itself and began moving from a strictly blue collar area to more of a grey and white collar environment. More and more people would be moving in and out of the area on day trips. One of the people on the Working Group was a policy analyst with the State of Oregon who said gas would be at $5 to$6 per gallon, and here it is straight in our faces. His sister in California told him gas was over $5 per gallon in the Bay Area. It was headed our direction and just a matter of how quickly it got here. We obviously have many arguments from many people. His argument was probably a little narrow-minded in that it was for the North Industrial area. This would be a tremendous opportunity to help many of the people who were owners and tenants in that particular area. He urged the City Council to accept the LPA.

- **Charmaine Coleman, Milwaukie**

Ms. Coleman asked the City Council to endorse the light rail project that Metro planned to bring to Milwaukie and not to bring to Milwaukie. She felt there was an important distinction here. Some believe that active opposition to light rail time and again would end the matter altogether. That light rail would go away. That Portland would go away. Residents in outlying areas with transportation needs to and from Portland would go away. She was not sure exactly how that was going to happen. She firmly believed light rail along the McLoughlin Corridor was an inevitability. The real question was do we want to have a say in how it happened. Where would station locations be? Would there be a quiet zone? Will the aesthetic appeal of the project be there? These were questions we were being asked today, and that was a wonderful thing. Stare this gift horse in the mouth, and the next time light rail came up for approval because it must at some point or some version of it, we will not be asked our opinion on it would be done. Heaven help us at that point. Certainly the federal funding that was here now would be gone, and the project's financial burden would be placed squarely on the shoulders of the local taxpayers. High speed trains zooming through town, maybe. Stops here at all, maybe not. Certainly, who will ask our opinion at that point? We will have solidified our place in the world as an impossible city to deal with and work with. Frankly we will probably be worked around instead. She did not like to paint a gloom and doom scenario, but she really believed that something had to happen. She wanted to have a voice in how it happened. She thought this was Milwaukie's golden ticket. It was the best chance to approve light rail or public transit in way that we can live with and actually improve as a community. She implored the City Council to do Milwaukie a service by taking advantage of the opportunity to have a voice. She not only lived in the area, but her home was a block and a half from the proposed light rail line. She had no problems with a 2-year old and six-month old with safety or anything like that. It could not come faster in her opinion. She had a stamp on her hand from the zoo, and she would have loved to ride the train, MAX. Please invite young and growing families to this area by creating the infrastructure that encouraged and supported a thriving community. Councilor Stone earlier this evening in reference to the Mayor said not that he would likely profit from light rail coming down but that he would. Ms. Coleman could not imagine he would be the only one. Most of us would stand to profit by having light rail come through our town. She really believed that. If light rail was turned down now, we would lose our confidence in this community. She did not know if the City would attract people with young and growing families willing to commit to it in the future. She wanted to see that for this area. She implored the City Council to take advantage of a wonderful opportunity.

- **Cheryl Ausmann-Moreno, Milwaukie**

Ms. Ausmann-Moreno lived at the convergence of three neighborhoods that were sorely underserved by transit. A lot of people had told her that. She was past chair of

the Ardenwald Neighborhood and currently served as a board member and Public Safety Advisory here in Milwaukie. She was also a previous employee of the Bureau of Labor and Industry (BOLI) and also worked at Shriners Hospital for 14 years. She was really impressed to see that Mr. Williams from the University there. Some people had heard this story already. Ten years ago when most of the working families in the neighborhood too busy to come to the meetings thought light rail was coming. She was pregnant with her second child and working up on the hill at Shriners Hospital. It was less than a 15-minute drive, and she was one of the lucky people that actually had parking. She was also paying for daycare. Her round trip on public transit at that point would have been about 3-hours. She tried it a couple of times, and it was totally miserable. That was a situation that needed to be improved. It was access to jobs. She had to buy a car. People had to go to additional expenses. It was not just access to jobs for adults and parents and families. It was also extra income access jobs for senior citizens, students that were working through college, internships, and not having to make a choice between a car and college and education. There was also access to some of the schools. She attended the field trip last week with Carolyn Tomei and TriMet light rail staff. They went along the Interstate on light rail, did a field trip, and had the opportunity to ask lots of safety questions. They went to De La Salle High School, and she was very impressed with the safety education program they initiated for the School. They also did it for the previous school that was a K-8 that was previously at that location where De La Salle which was now a high school. It was a very positive experience, and the kids also had great access to go to their internships and other jobs to go to the private school they were attending. They seemed to very willing to talk with safety people and improving safety education. She was very impressed with that. They were not just going to the school setting up an education program for those children but also setting up more education for the parents. All of us could use an idiot guide for safety and light rail and how to use transit and also what to do if there was a safety concern. They were thinking about and being open to that. She was impressed. Perhaps doing more online training for idiot parents. Also for people who may be a little bit afraid. She was encouraged by that. She had made a wisecrack in the Public Safety meeting several months ago, “why don’t we have light rail transit police with dogs?” Guess what appeared in the last few months. We have a K-9 on Milwaukie transit. A little more background on her family. She was a parent and had young children. Her household was ages 10 to 80. They would love to have better access to jobs, entertainment, and schools. It was hard to get around even if you lived in Milwaukie it was hard to use public transit. If you work on International Way it was horrible. It was not set up well and not 24-hour service and we did not have access to the jobs that we should. It was not easy to get around. When she worked at BOLI one of the things leading to unemployment was access to jobs. We needed to make sure that all of the safety stipulations were in writing and make sure there was follow through. That was how we were going to get what we wanted. We were the customers of TriMet, and we all needed light rail.

- **Gwen Millius, Design Commissioner for the City of Portland**

Ms. Millius read a letter from Design Commission Chair Lloyd Lindley into the record:

“Dear Mayor Bernard, On behalf of the City of Portland Design Commission, I am writing in strong support of the Portland to Milwaukie Light Rail Transit project. The Portland Design Commission reviews development projects and land use plans through the Fundamental, Special District and Community Design Guidelines. These guidelines frame community values that promote sustainability and infrastructure, historic and cultural context, accommodation of higher density and more compact development, a more walkable and bikeable city and especially transit oriented development.

The City of Milwaukie is a leader in sustainable development that is sensitive to community values, preserves the human scale of its downtown and is supportive of light rail service. Light rail transit as originally conceived and as it serves our centers and neighborhoods today will become an essential part of Milwaukie's personality, architectural heritage and the permanence of place.

The Portland to Milwaukie line is a critical link in a much greater transit system that will meet increasing community needs with each future segment. It will contribute to enhancing social equity and preservation of our region's livability. Light rail transit uses renewable energy and is a nonpolluting transportation option that promotes sustainable life.

Light rail is vital to our region's mobility for moving our workforce. In conjunction with the forthcoming I-205 line, future light rail transit extension from Milwaukie to Clackamas Town Center and forthcoming streetcar extensions, this line is essential to maintaining and expanding our region's competitive advantage over the other west coast cities and within the global economy. It will link sustainable life styles and strong neighborhoods and communities to employment, recreation, the arts, healthcare, and other services.

Time is of the essence, especially given demand, and rising construction and travel costs. The Portland Design Commission encourages Milwaukie City Council members to vote in favor of the Locally Preferred Alternative and the necessary funding the expedite the project."

Speaking in Opposition

- **Les Poole, Clackamas County,** was called but was not present.
- **Bruce Evans, Portland Waldorf School Board of Trustees**

Mr. Evans said the message was brief in that the City Council had heard it before. The Portland Waldorf School Board of Trustees had been an active participant in the recent South Corridor Light Rail Planning and Impacts Analysis Process. Along the way they had communicated face to face and in writing consistent themes. They supported the idea of mass transit as a means of environmentally attractive transportation for commuters in and around the Portland metropolitan area. They believed the SDEIS published this spring was flawed and its all too narrow focus on a single alignment through the Milwaukie downtown area when other viable alternatives were proposed. This narrow focus did not allow the community to weigh alternatives on a level playing field and potentially rendered the document nonconforming to NEPA guidelines. They had grave concerns about the impacts on Portland Waldorf School should this project be built as described in the LPA along the Tillamook Branch freight rail corridor in such close proximity to the school grounds, the highs school building, and the early childhood outdoor learning area. These concerns included safety and security for the students, faculty, and staff; noise, vibration, and visual distraction impacts on child development and the educational programs; and the financial burden resulting from costs to mitigate adverse impacts or the loss of revenue should the enrollment drop as a result of unmitigated impacts. These were not new themes or new positions from the Portland Waldorf School Board of Trustees. The City Council was now charged with making a recommendation on the LPA, and the Board would like to reiterate one more position. They would like the City Council to recommend a no-build alignment terminating the project north of the Milwaukie downtown area thereby mitigating concerns that we and others in the community had expressed throughout the process and potentially mitigating the flawed impact analysis resulting in the SDEIS.

- **Ed Zumwalt, Milwaukie**

Mr. Zumwalt said during the past week discussed possibility of testifying at this hearing. Too many had remarked they had given their opinions over the past year and did not feel they had been listened to. So why bother? The consensus seemed to be that the dialogue was stalled for some time. A done deal so to speak and that the process must move on to another level. Either the ballot box or the courts. A sad commentary. All were aware of the 14-Points crafted by the neighborhoods in 2001 to protect themselves from negative intrusions by light rail. Yet the City Council was witnessing, no aiding and abetting TriMet and Metro as they completely dismantle those 14-Points. We all expected large governments to attempt to force their wills upon smaller ones as Metro and TriMet had been trying to do for years with light rail. We expect our locally elected representatives to stand up for us, to protect us, to mitigate for us, and not to join them in their onslaught. Without the Council's help people were sitting ducks, and they could do with us what they would. It was obvious the proposed alignment crashing into a residential area with four schools was far from ideal. Why was another alignment not being studied? One of the Council stated we should have studied McLoughlin Boulevard further. Another said ODOT would not allow it anyway. At a recent meeting at St. John's cafeteria a lead staff member kept referring to this as the McLoughlin Corridor. Why was the McLoughlin Corridor not being studied instead of the Tillamook Corridor? If it had to come to Milwaukie at all, that would be the proper route. Over the years those of us who have opposed light rail were often referred to as poor regional partners. In reality it was Metro and its transit arm who were the poor partners, Who else would have concocted such a self-serving, intrusive, destructive route? Another divisive slash through the gut of our City sounding its horn most of the way. The horn must not be allowed under any circumstances. If they cannot be eliminated the City Council must insist upon another route. Horns were not only a deal killer but a city killer. After winning three elections, two against light rail and one against politicians who would not listen either, we were being ignored again. Our Council has ignored us to a great deal over the last year. They instructed the staff, undoubtedly fine, talented, admirable people, to push on with projects dear to the hearts of Metro and TriMet and a few of our local politicians. We have been abandoned and patronized. What can we do? We must find a solution. To paraphrase Louis Brandeis, one of the most celebrated justices in our Supreme Court history, the most important politicians in any town are its citizens. The citizens of Milwaukie have been ignored far too long.

Mayor Bernard heard Mr. Zumwalt say many people supported the 14-Points and asked if he supported them.

Mr. Zumwalt replied he did.

Mayor Bernard referred to the 9th point, consider, after securing the Southgate site for regional transfers, an extension of light rail into Milwaukie on the existing rail right-of-way, with a station behind the Junior High, for local service.

Mr. Zumwalt responded at that time he was very naïve. He thought the City was going to get a little help in buying the school that was now Portland Waldorf School. Mayor Bernard was involved in that too with him. That was going to be a community center, and he thought it would be good to have a station behind it. Since then he studied a lot more about the quarter-mile radius around stations and the crime and the bad things that happen around there. He did not think it would have been a good thing to have. Also he remembered discussions at that time with some people on this Council. He was sure the Mayor remembered this. Stopping at Southgate and getting a streetcar and running a shuttle streetcar in our town. Then it was found out TriMet would not come up with the streetcar. We even discussed getting a bus, running a shuttle bus and painting the Lot Whitcomb on the side of it and serving Milwaukie from Southgate.

Mayor Bernard appreciated those discussions. It was constantly referred to the 14-Points were not being followed. Item 12, considering future extension to the south – wrap it around south end of downtown Milwaukie and head down McLoughlin Boulevard. Perhaps a future stop that can serve the Milwaukie riverfront. If we were referring to the 14-Points and accused of not following them, the 14-Points actually did address those issues.

Mr. Zumwalt responded the circumstances were different.

Mayor Bernard understood that, but it did not say it on the 14-Points. He would be happy to sit down and ….

Mr. Zumwalt stated the main thing in the 14-Points was not to trash neighborhoods and stay out of the neighborhoods all the way along.

Mayor Bernard agreed.

Mr. Zumwalt continued the other main thing was to buy the school. They were going to help us buy a school.

Mayor Bernard just wanted some clarification that were issues in the 14-Points ….

Mr. Zumwalt stated there might be two or three of the 14-Points, but most of the 14-Points basically he was for. If he went along with some others, as he said, he was very naïve.

Mayor Bernard just wanted to clarify Mr. Zumwalt's opinion of some areas of the 14-Points had been altered. It was constantly said the Council was not following the 14-Points.

Mr. Zumwalt replied the basic tenet of the 14-Points was not being followed because we were not protecting the neighborhoods. That was the main thing. He was sure Mayor Bernard realized and remembered well that we wanted to stop at Southgate and serve this with a bus. There was even a special meeting about that with neighborhood leaders, the city manager, and Mayor Bernard.

- **Peggy Berquist, Portland, St. John the Baptist**

Ms. Berquist's main concern about your proposed route past four schools left her to believe the Council felt the education of our children was not important. She disagreed with that. Light rail was fine as long as it was put in proper place. Passing four schools was not the proper place for it. A recent Oregonian article acquainted her with the fact that a person living in Oak Grove can walk the old trolley line right-of-way to his office at Metro on his way to work any morning in 35-minutes. Her question to the Council was if that had been explored. Eventually this was not going to stop in Milwaukie or Oak Grove. It was going to go to Oregon City. Agreed? Because of that it needed to be in the right place. The right place was not past four schools. Do you know if the other alternative was investigated at all? That was her real question. When Mayor Bernard was so big there was a trolley car from Portland to Oregon City. It was an ideal thing. Whichever politicians got rid of that did not do us a service. Why cannot that area be used again? It was being used in Lake Oswego. Why not here? She wanted to know if that had been investigated.

Mayor Bernard replied the Trolley Trail was determined to be a bike and pedestrian path. That was what the community south of here desired, and that was what he supported. He walked the Springwater trail that was 7.5 miles from Milwaukie to downtown Portland. 35-minutes walking was very fast. That community for a long time had supported a bike/pedestrian path.

Ms. Berquist said things could be changed.

Mayor Bernard said for that reason it was not studied plus it was not wide enough for light rail. The ridership was too great for streetcar. It had been analyzed and determined there needed to be a bigger system. They had not specifically studied the Trolley Trail.

Ms. Berquist said the other question was the admission in Alternative 1B that there needed to be further studies, further actions that would be defined in the Final Environmental Impact Statement. By that time everything was all set. Was that correct?

Mayor Bernard staff would answer that question specifically. The final design looks at mitigating all of those issues.

Ms. Berquist that the Council's first obligation was to the children of Milwaukie. Putting light rail by any of the four schools was not serving them well.

- **Matt Menely, Milwaukie**

Mr. Menely used to live in Portland, Sellwood. He always thought what was wrong with those people in Milwaukie? Why can't they figure out this light rail thing? Then he moved here six years ago. Thanks to cable access he had been able to catch the City Council on reruns. He thought he had a better understanding of why there was opposition to this particular alignment. He was not here to say he was opposed to light rail. He was saying he was opposed to this alignment. He would like to have light rail and ride it to work in Portland. He was an employer and had a business. He paid TriMet tax just members of Council. He thought by the Council's taking viable alternatives off of the table prematurely was breaking the rules of the National Environmental Policy Act (NEPA). There were viable alternatives that needed to be put back on the table so that everything could be studied and compared. Then we can go back. If they then come back and say the Tillamook alignment was the appropriate alignment with the least environmental impact, then we should proceed forward. If you went from Southgate to Lake Road or beyond Lake Road over the pond and you look at the environmental impacts and then you compare them to McLoughlin Boulevard or Main Street the actual environmental impacts were going to be higher on the Tillamook alignment than some of the other alignments. It was really about an environmental impact. We should really be looking at what was the best way to the largest number of population with the least harm to schools, neighborhoods, and the environment at the most reasonable cost to taxpayers. Not to promote property development for a select few people. He looked at the SDEIS online, and he thought it definitely had some flaws. It did not really adequately talk about the potential for cut through traffic on Lake Road, Washington, Monroe, and Harrison all of which had schools on them. That was an environmental impact that was not really addressed appropriately in the document. Something he had not heard brought up yet was that there have been problems with light rail trains in freight corridors in other jurisdictions including Littleton, Colorado where there was an accident that involved a light rail train and a freight train. He thought there was also another on in San Diego. Lastly, he was actually pretty saddened and disappointed by the fact that the Mayor did not have enough trust in our democratic system to step aside this evening and recuse himself due to his potential or actual conflict of interest. A good comparison could be made at the Supreme Court if a justice owned stock in a company, say Philip Morris, and the Court was going to hear proceedings involving Philip Morris that justice would recuse himself. He did not think this case was much different than that. He thought the Mayor owed it to the people in Milwaukie to step aside from the decision. Even sitting on the Steering Committee was not within his purview.

- **Ray Bryan, Milwaukie**

Mr. Bryan expressed his appreciation to each member of Council for his/her dedication and sacrifice and time. He read his comments into the record. "I am asking that you say 'no' to the LPA. The most convincing reason I have is that it leaves open the possibility of ending the line in Milwaukie, with the only station at Lake Road, nothing at Southgate, and the major replacement for the thousand space Park Avenue facility with the streets in my neighborhood. If this were to happen, in my opinion, we might as well change our slogan to Milwaukie is a great place to live, work, and park. The reason given for keeping the Milwaukie terminus is because of cost. We all can remember what happened with the budget for the tram and most of us can remember what happened with the cost to build the tunnel for the Westside line. This project includes a bridge, and I rest my case.

My other good reasons for asking you to say 'no' to the LPA all relate to the information I discovered in the SDEIS. The purpose of the SDEIS, as I understand it, is to look at the alternatives, identify the impacts, proposed mitigation, and then make the best decision with the information. Unfortunately, the SDEIS for the route you are voting on does not identify or recognize some of the basic things that will impact the livability of our community. How can we receive any help with the negative impacts if they are not identified in the SDEIS? Now is the time to say if this is coming we want these issues addressed and mitigated and we are not going to settle for empty promises. I'll share with you a few other things I found. On page S-6, Table S-3, "Neighborhood impacts are shown to be equal to the no build alternative." This simply cannot be true. There will be impacts to every neighborhood the train travels through. There will be significantly more impacts to neighborhoods with transit stations. These impacts include but are not limited to noise, lighting, increased traffic, crime, safety of pedestrians, delays in walking, biking and driving. We can certainly have a conversation on how bad the impacts will be and whether the benefits outweigh them. We cannot deny a light rail project will have no greater impacts to a neighborhood than the no build alternative. Page 3-178. The SDEIS states the police response time will not be affected. This cannot be true. If an officer was on route to an emergency call and the train comes by at the same time, response time will be affected. Page 4-8. The on street parking study was done in August 2007 while school was not in session. There are three schools in the area, many students, staff, and visitors use local streets for parking. Any meaningful parking study would have to be done while school was in session. Page 4-29, no mitigation for lost parking; other options included mitigation with a surface lot on Main Street. Page 4-46 and –47. No mitigation is proposed for traffic backups at light rail crossings at Harrison, Washington, and Monroe Streets. To me that translates into additional cut through traffic. I am here tonight because I believe the citizens of Milwaukie can make a difference. I am not keen on the idea of squeezing light rail behind our schools and homes. I am adamant that the impacts to our community need to be addressed, and they are not. We are going to be asked to pay $5 million. We have been told that there will be no impact to our neighborhood, no mitigation for lost parking, no mitigation for traffic backup when the train goes by every three minutes and TriMet expects us to believe the police response will not be affected. What a deal. What Milwaukie needs to do right now is to take Jim's determination and connections, Deborah's no-nonsense and tough approach, Greg's step back and look at the issues perspective, Susan's history and alternative ideas, and Joe's sense of what is Milwaukie getting out of this and tell them what we want and not settle for anything less."

- **Marske McEntyre, Clackamas County**

Mr. McEntyre lived in Oak Grove and liked to follow Milwaukie current events and appreciated getting the Milwaukie *Pilot*. He realized these were tough decisions. He completely support light rail into the Milwaukie downtown, but he did feel the Park Avenue terminus was an afterthought. He understood the logic behind intercepting commuter cars and so forth. Living in that community he was worried it was viewed as a remote parking lot, and that was all. Imagine any individual who might be living in a single family detached home today. They looked two or three blocks away and saw a two or three story parking garage, then it would look like something you saw at the mall or a Nordstrom-style parking garage. It was important to design it carefully if it were to happen. He felt that design and analysis of the impact to that community had not been fully vetted. You on the City Council should work closely with the Oak Lodge Community Council to figure out what the impact was in that established neighborhood. He felt like the only reason he did not support the current proposal was because of the emphasis on the parking garage at that location. It will not be simply a parking garage. It will stimulate development whether that was positive or negative. There were more tools in the downtown to subsidize development, to direct it the way you like. Being on the periphery right at the edge of the City limits it was convenient to place the parking garage there and push the issues of how that changes bedroom communities, established neighborhoods off to another community.

Mayor Bernard suggested Mr. McEntrye contact Clackamas County Commissioner Lynn Peterson.

Neutral Comment

- **Ed Parecki, Milwaukie business owner**

Mr. Parecki said in regards to the article this afternoon he wanted to state that the title was dead wrong. It was not really the foes of light rail – whatever the article said. He was not a foe of light rail. In fact, he was pro light rail but pro light rail in the right proportions. When he was 10 or 11 years old in San Francisco he was honored by being one of the first people to ride on a Bart train. He was honored by that because his dad was one of the engineers that worked in designing the train. It was a very exciting moment that still stayed with him. That was one of the reasons he really supported light rail. The problem was that it was not in the correct proportion to where it was currently being diverted to. The Tillamook Branch was absolutely wrong the downtown Milwaukie in general. He did have a solution and why he was basically neutral. He had what he thought was a positive solution which was to bring light rail down and to stop it at the Southgate site or wherever the Tillamook landed north of Hwy 224. As the map was showing in a lot of these handouts was to create a streetcar loop into downtown Milwaukie. A streetcar loop in downtown Milwaukie would totally eliminate a lot of the negative impacts coming through Milwaukie. He did not think that had been studied. He thought it was a very good alternative. It gave one the option to bring light rail from the Tillamook and north of the Hwy 224 and guess where it went. East to phase 1 of light rail. If one looked at phase 1 as it was being built you could see the dramatic impact it was having on that environment. How wide the swath was. How much land was being taken. How much concrete was being poured. It was huge. He urged everyone to just drive down I-205 and see what is going on with that light rail. Envision that light rail coming down the center of downtown Milwaukie. Look at that and ask yourselves was that really good for Milwaukie. We were looking at about a 100-foot swath cutting through Milwaukie. Looking at phase 1 next to the six lanes of highway was totally in proportion to what the I-205 corridor meant for traffic. This would also give the option of continuing that line south to Oregon City. You did not need to go to Oregon City on the McLoughlin Boulevard Corridor when you could do it on the I-205

Corridor. It also allowed that line to continue on from Oregon City on I-205 to Wilsonville and Salem and on and on so you can create a great system by staying on the interstates and not cutting through neighborhoods and through our nice downtown. One of the questions he asked and had not heard an answer to was whether or not Metro had a taxing authority to get $5 million from Milwaukie should the line not come through downtown Milwaukie. Our budget was about $43 million. Where was the $5 million coming from? He thought Metro wanted to tax the property owners of Milwaukie. No one told him if it did not come through the downtown if Metro could do the same. He urged the City Council to look into that and get an answer. He also wanted to remind the Council there was a temporary transit center facility in downtown that had been temporary for about 20 years. He could not imagine a Lake Road station that would be temporary until we got funds to get to Park Avenue to much less than those 25 years. If we were ready for a downtown Lake Road station, the Council would have to approve the project and see that it would not be temporary when the infrastructure was built to make it work. The environmental impacts were huge. He urged bringing light rail to Milwaukie but avoiding the permanent impacts to the churches, schools, the environment, and kids in our future.

Mayor Bernard called for a brief recess.

Mr. Monahan identified a process to follow that would lead to Mr. Asher's making the opening comments. Now that the City Council had concluded the public testimony portion of the meeting, it had the opportunity to determine how to address the issues that were presented in the alternative resolutions and the other information the City Council heard tonight brought up in the course of the hearing or brought up in the course of the hearing last night or any other issues the Council may suggest needed consideration. Since there were multiple issues before the Council, it would be helpful for staff to identify a decision making process in advance of the deliberations, so he proposed the following process.

First, if the Mayor asked the staff to identify any other issues that it had heard from the public testimony received over the course of these two evenings. Second, that the Mayor ask each Council member to identify each of the issues that arose from the draft resolutions distributed to the Council tonight. Ask that staff pull out the major issues from each of the alternatives. They have all been presented to the City Council in this table. If it needed any clarification of that table, please ask for it. Then the Mayor could ask the City Council to identify any additional issues that required discussion and consideration that had not already been identified in the staff's review of the draft resolutions or the testimony received.

Then the Mayor could ask the members of Council to ask questions of staff about the issues that any Councilmember found needed further identification and clarification. After all five Council members stated their preferences for discussion of issues, the Mayor could then ask the City Manager to restate any trends that he saw developing support for inclusion or deletion of issues. If there was a clear majority opinion among the Council members as to the need to address one or more additional issues in the Council decision, the Council could direct staff to prepare a revised resolution using one of the draft resolutions presented as a template incorporating each of the issues the Council stated an interest in including. Council could then recess the meeting and give staff time to take the input received and develop a resolution that addressed each and every one of the issues. It would be very important to have a motion that clearly identified each of the issues from the Council's discussion that should be incorporated into a final action. Then the Council could review that draft resolution and if necessary ask additional questions of staff.

Mr. Monahan understood he made this complex by going through the list. The main issue was for the City Council to tell staff on which issues it wished further clarification so any issues that a majority of Council wanted to be in the final resolution could be incorporated into the draft to bring forth so everyone knew the wording before acting.

Mayor Bernard thought this was very complicated. The City Council heard some questions from the audience, and he suggested the Council discuss those. He already had an alternative he would support and recommended talking about that. The Council had been working on this for many years and had listened to the citizens. Everyone had his or her own opinions, and he felt Councilor Chaimov had done a good job on drafting an alternative.

Mr. Asher urged not succumbing to deal fatigue as we were at the critical hour of trying to make a decision. There was probably a way to respond quickly to the public testimony, respond to Councilor Chaimov's questions from last night, and explain the difference between the resolutions as a way of facilitating the deliberation. The Council could take it from there and ask more questions if necessary. While Mayor Bernard may be comfortable forwarding one of the resolutions, Mr. Asher thought it was critically important for people to hear the Council deliberate and to make sure it was as comfortable as possible with the decision and action. Staff could do this expeditiously.

Councilor Barnes wanted to make sure all the questions from Council were presented at the beginning and then talk about options.

Councilor Stone noted there had been several questions coming out of public testimony and asked if those could be done first and then go to the City Council questions in terms of streamlining it a little bit.

Mr. Asher said Mr. Unsworth had information in response to last night's questions and suggested starting there. He was ready to respond to issues regarding bus service between downtown Milwaukie and the Clackamas Town Center, about the Hwy 224 Corridor and transit service, and the FEIS and mitigation.

Mr. Unsworth started with the Hwy 224 questions. The comment was why were we not going out Hwy 224. In 1998 they looked at an alignment that actually came into downtown Milwaukie and ended up going out Hwy 224 and found lots of issues and many community concerns. In 2002, there was a Draft Environmental Impact Statement (DEIS), and in 2003 a two-phase locally preferred alternative was selected. The first phase was I-205. When I-205 was constructed in the 1970's there was a lawsuit that halted it. The result was right-of-way set aside for light rail and buses. Essentially the same right-of-way was being used, so the ability to extend light rail from Gateway to the Clackamas Town Center was facilitated by an earlier design. The important thing to point out was that alignment had approximately 2,300 park-and-ride spaces and would serve a lot of the fast-growing Damascus and Happy Valley area. By serving that demand that went further out Hwy 224 and Sunnyside Road they actually captured a lot of the demand coming in that way. There was however some demand that was coming down Hwy 224, and they identified a 1,000-space park-and-ride at Tacoma to intercept some of that traffic. The reason they were not going out Hwy 224 was because they believed they had really captured the transit demand through park-and-rides and service with the I-205 alignment. Tacoma provided adequate parking opportunity.

The second question was more of a discussion about light rail and buses and getting from Gladstone into downtown and to Providence Milwaukie Hospital and out to Clackamas Town Center. Light rail was intended to be the trunk service -- the high capacity frequent reliable service between downtown Portland and Park Avenue. Beyond that there were frequent service routes that went down to Oregon City through

Gladstone and Oak Lodge. Those were 15-minute, all day services and very reliable. In addition that same service would go out to the Clackamas Town Center. We knew there was a lot of demand of transit wanting to go north and demand coming this way that could be served by buses. Past Providence Hospital was route 75 which during peak hours was a very frequent service. Light rail was the backbone. The capillaries and arteries of the system were the frequent service routes that would remain in effect when light rail was developed.

The next question had to do with when mitigation was right. The DEIS identified where potential impacts were. Those impacts were at least identified and noted there would likely be issues based on criteria. We were now at 5% engineering, and as the project went forward into 30% engineering they would be asking the federal government to go into preliminary engineering. When they did that they would be working on all those mitigation items. The commitment ended up being at the end of the FEIS. Those were actually recorded in a record of decision where mitigation commitments were made. On a monthly basis they met with the FTA, and a project management oversight group was hired to make sure the matrix was followed. There was a lot of oversight once the commitment was made. There were ways to make the issues go away through design. One could look at a sound wall or slowing the train down or other elements to mitigate the impacts identified in the DEIS.

Mayor Bernard noted Mr. Bryan had concerns that the SDEIS said there would be no impacts. During engineering it may be found there actually were impacts and would become part of the study.

Mr. Unsworth added there were places where there were parking impacts and people would be compensated.

Councilor Stone asked a clarifying question. She understood there were two I-205 parking structures with 2,300 spaces. Over what distance in terms of miles were they apart? How far apart were they as compared to what was being proposed here. We have Park and Tacoma both with 1,000, so that was about the same amount as the I-205 alignment. I-205 carried way more traffic than McLoughlin Boulevard.

Mr. Unsworth identified the park-and-rides. There were less than 400 spaces at Holgate. They were spread out over 6.5 miles. They looked at a park-and-ride at the Southgate site and had concerns about North Industrial traffic. They identified 1,000 spaces at Park Avenue and looked at future year restrictions and what mitigation had to be done there. Traffic signals at Oatfield Road and Park Avenue were actually needed now. They looked at what it would take to meet jurisdictional standards with the traffic that was expected at Park Avenue and Tacoma Street. This Council raised concerns about the Lake Road park-and-ride and the traffic on Washington. TriMet was trying to be responsible.

Mr. Unsworth discussed schools located next to alignment. He pointed out Portland Waldorf School, St. John's, Milwaukie High School, and Milwaukie Elementary on a map. Portland Waldorf School was adjacent to the alignment. St. John the Baptist Catholic School was one large block on Washington. Milwaukie High School was about 500-feet from the alignment and the Lake Road Station proposed in the LPA. There were no other stations in downtown Milwaukie.

Mr. Asher commented the same questions came up time after time, so one had to pick and choose those that came up frequently and needed a response for the community and for the Council. Tonight's issues were about another alignment. Hwy 224 had started to come up again, and Mr. Unsworth addressed that. McLoughlin Boulevard seemed now to be in vogue. There was a process in which McLoughlin Boulevard was looked at and looked at carefully. That was last summer. It was not an EIS process,

and those saying it had not been considered or there was not another alternative that was being considered were more precisely saying was it was not being considered in the same way that this alignment was being considered. That was true; it was not, but it was not ignored. There were several months and several dozen people testifying before the Planning Commission, Parks and Recreation Board, Riverfront Board, and businesses that filled the other room last summer to talk about Main Street and McLoughlin Boulevard. This City Council did not eliminate any of those options. It cannot eliminate options as it was not empowered to do so. This Council did recommend to the Steering Committee that for various reasons the McLoughlin Boulevard and Main Street options were not preferred by the community as represented by the Council. On McLoughlin Boulevard in particular he wanted to remind people of what those impacts would have been. That alignment on McLoughlin Boulevard that was now being talked about again would have resulted in property displacements along McLoughlin Boulevard in the northwest portion of the downtown, required reconstruction of McLoughlin Boulevard, would have taken between 48,000 and 62,000 square feet of the Riverfront Park or about an 1- to 1-1/2 acres, would have reduced the space available from Riverfront Park to SE 22nd Avenue making it difficult to extend south of downtown, and would have introduced a barrier between the downtown and riverfront which was in conflict with one of the principal goals of the Downtown and Riverfront Framework Plan. The record needed to show there was a local process. It did not come into the SDEIS for those reasons.

Tonight there was a question about the $5 million and whether Metro had taxing authority. Metro did not have taxing authority on local governments. He referred people to the question and response resource in this staff report and available on the City's homepage. Both of those questions were addressed. The City of Milwaukie would have to determine in future Council action how it would participate financially in this project. The City did not have $5 million sitting around waiting for a project. Some kind of financing plan would need to be put together. In response to the question of how the City was going to come up with $5 million, the City had excellent credit, had a Budget Committee, and had ways to access that kind of money. Mr. Swanson and the finance director could give more detail on that.

Mr. Asher addressed some of the previous night's issues. There was an assertion made that trains would come through town every 5 minutes and create a lot of backup at the intersections. The modeling showed in 2015, year one of operation, trains would come through town every 10 minutes during peak hours and by 2030 every 7-1/2 minutes. There would be some queuing when the gates were down, but it would not be every 5 minutes.

He also wanted to clarify on the issue of the 14-Points. There were challenges made tonight and also in writing that the use of the Tillamook Branch somehow did not respect the 14-Points. Especially the first one requesting that light rail not cut through the neighborhoods in Milwaukie. One cannot really cut into something that was already open. There was a 100-foot public right-of-way that predated most of what was around it. That was the Tillamook Branch right-of-way and the space where light rail would neatly fit. He thanked heavens that it was there. Trying to create right-of-way for a new light rail project whether on Main Street or McLoughlin Boulevard as we studied last summer or anywhere else would be far more impactful. He had not heard anyone complain in the time he had been in Milwaukie that the Tillamook Branch right-of-way was cutting into the neighborhoods. That right-of-way did exist. There was no single family zoning along the downtown portion of the Tillamook Branch, and there was no housing at all south of Harrison to the west of the branch. When he thought of neighborhoods, he thought of a lot of uses but he mostly though of housing. He mostly thought of single-family homes, apartments, and a mixture of housing. This was an

area that was not zoned exclusively for housing and did not have housing on both sides of it. It was a very different kind of urban fabric than what he thought of as neighborhoods. Use of the Hwy 224 corridor had already been covered. Stopping at Southgate or north of downtown or using streetcar were issues that had been talked about before. Ms. Wieghart was present if Council wanted more on that. She could talk about the purpose and need of this project. In a prior work session she explained those options – the option of stopping north of downtown at Southgate or somewhere else or trying to shuttle people to some location north of downtown did not meet the purpose and need which was a very formal clause of the project. The project needed to support land use goals and optimize the transportation system. Stopping at Southgate and not serving downtown Milwaukie failed both of those objectives. Ms. Wieghart was present to give more on that if Council wished. Those were the key comments he heard from the citizens last night.

At end of July 14 hearing, Councilor Chaimov asked for a clarification of Oregon City's action on the LPA. Mr. Asher had claimed the LPA Report, which was what the City Council was being asked in his staff recommendation and resolution to support had been supported by all of the other jurisdictions including Oregon City. Councilor Chaimov asked him to double-check that. The Oregon City resolution language did not adopt the LPA Report. It adopted the LPA. Metro staff, which were here tonight, did not think that was an intentional omission to make a deliberate statement that somehow Oregon City was in favor of just the LPA alignment and not in favor of the full Report. He explained again this was an important distinction. The Report was the implementation strategy that put forth a lot of things for the next steps for the project. The most important thing for the LPA Report was indeed the LPA itself which followed the Tillamook Branch through Milwaukie, a station at Lake Road, and continued to Park Avenue. It had other stuff. That other stuff, to make it simple and plain, was that Milwaukie cared most about the notion of the minimum operable segment which was a fallback position to say that if the project could not afford to get down to Park Avenue that there would be a first phase that would terminate at Lake Road. Councilor Chaimov was correct that Oregon City did not adopt the report. He tried to reach Mayor Norris today to see if the assumption was correct. They did not hear in any of the Steering Committee discussions or at staff level concern about other elements of the Report.

The other question Councilor Chaimov asked was the critical issue at this point based on resolutions put forward, and the hard work Mr. Asher had been doing and Mayor Bernard's work at the Steering Committee. It was about this MOS and what to do about it and what to do with it. The question, if he understood it, was what in his opinion the best strategy for ensuring that the project did not terminate in downtown Milwaukie. His answer was the if he were on the City Council he would throw as much political weight behind this project and this project team as was humanly possible and to do it as completely as possible beginning tonight. That meant endorsing the LPA Report and not just the LPA alignment and stomaching the possibility of an MOS and thereby presenting ourselves as a community that other people wanted to go to bat for. That was what we needed to have happen. That was his opinion but was his last shot. The best strategy was to be a really good team player. It was a little counterintuitive. It may appear not to make a lot of sense that the best strategy for avoiding the MOS was to endorse a Report that included the MOS. That was the strategy he recommended because that was the move that would signal to everyone who was going to work for Park Avenue on Milwaukie's behalf that Milwaukie, Milwaukie's needs, and Milwaukie's interests were worth fighting for. It also meant this project could move forward as rapidly as possible with minimum chance of delay. Delay was not only about time but also about money. Time was money of course and never so much as on this project which had huge dollars associated with it. Also it meant holding everyone accountable

including us for winning every last dollar that could be won for this project and carefully watching every last dollar that was going to be spent on the project. That was what we were prepared to do. Getting to Park Avenue really did come down to money. Money for this project was coming down to how tough the FTA was on us and how effective we were in championing this project to our federal partners. By his calculations based on the finance work done in the EIS, the sources and uses of this project, how much it costs when you factor in all of the risk reserves and insurance and how much we have could fluctuate a couple hundred million dollars based solely on the decisions that the federal government made. It was not really about the bridge Portland got or how much match the local partners came up with although those things would be important. The Big Magilla was how well we do with FTA and convincing the FTA this was a project worth putting in potentially 60%. More than $750 million. How cost effective we were and how risky this project was. Political risk was one of the risks the FTA took very seriously. They tried to sniff out all risks, and they were pretty good at it. Political risk was a big one. The 'we' by the way did not include anyone from Milwaukie. It was not going to be the Mayor or Mr. Swanson of himself who was going to be negotiating with the FTA for this project funding. It was going to be TriMet and Metro. We wanted those guys to be motivated to get this thing to Park Avenue. They were today. Our job was to make sure we did not give our partners any reason to doubt the last mile of this project was any less important than the Willamette River Crossing or any other mile of this project. He knew one way to screw up that assignment. That would be to hold a gun to the project and say we support light rail but only on our terms. By the way, he was not suggesting that was what City Council was doing or thinking about doing. He was just playing out the scenario that worried him, so he could sleep easy tonight. We should not do that. If it was too expensive to get to Park Avenue, Milwaukie should not say 'sorry.' OMSI, sorry. OHSU, sorry. We want to get to Park Avenue. We have a role in this but so do a lot of other players. No one wanted to end up with a Lake Road terminus. He was in that camp. He probably thought about downtown Milwaukie as a redevelopment opportunity as much as anyone around. He thought he was in a good position to understand the impact of a Lake Road terminus. It was not optimal for our small downtown, but he did not think it should not be a deal killer. He did think there was risk allowing Milwaukie in 2008, a full decade after the recall and the long road of healing we have traveled, to be branded for the next 20 years as the place that could not get it together to help the region on a critical project or the place that could not see past its own interests, or the place that no one would dare risk investing millions of dollars that were envisioned in the plan because the City had an apparent chronic unwillingness to follow through on its plans or adhere to its policies. Mr. Asher was not suggesting that was where the Council was going tonight or by not adopting the Report not risking the whole project. That was really what he wanted the City Council to think about. The strongest signal that would be sent and the strongest move that could be made in support of the project was support of the Report, and the Report included the MOS. The MOS was a segment. It was not the whole project. It was not a forever decision. He, too, worried about how quickly thereafter it could be built down to Park Avenue if it did stop at Lake Road. If we were good partners and good watchdogs, the second segment would be built, and the Lake Road terminus would be a terminus no longer. A number of other reasons were included in the staff report for supporting the LPA Report with the MOS language in it. That was on page 6, which he hoped the City Council had a chance to review.

Mr. Asher finished with a couple of financial points. What did it mean if we adopted something less than the report, say just the LPA, or if we actually came out and said 'no' to the MOS explicitly; one of the alternatives had language to that effect. He thought that by not adopting the Report the City Council was leaving open the question of whether Milwaukie would support a project that terminated at Lake Road. That was a

question that went unanswered. He asked Mr. Unsworth if we did end up in a situation with additional delay, say for some reason the MOS dropped out or did not get dealt with right now and we had to go back and do another environmental impact study on it. The reason it was in now by the way was so it could be studied in the FEIS just in case. What if that dropped out and did not get studied? What if in the end we did not have the money to get to Park Avenue, then what would happen? Obviously there would be more discussions with the Milwaukie City Council to see if it was still interested in a project. There would have to be another EIS that would probably take 9 months. That amount of time on a project of this size amounted to approximately $50 million. Time was money. If we wanted to get to Park Avenue with this alignment, then moving the project forward as quickly as possible and with as much political support as possible was the smartest strategy. Redevelopment would still occur in the south end of downtown. He was confident. The City was working with one of the best design firms in the world on that area. There was a really solid start with the citizen base. A lot of people were getting involved. There was a lot of excitement there. TriMet had already started talking with the City about planning the station using our consultant team. He thought it was not as fragile as some may think.

Mr. Asher thought some of what the City Council would get into in its deliberations was whether it endorsed the report as he just advocated, endorse the LPA only, or include language the rejected the MOS. If the City Council endorsed the Report, it would allow the possibility of MOS and send the strongest message of support to all audiences. The community was the key audience, but there were other audiences waiting and watching to see what happened here. The State was about to sell bonds on behalf of this project and was watching. The FTA was an audience we were trying to communicate with, and the other partners who were putting money into the project and had to decide how much. It enhanced the likelihood of getting to Park Avenue by doing that. It sent clear direction to future decision makers who would sit in this room at this Council and have to make decisions about this project as early as next year as to what the intention was tonight. Was it to support a project only if it went to Park Avenue? Was it to support a project to Milwaukie, Lake Road, or Park Avenue? Or was it to somehow draw a line in the sand and say we were only going to support a project under certain circumstances. The LPA only left the MOS question unanswered. It sent a bit of a mixed message about support to all of those audiences. He was not sure it enhanced the likelihood of getting to Park Avenue, but that was for the City Council to discuss. It sent ambiguous direction to decision makers in the future. Rejecting the MOS was really worrisome to him and Metro staff, the City Manager, and everyone. It answered the MOS question in the negative. It basically said Milwaukie was not supportive of the project described in the Report. It was supportive of one version of the project but may be an infeasible version of the project. In conversations with Ms. Wieghart and Mr. Unsworth and others there was a real endangerment factor if Milwaukie ended up going there. That was ambiguous direction for future decision makers about what the City Council wanted to accomplish tonight.

Councilor Barnes asked Mr. Swanson if he had any wording that did not get rid of the MOS but made the Park Avenue matter as clear as possible. She felt a majority of Council made it clear it should go to Park Avenue.

Mr. Swanson concurred with everything Mr. Asher said. He did not even think about the column on the far right of the table because in his opinion the game was up with that option. The City had its feet firmly planted in two places when considering the issues and this particular question. One of them was as the City Council of the City of Milwaukie. The other was the City's representative to the region. He looked at this from a perspective that the region preferred that the City adopt the LPA Report. There were some arguments that showed that was in the City's best interest also. For example, the

LPA did not require but the LPA Report required as a next step that the staff control project costs and scope with the intent of getting to the preferred terminus which was Park Avenue. The LPA merely stated an alignment and stations and the preferred terminus. As representatives of the City of Milwaukie it was clear that the Council wanted to ensure Lake was not going to be the terminus, that Lake was not going to be a "temporary" terminus after 23 or 25 years as no one wanted to see that. Those were good reasons and cogent reasons for the Park Avenue terminus. By only endorsing the LPA, the message was confusing and also recognized only one of the roles Milwaukie played. Like it or not we were members of more than one community every time we sat here. Mr. Swanson tried to have our cake and eat it too and tried to some how look at language that recognized the interest of both the City and sent a strong message that Lake was not something we would be very likely interested in but at the same time endorsing the Report. He suggested dropping three "whereas" clauses into any of the proposed resolutions that would read, "whereas, the City Council has concerns with the minimum operating segment, and whereas, the LPA Report provides as follows" and insert the language from the LPA Report that said, "the decision to proceed with the Lake Road minimum operating segment would require prior Steering Committee consultation prior to making the decision on the MOS the timing and specific level of the priority for the future Lake Road to Park Avenue segment would be addressed by the Project Steering Committee giving required local match and status of small New Starts programs and ratings. The Lake Road to Park Avenue if required would remain a regional transit priority until constructed. " A third clause would read, "whereas, the City Council understands that the MOS will not become the project terminus without consultation between the affected local governments and regional agencies." Concluding with, "now therefore be it resolved by the City Council of the City of Milwaukie, Oregon, that the City endorses the Locally Preferred Alternative Report and commits to support the completion of the Portland-Milwaukie Light Rail Project including the updated light rail alignment for the project which follows the Tillamook Branch rail line through Milwaukie, locates and station at Lake Road, and terminates at Park Avenue." This language would be dropped into any of the resolutions. He would not recommend inserting the whereas clauses if all the Council was going to do was approve the LPA because approving the LPA was a much weaker message in terms of the MOS. He suggested if the City Council were willing to approve or endorse the Report that it also express the feeling of the City Council and citizens by inserting the three whereas clauses. He believed for all the reasons Mr. Asher stated that the decision at this point should be both to exercise in a responsible way our partnership as members of the region and at the same time protect people in the City.

Councilor Barnes was glad to hear those words because the big issue for her was Park. She was in favor of endorsing the LPA Report with the addition of that word. To her the message was being sent that Lake Road was not the stop we wanted. Adding those caveats to the LPA Report made her feel like the message was being sent and Milwaukie was also part of the big picture. When she went through the wastewater treatment hearings and regional partners did not step up for Milwaukie, she got angry. This was the same situation. We cannot tell Oregon City or Damascus or Happy Valley they were not good regional partners and expect them to be if we cannot be good regional partners. That was the bigger picture here. We were not an island unto ourselves. For her endorsing the LPA Report with that language stating that the Milwaukie City Council was on record and in writing that it was not satisfied with Lake Road being the last stop on this tour. We wanted it to go onto Park.

Mayor Bernard agreed. He told everyone in the region many times that he might not have support at Council to move forward should we get an MOS that ended at Lake Road. He got a commitment from everyone that they would work hard to do that. If gas went up to $5 o $10 a gallon, then we need alternatives. If we chose the last one, then

there was no question in his mind that Milwaukie would just be slapping its partners in the face. Twenty-eight jobs would be lost for every $1 million spent. OMSI's and PSU's and OHSU's dreams and the dreams of all our citizens for educational opportunities and experience in science and industry would be gone. He supported the LPA Report with the inclusion of the language suggested by Mr. Swanson.

Councilor Chaimov told Mayor Bernard if he were looking for additional support he would have to look elsewhere. His view was that we by endorsing the LPA were being excellent regional partners. The strong view of the people in the community was not to leave on the table an option that had the line ending in downtown. He was happy to go with version 2(B), which was written intentionally to be ambiguous and not to make an affirmative statement against a minimum operating segment terminating in our downtown. He did not believe he could make a vote consistent with what he understood to be the wishes of this community by supporting a report that concluded that there may well be a terminus in our downtown and prefacing that only by expressing concerns.

Mayor Bernard added without question most people had come to Council in support of light rail. He heard very few comments with regard to the terminus at Lake Road should that be the end. He heard preferences that it not be, but he heard few say they would not support light rail should it have to stay there.

Councilor Stone heard from people who both supported and many who did not support light rail or the alignment being proposed that they did not want it to terminate on Lake Road. They wanted it to terminate at Park Avenue. That was what she heard clearly from people who testified in the last couple of evenings. She did not agree we should stomach anything in our town. We were a very small town in the big scope of the region. She agreed with Councilor Chaimov in that we were good regional partners and wanted to remain good regional partners. She did not think we needed to give up something we really wanted in order to make this work. It was clear to her people wanted the terminus at Park Avenue and not at Lake Road. She thought we would get them both if it was not clear. There would be a temporary terminus at Lake Road and also one at Park in phase 2 whenever that happened. She did not think she would be in favor of that and not many citizens would be in favor of that. We should not have to stomach it because we were going to be looked upon by the region as not being good partners. No one was going to look out for Milwaukie but the City Council.

Mr. Swanson said they had been spending the past 4 to 5 months arguing very strongly against the inclusion of an MOS. We had been arguing very strongly against a terminus at Lake Road. What we were trying to achieve was the same thing that everyone else was trying to achieve. Because the strategy recommendation was different it did not mean he had a different outcome in mind. The outcome was that Park Avenue be the terminus. It was a question of how one got there and the strategy. His intention again was not that we somehow set things up to get to Lake Road. It was and had been for as many months as it had been discussed that we had been a pain to the folks at the regional level with regard to this issue. He did not want to see this end at Lake Road. No way.

Mr. Asher fully agreed with those comments. The preliminary engineering application that was being prepared at TriMet was for the LPA and for a project that terminated at Park Avenue. TriMet was not teeing up a phase 1 project. This whole issue was a NEPA issue. It was proposed to be part of the FEIS in the event that the region could not afford to build a $1.43 billion project. That was what the Park Avenue Project was estimated at. We would not know that for another year. We did not know how much money there was to build the project. If we elected to go forward without a fallback position costs and time were being added to the project. That was the analysis being

considered right now. It was not an endorsement of the MOS. We were being very transparent by spotlighting this issue and saying there was risk to Milwaukie in this Report. It should not be misconstrued as anyone's agenda. He would be happy to have Richard Brandman talk about the region's intentions. He took strong issue with an assertion that no one would look out for Milwaukie but Milwaukie. They asked for a Working Group process after the last LPA because they thought the LPA that had been adopted was a flawed process. Months were spent. TriMet and Metro spent lots of money. They looked out for us. We came up with a recommendation to move that LPA from Main Street to the Tillamook Branch. That recommendation was supported. We had new players come forward last summer who said they were uncomfortable and wanted more time and resources to look at other alignments. They were looked at. McLoughlin Boulevard and Main Street. In the end they were supported. The City Council's recommendation to the Steering Committee, Metro, and TriMet was supported. We asked to be the decision maker on where the station or stations would be in downtown Milwaukie. We were listened to. He could go on and on. Even the notion of bringing light rail back at all in the early 2000's was a Milwaukie position. Metro was not there. TriMet was not there. It was not a fact that no one was looking out for Milwaukie but Milwaukie. It was that kind of attitude that signaled to the rest of the region that we did not trust that we had partners. We do not trust them in this project. We do not trust that the project will work out in our interest. That was why the decision the Council made tonight was really important. Good faith went a long way and was returned. It did not mean at all that we wanted this thing terminate at Lake Road now or ever. The next Council may be faced, regardless of what was done tonight, with the question of we have $1.3 billion which was a lot of money to bring into the region but did not get you to Park Avenue. It only got to Lake Road. Now where were you on light rail? Be clear about what you want.

Mayor Bernard also had an issue with the notion that no one was going to help us. He went to the legislature four times. Olivia Clark managed to get $250 million that designed light rail specifically for Milwaukie. There were lots of people working for Milwaukie at the legislature.

Councilor Loomis thought people were taking it too literally. Maybe what Councilor Stone and he might be referring to was taking responsibility for making them aware of our issues as a regional partner. He was not rejecting the MOS. He was rejecting the location of the MOS. He was fine with the MOS. He thought we were great regional partners. He preferred a study of the McLoughlin Boulevard Corridor. He thought it was the best thing. The vote was taken, we move on, and we were at this point now. He had issues with the LPA, but he was willing to support it. He could not support the MOS at Lake Road. If we could still have the MOS in there and just state that it not be at Lake Road and to put it in another place. He would not expect and did not want TriMet if they did stop at Lake Road to have its next project cross Kellogg Lake and go to Park. It would happen when they moved to Oregon City. That was the right thing to do. You did not build a short segment. As a partner we were making concessions here. If it did not throw the whole project for a loop our concern was the location. We know our town best. It was a small location. There were plans to develop. We want light rail. We understood it was needed now and in the future, and we support that. From testimony it seemed like we could get a 5-0 vote if that was out of there. That was strong support.

Mr. Asher suggested a brief recess for staff to talk.

It was moved by Mayor Bernard and seconded by Councilor Barnes to close the public hearing. Motion passed unanimously. Mayor Bernard closed the public testimony portion of the hearing at 10:14 p.m.

Councilor Barnes met with Sen. Schrader and Rep. Hunt who made it clear they were writing letters of support on behalf of Milwaukie to go to Park Avenue. The Clackamas County Commissioners were doing the same. She did not believe Milwaukie was the only one looking out for its interests. There were people in big positions looking out for Milwaukie including Rep. Tomei who cared about the future of Milwaukie and had done so in writing.

Mr. Asher reported staff had a chance to caucus. Resolution 2(B) as proposed by Councilor Chaimov that essentially dropped the word 'Report' and in so doing dropped implicit endorsement of the MOS. That moved us into the center column and endorsed the LPA only and included language that had been added to the staff resolution from Councilor Barnes having to do with our expectation that TriMet's going to operate this system safely and securely and comfortably for patrons. There was a 'whereas' on page 2 to that effect. It also included an edit from Councilor Stone adding neighborhood and parks to the list of mitigation recipients that needed to be studied further in the FEIS and the umbrella agreement. That was the difference between the staff resolution proposed and 2B. There were a couple of 'whereas' clauses in the staff resolution that talked explicitly about the MOS saying it was prudent and wise. That language was gone. Version 2(B) as written worked for where we were in the process. It allowed Milwaukie to stay in alignment and in the fold with all of the other jurisdiction. It allowed Metro to take a strong action next week with all of the jurisdictions behind it to endorse the LPA. It did just what Councilor Chaimov suggested and perhaps Councilor Loomis as well. It stopped short of endorsing an MOS or even sending a message about it other than we were not there. We may have to get there, but that would be for another day. The recommendation was for the City Council to take action in support of a resolution endorsing Portland-Milwaukie Light Rail Locally Preferred Alternative which included an updated alignment that follows the Tillamook Branch Line through Milwaukie, locates a station at Lake Road and terminates at Park Avenue.

It was moved by Mayor Bernard and seconded by Councilor Barnes to adopt the resolution endorsing Portland-Milwaukie Light Rail Locally Preferred Alternative which included an updated alignment that follows the Tillamook Branch Line through Milwaukie, locates a station at Lake Road and terminates at Park Avenue.

Mayor Bernard asked if there could be language about an MOS that did not specifically identify a particular spot.

Mr. Asher replied that was an alternative if Councilor Loomis or anyone had a different terminus in mind that was in downtown Milwaukie. North of downtown Milwaukie was a different kettle of fish. The Project would have to reach downtown Milwaukie. Lake Road was the site that was studied in the past and was actually the terminus in the 2003 LPA. It had gone through the NEPA process. It was close to the park-and-ride being proposed. It made sense for a lot of reasons. The station was already deliberated on. He was not sure it helped to open that up, but if the Council wanted to do that staff could come back and talk about it.

Councilor Loomis was in favor of an MOS but not the location. He did not mind the language but did not want it to be in the core. His discussion with the Mayor was not Pietro's. He did not want to say where specifically. He just wanted to say where not. He did not want it at Lake Road in the core of downtown Milwaukie. If the MOS was necessary he was willing to study it as long as it was not in the small core of the downtown. He was not saying a specific spot because he did not know. He could not support a terminus in that small core area.

Mr. Asher understood there was no alternative site in mind and was open to study. On behalf of staff he was saying he was not sure it would move the ball forward. As a matter fact he thought it opened up a tough issue which was where to put it. In that

small downtown area Harrison, Monroe, and Washington were on the Tillamook Branch. It was coming into downtown Milwaukie which it needed to do to receive federal funding, and there were not that many options. Staff would prefer version 2(B) as written.

Mayor Bernard understood the terminus did not need to be three tracks. He had not seen any drawing of the impact to Lake Road. None of us really knew yet. By adopting this we would at least have an opportunity to see what it would look like should it be the location.

Mr. Asher added in the TriMet agreement that said with regards to the facility design recognizing that flexibility regarding design and construction of the project was important the parties understood the presence of light rail in downtown Milwaukie caused unique concerns and that Milwaukie desired to maximize downtown real estate for transit oriented development and desired to locate light rail support infrastructure such as substations, operator break rooms, or surplus storage, track or trains in such a way that these facilities were integrated into the surrounding environment to the extent practicable in light of other project goals and funding limitations. TriMet already agreed that if we ended up in the area they may have to be designed differently than in the past.

Councilor Barnes thought 2(B) made more sense because that was the clear message from the public. Being able to go forward without the MOS was the right thing. She was grateful Councilor Stone added neighborhoods and parks. After being in Washington, D.C. and seeing the high expectations for light rail even though it was underground, for her sending the message with that paragraph that Metro and TriMet understood that the higher the expectations for the riders the higher level of standards they will have of themselves and others when they got on the light rail system. If that meant starting from scratch, the Wachenhut people were not given enough authority to make it safe. She met with Chief Bob Jordan and they agreed maybe it was time to replace Wachenhut with armed security people and start with a zero-tolerance policy. Fix it before it even gets into Milwaukie.

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

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

Mr. Swanson was still researching the matter of adopting only 19.321.3 and would report on that at the August 19, 2008 meeting. He outlined the proposed amendments.

It was moved by Councilor Chaimov and seconded by Councilor Loomis to continue the hearing to August 19, 2008. The motion passed 3:2 with the following vote: Mayor Bernard and Councilor Chaimov and Loomis voting 'aye' and Councilors Barnes and Stone voting 'no.

OTHER BUSINESS

Council Reports

Councilor Barnes met with Sen. Schrader and Rep. Hunt and went to Washington, D.C. where she met with Blumenauer staff. She attended the City Hall 70th Anniversary.

Councilor Stone attended the City Hall Anniversary.

Councilor Chaimov survived eating two hotdogs at the City Hall Anniversary and worked at the Sunday Market Community Booth.

Mayor Bernard attended the City Hall Anniversary. The Farmers' Market would observe its 10th anniversary. It started with seven vendors, and there were over 50 now. He announced Milwaukie Festival Daze on July 26.

ADJOURNMENT

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

Mayor Bernard adjourned the meeting at 10:31 p.m.

_____

Pat DuVal, Recorder

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING RAY BRYAN TO THE PUBLIC SAFETY ADVISORY COMMITTEE AS THE HISTORIC MILWAUKIE NEIGHBORHOOD DISTRICT ASSOCIATION REPRESENTATIVE.

WHEREAS, a vacancy exists on the Public Safety Advisory Committee for a member-at-large; and

WHEREAS, Milwaukie Municipal Code Section 2.24.020(B) provides for appointment of members of the Milwaukie Public Safety Advisory Committee "by the council;" and

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

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

SECTION 1: That Ray Bryan is reappointed to the Milwaukie Public Safety Advisory Committee as the Historic Milwaukie Neighborhood District Association representative.

SECTION 2: That his term of appointment shall commence immediately and shall expire on March 31, 2010.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on September 2, 2008.

_____
James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

_____
Pat DuVal, City Recorder

_____
City Attorney

5.

PUBLIC HEARING

Milwaukie

Dogwood City of the West

To: **City Council**

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

From: **Susan P. Shanks, Senior Planner**

Date: **August 18, 2008 for September 2, 2008 Public Hearing**

Subject: **File: A-07-02 (Annexation)**
Applicant: Frank Walker & Associates
Owner(s): Genevieve Holton Bentz and Hans Thygeson
Address: 5900 and 6011 SE Harmony Road
Legal Description: Map 1S2E 31D, TLID 1800, 1900, and 1990
NDA: Adjacent to Lake Rd NDA, Linwood NDA, and N. Clackamas Citizen Association

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Action Requested

Approve application A-07-02, an annexation petition, and adopt the attached ordinance and associated findings in support of approval (Attachment 1). Approval of this application would result in the following actions:

- Annexation of 5900 and 6011 SE Harmony Road (the Site) into the City.
- Application of an Industrial (I) land use designation and a Business Industrial (BI) zoning designation to the Site.
- Amendments to the City's Land Use Map and Zoning Map to reflect the City's new boundary and the Site's new land use and zoning designations.
- Withdrawal of the Site from the following urban service providers and districts:
  - Clackamas River Water
  - Clackamas County Service District for Enhanced Law Enforcement
  - Clackamas County Service District No. 5 for Street Lights

See Attachment 2 for various maps that graphically show the Site's location and existing zoning and land use designations. See Attachment 3 for the applicant's application materials.

History of Prior Actions and Discussions

The City annexed the property immediately to the west of the Site in 2004. That property had a County zoning designation of Light Industrial (I2) prior to annexation and requested and received a Business Industrial (BI) zoning designation upon annexation. The City's only other industrial zoning designation is Manufacturing (M), but City Council found that the BI zone was a more appropriate designation for that property given the adjacent BI zoning.

Background

A. Proposal

The applicant seeks annexation of the Site to the City to access City services and develop the Site with two industrial buildings. The applicant's development proposal requires a minor quasi-judicial land use decision and is scheduled for a public hearing before the Planning Commission on August 26, 2008. The Site's existing zoning and land use designations in the County are Light Industrial (I2) and General Industrial (GI), respectively. The proposed zoning and land use designations upon annexation to the City are Business Industrial (BI) and Industrial (I), respectively. The Site also has a regional Title 4 Employment designation. There is no proposal to change the Site's Title 4 designation at this time.

B. Annexation Petition

The petition meets the requirements for initiation set forth in Oregon Revised Statutes (ORS) Section 222.170, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Section 19.1502.2.

The petition is being processed as a non-expedited annexation at the request of the applicant. A non-expedited annexation is a major quasi-judicial decision that requires a recommendation by Planning Commission and a decision by City Council at a public hearing. The applicant requested the non-expedited process because it allows the applicant to propose and the City to apply a different zoning designation than the one that would automatically be applied to the Site through the expedited process.[1] The City's automatic zoning designation for this Site is Manufacturing (M); however, the applicant is requesting a Business Industrial (BI) zoning designation.

The annexation petition has been processed and public notice has been provided in accordance with ORS Section 222.120, Metro Code Section 3.09.030 Notice Requirements, and MMC Section 19.1011.4 Major Quasi-Judicial Review.

C. Site and Vicinity

The Site is contiguous to the existing city limits and is within the City's urban growth management area (UGMA). It is composed of two properties on Harmony Rd. The smaller property is 0.17 acres in size, and the larger one is 2.79 acres in size. The 2.79-acre site is largely undeveloped. The existing uses are single-family residential, and the

[1] Per Table 1 of Milwaukie Municipal Code Chapter 19.1500 Boundary Changes, the City automatically assigns a City zoning and land use designation based on a property's existing zoning designation in the County.

total assessed value of the land and existing improvements is $570,450 per the Clackamas County Assessor. The site is bisected by Minthorn Creek and is bounded to the north by railroad tracks and Railroad Ave and to the south by Harmony Rd. Access to the Site is obtained through Harmony Rd.

The surrounding area consists of a single-family residential neighborhood to the north and a multi-family residential development to the east. Industrial uses extend to the west and south. The Site is within close proximity to two 3-legged intersections: 1) the Harmony Rd, Lake Rd, and International Way intersection and 2) the Harmony Rd, Linwood Ave, and Railroad Ave intersection.

D. Utilities, Service Providers, and Service Districts

The City is authorized by ORS Section 222.120 (5) to withdraw the Site from non-City service providers and districts upon annexation of the Site to the City. This allows for more unified and efficient delivery of urban services to newly annexed properties and is in keeping with the City's Comprehensive Plan policies relating to annexation.

Wastewater: The Site is currently served by a private septic system. Connection to the City's wastewater system will be required when the property redevelops. The City has a 15-inch wastewater line crossing the Site just north of and parallel to Minthorn Creek and an 8-inch wastewater line along the Site's eastern property line. These lines can adequately serve the Site.

Water: The Site is currently in the Clackamas River Water district; however, the City currently serves the Site via its 12-inch water line in Harmony Rd along the Site's frontage. This line can adequately continue to serve the Site. The City should withdraw the Site from the Clackamas River Water district.

Storm: The Site is not currently connected to a public storm water system. On site treatment and management of storm water will be required when the property redevelops. Access to a public storm water system will not be necessary in the future.

Fire: Clackamas County Fire District No. 1 currently serves the Site. It will continue to be served by this district upon annexation since the entire City is within Clackamas County Fire District No. 1.

Police: The site is currently served by the Clackamas County Sheriff's Department and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The City has its own police department, and this department can adequately serve the Site. The City should withdraw the Site from Clackamas County Service District for Enhanced Law Enforcement.

Street Lights: The site is within Clackamas County Service District No. 5 for Street Lights. The City does not levy a separate tax or assess individual properties for street

lighting. The City should withdraw the Site from Clackamas County Service District No. 5 for Street Lights.

Other Services: Planning, Building, Engineering, Code Enforcement, and other municipal services are available through the City and will be available to the Site upon annexation. The Site will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control, etc.

E. Analysis of Key Issues

1. *Does the annexation comply with all applicable State, Metro, County, and City regulations?*

   Staff believes that the annexation application, including the associated map amendments, is consistent with all applicable statutes, code provisions, intergovernmental agreements, and land use and annexation policies. See Exhibit A of Attachment 1 for a more detailed analysis and findings related to compliance.

2. *Is the annexation in the City and the public's best interests?*

   Staff believes that the annexation is in the City and public's best interests as follows:

   - The annexation is consistent with the City's UGMA agreement with the County and the annexation policies and objectives contained in the City's Comprehensive Plan. The intergovernmental agreement with the County and the City's annexation policies aim to provide for the timely and orderly extension of urban services to the areas identified in the City's UGMA. The Site is within the City's UGMA and immediately adjacent to the city limits. The property owner desires to develop the property with an industrial use and requires City services in order to proceed with the proposed development. The City has existing water and wastewater lines adjacent to and through the Site that can adequately serve the Site. The annexation facilitates the efficient use of land and utilities by taking advantage of existing investments in utilities and streets. Staff asserts that the annexation and subsequent extension of urban service is both timely and orderly.

   - The annexation will not adversely affect the health, safety, and welfare of the community. On the contrary, the annexation will improve the community's safety and welfare by allowing the Site to connect to the City's wastewater system, thus improving the groundwater in the immediate area. Since Milwaukie's water supply comes from local wells, it is in the City's best interest to protect and maintain the local groundwater supply.

   - The annexation and subsequent extension of services will allow the Site to redevelop. The Site is currently not developed to the extent allowed by its current or proposed zoning and will not be able to develop as such until annexation occurs.

- The annexation will contribute to the City's tax base. Redevelopment of the Site with industrial uses will also contribute to the City's economy and provide additional services and employment opportunities. While it is not possible to quantify the net fiscal effect of annexation and future development at this time, staff believes that the annexation will provide long-term fiscal benefits to the City.

3. *Should the City apply a Business Industrial zoning designation and an Industrial land use designation to the Site upon annexation?*

   Staff supports the applicant's land use and zoning designation requests given the Site's existing County zoning and location. An Industrial land use designation and Business Industrial zoning designation would match the land use and zoning designations of City properties to the west of the Site. A Business Industrial designation would allow for land use consistency and ease of zoning administration in the area.

   The only other industrial zoning designation in the City is Manufacturing, which staff does not believe is a viable option for this Site. In addition to the absence of any properties zoned Manufacturing in this area, the Manufacturing zone has an employment standard that requires 10 employees per acre.[2] At almost three acres in size, this standard would require approximately 30 employees to be employed at this location, which would add a significant number of vehicular trips to Harmony Rd. Given the traffic on Harmony Rd and level of service at adjacent intersections, it does not seem prudent to apply a zone that would result in the addition of a significant number of trips.

4. *Should the City annex the portion of Harmony Rd along the Site's frontage*?

   Staff recommends that the City not attempt to take jurisdiction of this portion of Harmony Rd. This is consistent with the recommendation made by staff in 2004 when the adjacent property to the west of the Site annexed to the City. Harmony Rd is an arterial road under County jurisdiction. Annexing a portion of it would fragment the County's jurisdiction and complicate capital project planning and maintenance tasks, resulting in administrative and maintenance inefficiencies. The Urban Growth Management Agreement between the City and the County states that arterial roads will be considered for transfer on a case-by-case basis, the terms of which must be negotiated and agreed to by both jurisdictions. The City's Engineering Director is not interested in negotiating the transfer of this portion of Harmony Rd to the City.

5. *Are adequate City utilities and services available to serve the Site upon annexation?*

[2] There are no minimum employment standards associated with the Site's Title 4 Employment designation.

Staff believes that adequate City utilities and services are available to serve the Site upon annexation. Annexation will result in the long-term provision of urban services to an industrial property, and needed public utilities, wastewater in particular, can be provided without adversely impacting existing development or restricting future development in the area.

6. *Does Metro or ODOT object to the proposed land use and zoning designations?*

   Neither agency objects to the proposed land use and zoning designations. ODOT has determined that the proposed designations would have no significant impacts on Highway 212/224. Moreover, Metro has confirmed that there would be no conflict between the Site's existing Title 4 designation and the proposed Business Industrial zoning designation since the City's Business Industrial zone is already in compliance with the employment lands section of Title 4.

Concurrence

The Planning Commission reviewed the application at a public hearing on August 12, 2008 and recommended approval.

The application was forwarded to the following City departments for review and comment: Community Development, Engineering, Fire, and Building. It was also forwarded to Clackamas County, TriMet, Metro, ODOT, and the following three neighborhood associations: Linwood NDA, Lake Road NDA, and North Clackamas Citizen Association. No objections to or concerns about the annexation have been received.

Clackamas County, TriMet, Metro, ODOT, two neighborhood associations, and other interested persons provided comments, and those received from Metro and ODOT are attached (Attachment 4). The comments provided by Clackamas County, TriMet, the two neighborhood associations, and other interested persons are not attached, as they pertain to the proposed development not the proposed annexation. Since the Planning Commission will review the proposed development at a public hearing on August 26, 2008, those comments will be attached to that staff report for that hearing.

Prior to the September 2, 2008 public hearing before City Council, all necessary parties, affected City departments, and residents and property owners within 400 feet of the Site will be notified of the annexation proceedings as required by City, Metro, and State regulations.

Fiscal Impact

The annexation is expected to have a positive fiscal effect through collection of property taxes and other revenues. The value of the property, for tax revenue purposes, will depend upon how the site is developed in the future and trends in industrial property values. Potential negative effects include the costs of providing governmental services to the site. However, industrial properties typically have low governmental service

demands. While it is not possible to quantify the net fiscal effect at this time, staff believes that the annexation will provide long-term fiscal benefits.

Work Load Impact

Workload impacts will be minimal and will likely include, but are not limited to, the following: utility billing, provision of general governmental services, and the setting up and maintenance of property records.

Alternatives

The application is subject to Milwaukie Comprehensive Plan Chapter 2 for plan amendments, Oregon Revised Statutes Chapter 222 City Boundary Changes, Metro Code Chapter 3.09 Local Government Boundary Changes, and the following provisions of the Milwaukie Zoning Ordinance, which is Title 19 of the Milwaukie Municipal Code (MMC):

- MMC 19.900 Amendments
- MMC 19.1011.4 Major Quasi Judicial Review
- MMC 19.1500 Boundary Changes

The application is also subject to major quasi-judicial review, which requires the City Council to conduct a public hearing and either deny or approve the application based on compliance with all applicable code provisions and regulations listed above.

The City Council has the following three decision-making options:

1. Approve the application and adopt the ordinance and findings in support of approval.
2. Approve the application and adopt a modified ordinance and findings in support of approval. (Any modifications need to be read into the record.)
3. Deny the application and adopt findings in support of denial.

The final decision on this application must be made by the City Council on or before October 24, 2008, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

Attachments

1. Ordinance (The Ordinance contains two exhibits: Exhibit A Findings in Support of Approval and Exhibit B Legal Descriptions and Map of Annexation Properties)
2a. City and County Existing Zoning Designations Map
2b. Existing Land Use Designations Map
2c. Aerial Photo of Surrounding Area
3. A-07-02 Application Materials
4. Agency Comments

Milwaukie

Dogwood City of the West

To: **Mayor and City Council**

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

From: **Paul Shirey, Operations Director**
Ronelle Sears, Storm/Wastewater Supervisor
Jim Lund, Stormwater Specialist
Alex Campbell, Resource and Economic Development Specialist

Subject: **Proposed Amendments to Milwaukie Municipal Code Chapter 13.12.063 Fats, Oils and Grease (FOG) Control**

Date: **August 21, 2008 for September 2 City Council Meeting**

Action Requested

Adopt amendments to section 13.12.063 FOG control section of the Milwaukie Municipal Code (MMC) to achieve the following:

1. Clarify uses subject to regulation
2. Amend penalties applicable to violations to conform to existing Code

The Code amendments are shown in Attachment 2 in redline/strikethrough version and Amendment B in final form.

History of Prior Actions and Discussions

August 19, 2008 City Council work session discussion of proposed amendments
June 3, 2008 City Council discussion following comments made during audience participation regarding FOG control ordinance.
July 17, 2007 Ordinance #1972 - Amending Title 13 – Public services to remove general requirements and create an inspection and enforcement program that will aid the Operations Department.

Background

Fats, oils and grease (FOG) control is considered a best management practice and has been part of most publicly operated wastewater collection and treatment systems for the past 40 years. FOG is contributed to the waste stream through sinks that drain to the public sanitary sewer system and from grills and deep fat fryers and similar devises. FOG naturally congeals which can cause sewer line backups and overflows and causes corrosion of the collection pipes, resulting in higher maintenance and replacement cost over time.

FOG control also meets federal requirements for POTW (publicly owned treatment works) in accordance with EPA mandates (40 CFR 403) for wastewater treatment discharges. (Attachment 4) Milwaukie originally agreed to mandate FOG control under the terms of its agreement with Clackamas County, which operates the Kellogg wastewater treatment plant. Milwaukie adopted FOG control language in its Code in 1989 but did not enforce the Code because of challenges in administering the regulations.

City Council modified MMC 13.12.063 in 2007 (Ordinance #1972) and staff began enforcing FOG control in August 2007, relying on the practices of similarly sized communities in the metro area. The City added the FOG program administration to the Waste Water Specialist's duties.

Uses subject to regulation were defined under the Code at that time to include "...business that prepare and or package food or beverages for consumption, on or off the site...." defined to include food courts, food manufacturers (below a specific discharge volume), food packagers, restaurants, grocery stores, bakeries, lounges, hospitals, hotels, nursing homes, churches, schools and all other food service facilities not listed...." Ordinance #1972 approved in 2007 provided an administrative fine of up to $1,000 per day for noncompliance.

In August 2007, the Waste Water Specialist complied a list of all businesses in the city potentially subject to the FOG ordinance and notified each business of the regulation. (Attachment 7). Inspections were then scheduled to determine the need for installation of a trap or interceptor to manage the FOG generated by the business. Some businesses already had FOG control mechanisms (traps or interceptors), some were required to modify their existing devises and others required to install new devises. [Of the original forty businesses inspected, 36 are now in compliance or working toward compliance, four are in noncompliance.

At a Council meeting on June 3, 2008, Council directed staff to reexamine the FOG ordinance and to consider the issue of whether to regulate coffee shops that do not also produce food on site.

At its Work Session on August 19th, Council discussed some the issues that have been raised over the past 13 months in enforcing the FOG regulations. Among other suggestions, staff was asked to determine if a measurable standard could be applied to all FOG producers (defined in the proposed Code amendments as all "food service facilities") to ensure that business establishments would be regulated only if in fact they were found to be contributing a certain amount of FOG to the system.

Staff has considered Council's request and concluded that such a measureable standard is not feasible, practical or achievable because:

1. Staff believes the variability in the type and amount of FOG generated by various commercial businesses would frustrate any "one size fits all" standard, and customizing standards to various business types and sizes is unmanageable.
2. Staff believes the variability in type and size of FOG control appliances (traps and interceptors) would also frustrate a simple measurable standard, since these devices are cleaned by different methods and would lend themselves to different standards.
3. Staff believes that attempting to measure quantities of FOG once it has moved into the public wastewater pipes is not feasible since the material disperses in other wastewater and attaches to the sides of the pipe becoming invisible to the eye.
4. Staff can find no industry standards for using a constant metric of this sort, and believes that any City attempt to establish an industry standard would be arbitrary.
5. Staff believes that any standard set by the City could and will likely be made obsolete by regulations imposed on the City by its wastewater treatment provider.

Of the 40 plus businesses defined as food service facilities since the Fog regulations we adopted in July 2007, all but four are in voluntary compliance. Efforts to develop a special program for several coffee shops in town were not embraced by the owners of the businesses for whom they were intended. Clackamas County is on the verge of adopting FOG control regulations that mirror those of the City and many other municipalities in Oregon and throughout the country. Therefore, staff believes that with the changes to the FOG control ordinance language as proposed herein, the program should continue to be implemented.

Recommended Code Changes

Staff recommends that the FOG control ordinance be amended to make a series of changes to the Code adopted last year by Ordinance # 1972. Changes of substance include:

1. Add coffee shops, convenience stores and cafeterias as examples of food service facilities subject to regulation.
   - Coffee shops dispose of waste milk products and coffee down sink drains and generate FOG in the form of oils and fats. Most coffee shops also sell food that, even though pre-packaged, requires some level of handling (reheating and disposal) that results in food and FOG being washed down the drain. There is little doubt that coffee shops generate FOG. (see Attachment 5)
2. Clarify the definitions of grease and grease traps and grease interceptors.
   - Clarify the fact that "grease" as defined in the Code refers also to fats and oils, which are therefore subject to grease control devices such as traps.
3. Eliminate reference to quantitative measure (100 ml) of grease as a condition subject to enforcement.
   - Most municipalities do not set a quantitative threshold for FOG because it is nearly impossible to obtain a reliable measure of FOG once in municipal wastewater streams.
4. Enhance the requirements for demonstrating management and legal disposal of effluent from grease traps. The current language in the Code is silent on whether a business is required to retain the services of a pumping company to service their grease trap and does not require evidence of legal disposal.
   - Staff proposes that businesses that prefer to avoid the ongoing expense of using a disposal company to clean and service their traps must supply evidence of legal disposal of trap effluent.
5. Refine language regarding enforcement and civil penalties for noncompliance
   - Code language from July 2007 incorrectly referred to administrative remedies for noncompliance instead of civil penalties. Milwaukie has no administrative enforcement processes, only civil penalties. The revised language conforms to existing enforcement practices with fines ranging from $150-$500 per day for violations.

Concurrence

The City Attorney concurs with the recommendations of staff. Clackamas County has a similar FOG control ordinance on the books and is in the process of developing a more vigorous compliance program Staff would note that the City's Resource and Economic Development Specialist participated in the revision process on this ordinance, and

believes that while compliance with the ordinance does impose some economic costs on food service businesses in the City, it is not a cost that is unreasonable given the importance of the problem.

Fiscal Impact

None

Work Load Impacts

The revised amendments do not alter the time or cost of enforcing the FOG control ordinance.

Alternatives

Consider exemptions of certain uses or other exceptions from FOG control. The City would accept the increased likelihood of FOG related maintenance costs for Wastewater department.

Attachments

1. Ordinance
2. Proposed Code amendments (strikeout) to MMC 13.12.063
3. Proposed Code amendments (clean version) to MMC 13.12.063
4. National Pretreatment Program (40 CFR 403), EPA Office of Water, July 2007
5. Coffee shop FOG memo, including photos
6. List of communities with FOG control ordinances
7. List of businesses subject to regulation and status of compliance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING TITLE 13 – PUBLIC SERVICES TO REMOVE GENERAL REQUIREMENTS AND CREATE AN INSPECTION AND ENFORCEMENT PROGRAM THAT WILL AIDE THE OPERATIONS DEPARTMENT.

WHEREAS, the proposed amendments to Title 13 more clearly define uses subject to FOG control, amend the process and penalties for non-compliance, clarify the definitions of grease, grease traps and grease interceptors and clarify the requirements for cleaning traps and interceptors; and

WHEREAS, the Milwaukie City Council finds that the proposed amendments are in the public interest of the City of Milwaukie; and

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

Section 1. Title 13 Public Services Ordinance Amendment. Exhibit A (Strikeout Version).

Section 2. Title 13 Public Service Ordinance Amendment. Exhibit B (Clean Version).

Read the first time on September 2, 2008, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

_____
Jim Bernard, Mayor

ATTEST:

_____
Pat DuVal, City Recorder

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

_____
City Attorney

13.12.063 Fats, oils and grease control.
http://www.qcode.us/codes/milwaukie/view.php?topic=13-13_12-13_12_063&frames=on - startContent

A. Purpose. The city of Milwaukie finds that, in order to provide for the public health and welfare, and to comply with the laws and regulations of the state and the United States Government, it is necessary to set uniform requirements for all users of the city's sanitary sewer system to include, but not limited to, the following:

1. To establish the appropriate authority for the city to condition or deny discharges to the city sewer system;

2. To prevent the introduction of excessive amounts of grease into the city sewer system;

3. To prevent the clogging or blocking of the city sewer lines due to grease build-up causing backup and flooding of streets, residences, and commercial buildings;

4. To implement a set of procedures to recover the costs incurred when grease blockages require the city to engage in cleaning and maintenance of sewer lines and the disposal of grease blockages;

5. To implement a procedure to recover costs from the parties responsible for contributing waste products to the city system for the cost of any liability incurred by the city for damage caused by grease blockages resulting in the flooding of streets, residences or commercial buildings;

6. To establish enforcement procedures for violations of any part or requirement of this section; and

7. To establish the authority for the city to carry out routine and non-routine monitoring (sampling and inspections) of the grease traps of any food service facility either in the city or outside, that contributes waste products that enter the city system.

B. Applicability. The terms and conditions of this section shall apply to all food service ~~providers to include restaurants, cafeterias, food preparation facilities, convenience stores preparing fast foods for sale; grocery stores providing cooked foods for sale; and other food preparation~~ facilities.

C. Definitions.

"City" means the city of Milwaukie Oregon, employees of the city, or an authorized agent of the city.

"Discharger" means the food service facility that is discharging gray water to the city sewer system.

"Food service facility" or "facility" means any business which prepares and/or packages food or beverages for sale or consumption, on or off site, with the exception of private residences. Food service facilities shall include, but are not limited to food preparation facilities, food courts, food manufacturers with an average daily discharge volume of up to twenty-five thousand (25,000) gallons per day ~~or less~~, food packagers, restaurants, cafeterias, grocery stores, convenience stores, coffee shops, bakeries, lounges, hospitals, hotels, nursing homes, churches, schools, and all other food service facilities not listed, herein.

"Garbage disposal" means a device which shreds or grinds up waste materials into smaller portions for discharge into the city's sanitary sewer system.

"Gray water" means all of the liquid contained in a grease interceptor that lies below the floating grease layer and above the food solids layer.

"Grease" means a material either liquid or solid, composed primarily of fat, oil and grease from animal or vegetable sources. The terms "fats, oils, and grease (FOG)," "oil and grease" or "oil and grease substances" shall all be included within this definition.

"Grease interceptor" or "interceptor" means a device located underground and outside of the food service facility designed to collect, contain or remove food wastes and ~~grease~~FOG from the wastestream while allowing the balance of the liquid wastes (gray water) to discharge to the wastewater collection system by gravity. Interceptors shall have at least one inspection hatch on the top surface to facilitate inspection, cleaning, and maintenance.

"Grease trap" means a device located in a food service facility or under a sink designed to collect, contain, or remove food wastes and ~~grease~~FOG from the wastestream while allowing the balance of the liquid waste (gray water) to discharge to the wastewater collection system by gravity. Traps shall have a removable lid on the top surface to facilitate inspection, cleaning, and maintenance.

"Grease trap service company" means a person, or company, who provides maintenance services for grease traps and interceptors. Maintenance service to include cleaning, minor repairs, grease and solids removal from the interceptor, and transport of the removed material to an appropriate recycling or disposal facility.

"Waste grease" means fats, oils, and grease that can be collected following use and prior to discharge to the sewer or interceptor. Waste grease is collected from pans, deep fat fryers, and cooking grills.

D. Grease Interceptor/Trap Required.

1. General Requirements. Grease interceptors and/or traps shall be provided by the food service facility owner~~, when, in the opinion of the city, they are necessary~~ to prevent ~~grease in excessive amounts~~FOG from entering the sanitary sewer system. Owner shall

provide documentation and/or calculations on all sizing and model selections to the city building division for approval prior to installation. The grease or _____interceptor shall be located as to be easily and safely accessible for cleaning and inspection. All prospective grease trap users must provide manufacturer's capacity data and an estimate of the product rate at the facility that is within the capacity of the grease interceptor or trap to be approved by the building permit department.

2. Existing Facilities. For the purposes of sizing and installation of grease interceptors/traps, all food service facilities existing within the city's sewer system service area, whether within, or without, the city limits, prior to the effective date of the ordinance codified in this section shall be allowed to operate and maintain existing grease interceptors/traps provided their grease interceptors or grease traps are maintained in efficient operating conditions.

On or after the effective date of said ordinance, the city ~~may~~shall require an existing food service facility to install, operate and maintain a new grease interceptor or trap that complies with the requirements of this section or to modify, repair or replace any noncompliant interceptor or trap within ninety (90) days of written notification by the city when any one or more of the following conditions exist:.

a. ~~The facility is found to be contributing grease and oil in quantities greater than one hundred (100) mg/L (or ppm) or necessitates increased maintenance on the wastewater collection system. b.~~ The facility does not have a grease interceptor or trap.

~~e~~b. The facility has an undersized, nonrepairable or defective grease interceptor or trap.

~~d~~c. Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a building permit to be issued by the city.

~~e~~d. The existing facility does not have plumbing connections to a grease interceptor or trap in compliance with the requirements of this ordinance, or current building codes.

3. New Facilities or New Interceptor Installations. Grease interceptors or traps shall be located in the food service facility's lateral sewer line between all fixtures which may introduce grease into the sewer system and the connection to the city's wastewater collections system. Garbage disposals, dishwashers and restrooms shall not be plumbed to the grease interceptor. Automatic hood washers, floor drains in food preparation and storage areas shall be plumbed to the grease interceptor. Sanitary facilities (restrooms) shall not be plumbed to the grease interceptor under any circumstance.

E. Maintenance of Grease Interceptor/Trap Required.

1. Maintenance. All grease interceptors and grease traps shall be continuously maintained in satisfactory and effective operational condition by the discharger at the discharger's expense. Typically maintenance consists of the removal of floatable solids

and settleable solids collected in the grease interceptor/trap; and the cleaning of the walls and piping.

2. Routine Maintenance Schedules. The discharger is responsible for establishing a routine maintenance schedule that includes the routine removal of floatable and settleable solids and cleaning of the interceptors/traps. The maintenance frequency should be such that the interceptor/trap does not allow fats, oils, grease~~, oils,~~ and food solids ~~from leaving~~to leave the interceptor and ~~entering~~enter the city sewer collection system. The amount of time between pumping and cleaning services is dependent on the volume of wastes discharged, the volume of the interceptor/trap, and the physical integrity of the interceptor/trap structures and piping. It is the discharger's responsibility that the interceptors/traps are routinely inspected and repaired as needed.

3. Record Keeping Requirements. The discharger is responsible for maintaining appropriate maintenance records that documents the routine pumping, cleaning, and repairs made to interceptors and traps. Where the discharger hires a grease trap service company to clean the interceptor/trap and remove and dispose of the accumulated grease and solids, a copy of the pumping manifest or billing must be retained with the maintenance records. Where the discharger does not hire a grease trap service company the discharger shall maintain a receipt for proper disposal of the accumulated FOG and solids. All maintenance records should include at a minimum the following information:

a. Name of facility;

b. Date service performed;

c. Total volume of the interceptor/trap;

d. Total volume of material removed from the interceptor/trap;

e. List of all deficiencies identified from an inspection of the empty interceptor/trap;

f. Name and address of the grease trap service company;

g. ~~Address of the grease trap service company; h.~~ Name and address of final disposal site;

~~i~~h. Signature of the grease trap service company employee performing the work;

i. ~~j.~~ Signature of the discharger's employee observing and accepting the services.

j. Receipt for payment for proper disposal of FOG and solids, if such services are not provided by a grease trap service company.

4. Record Retention. All grease interceptor/trap maintenance records shall be retained for a period of no less than, three (3) years. These records shall be retained at the food service facility and shall be made available for inspection by the city.

F. Disposal of wastes from interceptors and traps. Storage, handling, transportation and disposal of all wastes from interceptors/traps shall be performed in accordance with applicable federal, state and local regulations that pertain to the type and/or class of waste. Materials removed from waste interceptors/traps must be disposed of at ~~legally~~State of Oregon Department of Environmental Quality (DEQ) designated locations for those specific type wastes. Materials removed from waste interceptors/traps shall not be discharged to the city sanitary sewers or storm drains.

G. Collection, Storage and Disposal of Waste Grease and Solids. Dischargers are encouraged to collect excess oil and grease from deep fat fryers, pots, and pans prior to washing. This waste grease and oil should be collected and stored in appropriate containers that are ~~appropriated~~appropriately labeled. The collected waste grease and oil should be collected by a waste grease service company for disposal. In no case shall the discharger dispose of deep fat fryer oils and other collected waste greases and oils by discharge to the grease interceptor/trap or to the city sewer system.

H. Clean up of Spilled Grease and Oil. The discharger shall clean up all spilled grease and oil using appropriate tools including a mop and bucket. Bucket contents may be discharged to the grease interceptor/trap, and solid greases and oils that can be manually picked up should be held in the waste grease collection containers for final disposal. In no instance shall spilled grease and oils be washed to the stormwater drains. In the event that the city is required to clean up a grease and oil spill generated by a discharger, the city is authorized to assess cost recovery fees to the discharger for all reasonable documented costs associated with the clean up.

I. Use of Chemicals and Other Additives. The use of chemicals, emulsifying agents, enzymes, microorganisms and/or other additives that are added to the grease interceptors/traps to reduce or eliminate the pumping and cleaning of the interceptor/trap is prohibited. Dischargers currently using a chemical or other additive must halt such use immediately on the effective date of this ordinance or be subject to citation and fine under subsection K of this section.

J. Right of Access. The city, employees of the city, or authorized agents of the city, have the authority to enter the property of the discharger to conduct inspections of the entire facility, including the interceptors, traps, cooking and storage areas, restrooms, offices, service areas, and other areas of the facility. The city is also authorized to collect samples of any wastestream, including the discharge from the facility and the interceptors and traps. The city may obtain search warrants for inspection and sampling purposes. Failure to grant access may result in the suspension of sewer and water services provided by the city.

K. Enforcement. ~~Failure~~ A person failing to comply with the provisions of this section is ~~considered a misdemeanor and~~ subject to the short form uniform citation and complaint method and enforcement ~~actions under the~~procedures within Chapter 1.08 of city codes. In addition, to these misdemeanor enforcement actions the city is authorized to take the following actions to achieve compliance to this section.

1. Mandatory Interceptor/Trap Service. The city may issue an order requiring the discharger to conduct interceptor/trap maintenance services within a mandatory time period. The cost of the services shall be the direct responsibility of the discharger.

2. Mandatory Interceptor/Trap Service Schedule. The city may impose a mandatory pumping and cleaning schedule to assure the proper maintenance of an interceptor not properly maintained by the discharger. The cost of the services shall be the direct responsibility of the discharger. Mandatory service schedules may cover a time period of up to three (3) years.

3. Cost Recovery. The city may assess the discharger the amount of those expenditures made by the city to clean up or prevent sewer blockages and overflows caused by the discharge from a food service facility. The city may also recover costs associated with any testing performed for reasons associated with violations or repeat offenders.

4. ~~Administrative Fines. The city may assess fines to the discharger, not to exceed one thousand dollars ($1,000.00~~ Civil Penalties. A person found to have committed a violation of this title shall be assessed a penalty of not more that five hundred dollars ($500.00) per day per violation, for violations of this section.

~~a. Unpaid charges, fines, and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of twenty-five (25) percent of the unpaid balance, and interest shall accrue thereafter at a rate of one (1) percent per month. The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine. A lien against the user's property will be sought for unpaid charges, fines, and penalties.~~

~~b. Users desiring to dispute such fines must file a written request for the city to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the city may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user.~~

~~c. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.~~

5. Emergency Suspensions. The city may immediately suspend a discharge and/or water services, after informal notice to the discharger, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present

or cause an imminent or substantial endangerment to the health or welfare of persons. (Ord. 1972 § 1, 2007)

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Insertions	31
Deletions	32
Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	65

13.12.063 Fats, oils and grease control.

A. Purpose. The city of Milwaukie finds that, in order to provide for the public health and welfare, and to comply with the laws and regulations of the state and the United States Government, it is necessary to set uniform requirements for all users of the city's sanitary sewer system to include, but not limited to, the following:

1. To establish the appropriate authority for the city to condition or deny discharges to the city sewer system;

2. To prevent the introduction of excessive amounts of grease into the city sewer system;

3. To prevent the clogging or blocking of the city sewer lines due to grease build-up causing backup and flooding of streets, residences, and commercial buildings;

4. To implement a set of procedures to recover the costs incurred when grease blockages require the city to engage in cleaning and maintenance of sewer lines and the disposal of grease blockages;

5. To implement a procedure to recover costs from the parties responsible for contributing waste products to the city system for the cost of any liability incurred by the city for damage caused by grease blockages resulting in the flooding of streets, residences or commercial buildings;

6. To establish enforcement procedures for violations of any part or requirement of this section; and

7. To establish the authority for the city to carry out routine and non-routine monitoring (sampling and inspections) of the grease traps of any food service facility either in the city or outside, that contributes waste products that enter the city system.

B. Applicability. The terms and conditions of this section shall apply to all food service facilities.

C. Definitions.

"City" means the city of Milwaukie Oregon, employees of the city, or an authorized agent of the city.

"Discharger" means the food service facility that is discharging gray water to the city sewer system.

"Food service facility" or "facility" means any business which prepares and/or packages food or beverages for sale or consumption, on or off site, with the exception of private residences. Food service facilities shall include, but are not limited to, food preparation facilities, food courts, food manufacturers with an average daily discharge volume of up to twenty-five thousand

(25,000) gallons per day, food packagers, restaurants, cafeterias, grocery stores, convenience stores, coffee shops, bakeries, lounges, hospitals, hotels, nursing homes, churches, schools, and all other food service facilities not listed, herein.

"Garbage disposal" means a device which shreds or grinds up waste materials into smaller portions for discharge into the city's sanitary sewer system.

"Gray water" means all of the liquid contained in a grease interceptor that lies below the floating grease layer and above the food solids layer.

"Grease" means a material either liquid or solid, composed primarily of fat, oil and grease from animal or vegetable sources. The terms "fats, oils, and grease (FOG)," "oil and grease" or "oil and grease substances" shall all be included within this definition.

"Grease interceptor" or "interceptor" means a device located underground and outside of the food service facility designed to collect, contain or remove food wastes and FOG from the wastestream while allowing the balance of the liquid wastes (gray water) to discharge to the wastewater collection system by gravity. Interceptors shall have at least one inspection hatch on the top surface to facilitate inspection, cleaning, and maintenance.

"Grease trap" or "trap" means a device located in a food service facility or under a sink designed to collect, contain, or remove food wastes and FOG from the wastestream while allowing the balance of the liquid waste (gray water) to discharge to the wastewater collection system by gravity. Traps shall have a removable lid on the top surface to facilitate inspection, cleaning, and maintenance.

"Grease trap service company" means a person, or company, who provides maintenance services for grease traps and interceptors. Maintenance service to include cleaning, minor repairs, FOG and solids removal from the interceptor, and transport of the removed material to an appropriate recycling or disposal facility.

"Waste grease" means fats, oils, and grease that can be collected following use and prior to discharge to the sewer or interceptor. Waste grease is collected from pans, deep fat fryers, and cooking grills.

D. Grease Interceptor/Trap Required.

1. General Requirements. Grease interceptors and/or traps shall be provided by the food service facility owner to prevent FOG from entering the sanitary sewer system. Owner shall provide documentation and/or calculations on all sizing and model selections to the city building division for approval prior to installation. The grease interceptor or trap shall be located as to be easily and safely accessible for cleaning and inspection. All prospective grease interceptor or trap users must provide manufacturer's capacity data and an estimate of the product rate at the facility that is within the capacity of the grease interceptor or trap to be approved by the building permit department.

2. Existing Facilities. For the purposes of sizing and installation of grease interceptors/traps, all food service facilities existing within the city's sewer system service area, whether within, or without, the city limits, prior to the effective date of the ordinance codified in this section shall be allowed to operate and maintain existing grease interceptors/traps provided their grease interceptors or grease traps are maintained in efficient operating conditions.

On or after the effective date of said ordinance, the city shall require an existing food service facility to install, operate and maintain a new grease interceptor or trap that complies with the requirements of this section or to modify, repair or replace any noncompliant interceptor or trap within ninety (90) days of written notification by the city when any one or more of the following conditions exist:.

a. The facility does not have a grease interceptor or trap.

b. The facility has an undersized, nonrepairable or defective grease interceptor or trap.

c. Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a building permit to be issued by the city.

d. The existing facility does not have plumbing connections to a grease interceptor or trap in compliance with the requirements of this ordinance, or current building codes.

3. New Facilities or New Interceptor Installations. Grease interceptors or traps shall be located in the food service facility's lateral sewer line between all fixtures which may introduce grease into the sewer system and the connection to the city's wastewater collections system. Garbage disposals, dishwashers and restrooms shall not be plumbed to the grease interceptor. Automatic hood washers, floor drains in food preparation and storage areas shall be plumbed to the grease interceptor. Sanitary facilities (restrooms) shall not be plumbed to the grease interceptor under any circumstance.

E. Maintenance of Grease Interceptor/Trap Required.

1. Maintenance. All grease interceptors and grease traps shall be continuously maintained in satisfactory and effective operational condition by the discharger at the discharger's expense. Typically maintenance consists of the removal of floatable solids and settleable solids collected in the grease interceptor/trap; and the cleaning of the walls and piping.

2. Routine Maintenance Schedules. The discharger is responsible for establishing a routine maintenance schedule that includes the routine removal of floatable and settleable solids and cleaning of the interceptors/traps. The maintenance frequency should be such that the interceptor/trap does not allow fats, oils, grease and food solids to leave the interceptor and enter the city sewer collection system. The amount of time between pumping and cleaning services is dependent on the volume of wastes discharged, the volume of the interceptor/trap, and the physical integrity of the interceptor/trap structures and piping. It is the discharger's responsibility that the interceptors/traps are routinely inspected and repaired as needed.

3. Record Keeping Requirements. The discharger is responsible for maintaining appropriate maintenance records that documents the routine pumping, cleaning, and repairs made to interceptors and traps. Where the discharger hires a grease trap service company to clean the interceptor/trap and remove and dispose of the accumulated grease and solids, a copy of the pumping manifest or billing must be retained with the maintenance records. Where the discharger does not hire a grease trap service company the discharger shall maintain a receipt for proper disposal of the accumulated FOG and solids. All maintenance records should include at a minimum the following information:

a. Name of facility;

b. Date service performed;

c. Total volume of the interceptor/trap;

d. Total volume of material removed from the interceptor/trap;

e. List of all deficiencies identified from an inspection of the empty interceptor/trap;

f. Name and address of the grease trap service company;

g. Name and address of final disposal site;

h. Signature of the grease trap service company employee performing the work, if applicable;

i. Signature of the discharger's employee observing and accepting the services.

j. Receipt for payment for proper disposal of FOG and solids, if such services are not provided by a grease trap service company.

4. Record Retention. All grease interceptor/trap maintenance records shall be retained for a period of no less than, three (3) years. These records shall be retained at the food service facility and shall be made available for inspection by the city.

F. Disposal of wastes from interceptors and traps. Storage, handling, transportation and disposal of all wastes from interceptors/traps shall be performed in accordance with applicable federal, state and local regulations that pertain to the type and/or class of waste. Materials removed from waste interceptors/traps must be disposed of at State of Oregon Department of Environmental Quality (DEQ) designated locations for those specific type wastes. Materials removed from waste interceptors/traps shall not be discharged to the city sanitary sewers or storm drains.

G. Collection, Storage and Disposal of Waste Grease and Solids. Dischargers are encouraged to collect excess oil and grease from deep fat fryers, pots, and pans prior to washing. This waste grease and oil should be collected and stored in appropriate containers that are appropriately

labeled. The collected waste grease and oil should be collected by a waste grease service company for disposal. In no case shall the discharger dispose of deep fat fryer oils and other collected waste greases and oils by discharge to the grease interceptor/trap or to the city sewer system.

H. Clean up of Spilled Grease and Oil. The discharger shall clean up all spilled grease and oil using appropriate tools including a mop and bucket. Bucket contents may be discharged to the grease interceptor/trap, and solid greases and oils that can be manually picked up should be held in the waste grease collection containers for final disposal. In no instance shall spilled grease and oils be washed to the stormwater drains. In the event that the city is required to clean up a grease and oil spill generated by a discharger, the city is authorized to assess cost recovery fees to the discharger for all reasonable documented costs associated with the clean up.

I. Use of Chemicals and Other Additives. The use of chemicals, emulsifying agents, enzymes, microorganisms and/or other additives that are added to the grease interceptors/traps to reduce or eliminate the pumping and cleaning of the interceptor/trap is prohibited. Dischargers currently using a chemical or other additive must halt such use immediately on the effective date of this ordinance or be subject to citation and fine under subsection K of this section.

J. Right of Access. The city, employees of the city, or authorized agents of the city, have the authority to enter the property of the discharger to conduct inspections of the entire facility, including the interceptors, traps, cooking and storage areas, restrooms, offices, service areas, and other areas of the facility. The city is also authorized to collect samples of any wastestream, including the discharge from the facility and the interceptors and traps. The city may obtain search warrants for inspection and sampling purposes. Failure to grant access may result in the suspension of sewer and water services provided by the city.

K. Enforcement. A person failing to comply with the provisions of this section is subject to the short form uniform citation and complaint method and enforcement procedures within Chapter 1.08 of city codes. In addition to these enforcement actions the city is authorized to take the following actions to achieve compliance to this section.

1. Mandatory Interceptor/Trap Service. The city may issue an order requiring the discharger to conduct interceptor/trap maintenance services within a mandatory time period. The cost of the services shall be the direct responsibility of the discharger.

2. Mandatory Interceptor/Trap Service Schedule. The city may impose a mandatory pumping and cleaning schedule to assure the proper maintenance of an interceptor not properly maintained by the discharger. The cost of the services shall be the direct responsibility of the discharger. Mandatory service schedules may cover a time period of up to three (3) years.

3. Cost Recovery. The city may assess the discharger the amount of those expenditures made by the city to clean up or prevent sewer blockages and overflows caused by the discharge from that discharger. The city may also recover costs associated with any testing performed for reasons associated with violations or repeat offenders.

4. Civil Penalties. A person found to have committed a violation of this title shall be assessed a penalty of not more that five hundred dollars ($500.00) per day per violation, for violations of this section.

5. Emergency Suspensions. The city may immediately suspend a discharge and/or water services, after informal notice to the discharger, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. (Ord. 1972 § 1, 2007)

National Pretreatment Program

(40 CFR 403)

Controlling Fats, Oils, and Grease Discharges from Food Service Establishments

Summary

The National Pretreatment Program provides regulatory tools and authority to state and local POTW pretreatment programs for eliminating pollutant discharges that cause interference at POTWs, including interference caused by the discharge of Fats, Oils, and Grease (FOG) from food service establishments (FSE). More specifically, the Pretreatment Program regulations at 40 CFR 403.5(b)(3) prohibit "solid or viscous pollutants in amounts which will cause obstruction" in the POTW and its collection system.

What is the environmental problem with FOG discharges into sewers?

EPA's Report to Congress on combined sewer overflows (CSOs) and sanitary sewer overflows (SSOs) identified that "grease from restaurants, homes, and industrial sources are the most common cause (47%) of reported blockages. Grease is problematic because it solidifies, reduces conveyance capacity, and blocks flow." See Impacts and Controls of CSOs and SSOs, EPA-833-R-04-001, August 2004.

Controlling FOG discharges will help POTWs prevent blockages that impact CSOs and SSOs, which cause public health and water quality problems. Controlling FOG discharges from FSEs is an essential element in controlling CSOs and SSOs and ensuring the proper operations for many POTWs. The interference incidents identified in CSO/SSO report to Congress may indicate the need for additional oversight and enforcement of existing regulations and controls. See 71 FR 76660 (21 December 2006).

What is the source of FOG at Food Service Establishments?

FOG wastes are generated at FSEs as byproducts from food preparation activities. FOG captured on-site is generally classified into two broad categories: yellow grease and grease trap waste. Yellow grease is derived from used cooking oil and waste greases that are separated and collected at the point of use by the food service establishment.

The annual production of collected grease trap waste and uncollected grease entering sewage treatment plants can be significant and ranges from 800 to 17,000 pounds/year per restaurant.

What is the legal authority for POTWs to require FSEs to control FOG discharges?

The National Pretreatment Program already provides the necessary regulatory tools and authority to local pretreatment programs for controlling interference problems. Under the provisions of Part 403.5(c)(1) & (2), in defined circumstances, a POTW must establish specific local limits for industrial users to guard against interference with the operation of the municipal treatment works. See 46 FR 9406 (28 January 1981).

Consequently, pretreatment oversight programs should include activities designed to identify and control sources of potential interference and, in the event of actual interference, enforcement against the violator.

What can FSEs do to control FOG discharges?

Food service establishments can adopt a variety of best management practices or install interceptor/collector devices to control and capture the FOG material before discharge to the POTW collection system.
For example, instead of discharging yellow grease to POTWs, food service establishments usually accumulate this material for pick up by consolidation service companies for re-sale or re-use in the manufacture of tallow, animal feed supplements, bio-fuels, or other products.

Additionally, food service establishments can install interceptor/collector devices (e.g., grease traps) in order to accumulate grease on-site and prevent it from entering the POTW collection system.

How should FSEs design and maintain their FOG controls?

Proper design, installation, and maintenance procedures are critical for these devices to control and capture the FOG. For example,

- Interceptor/collector devices must be designed and sized appropriately to allow FOG to cool and separate in a non-turbulent environment.
- FSE must be diligent in having their interceptor/ collector devices serviced at regular intervals.

The required maintenance frequency for interceptor/collector devices depends greatly on the amount of FOG a facility generates as well as any best management practices (BMPs) that the establishment implements to reduce the FOG discharged into its sanitary sewer system.

In many cases, an establishment that implements BMPs will realize financial benefit through a reduction in their required grease interceptor and trap maintenance frequency.

What are some POTWs doing today to control FOG discharges from FSEs?

A growing number of control authorities are using their existing authority (e.g., general pretreatment standards in Part 403 or local authority) to establish and enforce more FOG regulatory controls (e.g., numeric pretreatment limits, best management practices including the use of interceptor/collector devices) for food service establishments to reduce interferences with POTW operations (e.g., blockages from fats, oils, and greases discharges, POTW treatment interference from Nocardia filamentous foaming, damage to collection system from hydrogen sulfide generation).

For example, since identifying a 73% non-compliance rate with its grease trap ordinance among restaurants, New York City has instituted a $1,000-per-day fine for FOG violations.

Likewise, more and more municipal wastewater authorities are addressing FOG discharges by imposing mandatory measures of assorted kinds, including inspections, periodic grease pumping, stiff penalties, and even criminal citations for violators, along with 'strong waste' monthly surcharges added to restaurant

sewer bills. Surcharges are reportedly ranging from $100 to as high as $700 and more, the fees being deemed necessary to cover the cost of inspections and upgraded infrastructure.

Pretreatment programs are developing and using inspection checklists for both food service establishments and municipal pretreatment inspectors to control FOG discharges. Additionally, EPA identified typical numeric local limits controlling oil and grease in the range of 50 mg/L to 450 mg/L with 100 mg/L as the most common reported numeric pretreatment limit.

How can CMOM help control FSE FOG discharges?

EPA expects that blockages from FOG discharges will decrease as POTWs incorporate FOG reduction activities into their Capacity, Management, Operations, and Maintenance (CMOM) program and daily practices. CMOM programs are comprehensive, dynamic, utility specific programs for better managing, operating and maintaining sanitary sewer collection systems, investigating capacity constrained areas of the collection system, and responding to SSOs.

Collection system owners or operators who adopt FOG reduction activities as part of their CMOM program activities are likely to reduce the occurrence of sewer overflows and improve their operations and customer service.

Where can I get more information?

For more information on developing local limits is in the Local Limits Development Guidance, EPA-833-R-04-002A, July 2004, and EPA's Pretreatment Web site, http://cfpub.epa.gov/npdes/home.cfm?program_id=3.

CMOM information is located in the following document, Guide for Evaluating Capacity, Management, Operation, and Maintenance (CMOM) Programs at Sanitary Sewer Collection Systems, EPA-305-B-05-002, January 2005, http://cfpub.epa.gov/npdes/sso/featuredinfo.cfm.

Additional information is also available from your state or EPA Regional Office.

Why is My Coffee Shop Regulated As A Fats, Oils, and Grease Producing Restaurant?

Many coffee shops/restaurants do not understand the impacts a coffee shop has on sanitary sewer system. After all, they are merely making a drink, which is a hot liquid and flows easily down the drain and away from the establishment.

Unfortunately for the public utility it is connected to, there is an unseen impact on the underground infrastructure.

Coffee beans contain 15% oil per bean, when we are talking about the quantity it takes to make one pot of coffee, or concentrating it, for a shot of espresso, that's a lot of beans.

Also, many people prefer to use milk products in their coffee drink, these milk products may contain more or less an average of 3% milk fat content per ounce of milk product. Milk cream is obviously higher than the previously stated amount. Once this milk goes down the drain, it cools and congeals to the inside of the wastewater pipe. This action causes excess cleaning requirements in the section of pipe affected. This problem may also cause an issue with upstream users of the wastewater system.

MMC 13.12.060 (C) Except as provided in this section, no person shall discharge or cause to be discharged any of the following waters, or wastes to any public sewer:

MMC13.12.060 (C)(8) Any waters or wastes containing suspended solids of such a character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant

Another issue at hand is the coffee itself has a lowered pH, which is what determines the difference between alkalinity and acidity. Normal pH of wastewater has a level of 6.5 to 7.5 on average. When coffee is introduced to the wastewater line it has an average pH of 5.0. This creates a problem within the infrastructure that causes excessive rusting of metal parts and abrasion of concrete pipes.

Due to the costs of replacing infrastructure in the wastewater system, we have deemed it necessary to ensure that all Fats, Oils, and Grease producing establishments be regulated.

MMC13.12.060 (C)(6) Discharge regulations states- "Any waters having a pH lower than 5.5 or higher than 9.0, or having any other corrosive property capable of damage or hazard to structures, equipment, and personnel of sewage works."

Further, as this liquid enters the system it tends to congeal to the sides of the pipes when this happens it can cause an issue with backups, which are very costly and damaging to all upstream from the blockage.

Currently, the two traps that are in coffee shops in Milwaukie, both produce FOG. They have a scheduled rendering company come by and pick up their grease every other month. This seems to be an adequate schedule at this time.

Fats and solids are seen consistently seen every other month when the traps are cleaned. One of the coffee shops uses very small pitchers in order to alleviate waste from the production of their drinks. Most drinks take one-half pitchers of milk and larger drinks take one. Even with this amount of product management there is still a waste flow that occurs due to the nature of the business. Larger coffee businesses that have issues with FOG, use interceptors that are upwards to 1500 gallon. One particular coffee shop, which is in a nearby community, gets cleaned every month on a regular basis due to loading requirements of the trap. One specific coffee shop chain understands that this is a consideration that must be made with all new construction, and is willing to retrofit as necessary.

Cities in Oregon with FOG control ordinances

The following Cities regulate FOG, including coffee shops:

Wilsonville
Vancouver
Newberg
Hillsboro
Beaverton
West Linn

City of Salem has a FOG ordinance and exempts "espresso shops"

City of Tigard regulates all business that obtain food handling permits from the State

ATTACHMENT 7

FirstName	LastName	JobTitle	Compliance Status	Company	SiteAddress	MailingAddress	City
A Todd	Freeman	Resturant	Complied/ Installed	Mike's Drive-in	3045 SE Harrison	10695 SE 42nd	Milwaukie
		Resturant	Complied/repairs	Taco-Bell #4088	11000 SE Oak St.	PO Box 35520	Louisville
		Resturant	Complied/ Installed	Libbey's Resturant	11056 SE Main St.	11056 SE Main St	Milwaukie
		Resturant	Complied/ Installed	Mekong Thai Cuisine	10880 SE McLoughlin Blvd.	10880 SE McLoughlin Blvd.	Milwaukie
		Resturant	In Compliance/ repairs	McGraths Fish House	11050 SE Oak St.	1935 SE Davcor St	Salem
		Resturant	In Compliance/ repairs	Shari's Resturant	11030 SE Oak St.	9400 SW Gemini Dr.	Beaverton
Jack	Donaugh	Resturant	In Compliance/ repairs	Wichita Pub	6106 SE King Rd.	6106 SE King Rd.	Milwaukie
Jack	Donaugh	Resturant	Complied/ Installed	Mo-betta Deli	6110 SE King Rd.	6110 SE King Rd.	Milwaukie
Holding's Inc.		Resturant	Enforcement/ Repairs	Expressway Resturant	10970 SE Oak St.	10970 SE Oak St.	Milwaukie
Alex	Schwindt	Resturant	Same as Above	McDonalds Resturant	10970 SE Oak St.	10970 SE Oak St.	Milwaukie
Katrina	Coy	Resturant	Enforcement	Brew Bar and Grill	10933 SE Main St.	10933 SE Main St.	Milwaukie
		Food Preparation	No Grease	PaPa Murphy's	10604 SE 42nd	10604 SE 42nd	Milwaukie
Young Min	Chang	Resturant	Enforcement/ Repairs	Happy Café	4620 SE International Way 100	4620 SE International Way 100	Milwaukie
Si Bin	Ma	Resturant	Complied	Chan's Steakery, Inc	10477 SE Main St.	10477 SE Main St.	Milwaukie
Larry	Pemberton	Resturant	Complied	Meadows Lounge	5823 SE Jonhson Creek Blvd.	9922 SE Linwood Ave.	Milwaukie
Christina	Poppmeier	Resturant	In Compliance	Amadeus Manor Inc.	2122 SE Sparrow St.	444 Ridgeway Rd	Lake Oswego
		Resturant	Complied/ repairs	Super Burrito Express	10506 SE 42nd Ave.	8963 N. Berkeley Ave	Portland
Tung Sang	Wong	Resturant	Complied	Wong's Garden Resturant	10820 SE Oak St.	10820 SE Oak St.	Milwaukie
Saing	Suon	Resturant	In Compliance	Chopsticks Express	10801 SE Main St. #0	10801 SE Main St. #0	Milwaukie
		Resturant	Enforcement/Installed	Peitro's Pizza	10300 SE Main St.	10300 SE Main St	Milwaukie
Brian	Essig	Resturant	Enforcement/Installed	The River Road House	11921 SE 22nd Ave.	11921 SE 22nd Ave.	Milwaukie
David	Hearing	Resturant	Complied	Sully's Café	2035 SE Jefferson	2035 SE Jefferson	Milwaukie
		Resturant	Complied	Subway	10818 A SE Oak St.	10818 A SE Oak St.	Milwaukie
		Resturant	Complied/ Repairs	Jo's Place Saloon	4400 SE International Way	7121 SE Renada St	Milwaukie
Nadine	Senn	Resturant	No Grease	Big Town Hero	4630 SE International Way 201	4630 SE International Way 201	Milwaukie
		Resturant	May Go to Enforce	Rose & Thistle	2105 SE Washington St.	PO Box 2232	Milwaukie
Soonok	Yoon	Deli	Complied/ Installed	The Deli	4106 SE International Way D10	4106 SE International Way D10	Milwaukie
Michelle	Husted	Resturant	No Grease	Milwaukie Bowl	3056 SE Harrison	3056 SE Harrison	Milwaukie
		Resturant	Complied	Subway	10818-A SE Oak St.	10818-A SE Oak St.	Milwaukie
Patrick & Sanae	Conner	Resturant	Complied/ repairs	Davincis Italliano Ristorante	12615 SE McLoughlin	12615 SE McLoughlin	Milwaukie
		Resturant	No grease	Quiznos	10983 SE Oak St.	4425 N Winchell St.	Portland
		Resturant	Complied/ repairs	Bob's Red Mill	5000 SE International Way	5000 SE International Way	Milwaukie
		Coffe shop	Enforcement/ In Proc.	Café Bon Jour	4630 SE International Way #200	4630 SE International Way #200	Milwaukie
		Coffe shop	Non-Compliant	Spring Creek Coffe House	10600 SE McLoughlin	7677 SW 87th Ave.	Portland
		Coffe shop	Non-Compliant	Purdy's Pit Stop	3120 SE Harrison	3120 SE Harrison	Milwaukie
		Coffe shop	Complied/ Installed 2	Starbucks Coffee #3374	10826 SE Oak St.	PO Box 34067-TAX	Seattle
Kent D	McCarty	Coffe shop	Complied/ Install	Great American Video & Ess	6130 SE King	6130 SE King	Milwaukie
Ray	Peck	Coffe shop	Non-Compliant	Wind Horse Coffee and Tea	10611 SE Main St.	10611 SE Main St.	Milwaukie
		Food Preparation	In Compliance/ repairs	Albertson's	10820 SE Oak St.	PO Box 20	Boise

		Food Preparation	Enforcement/ Install	Town Deli & Grocery	2036 SE Monroe St.	2036 SE Monroe St.	Milwaukie
		Food Preparation	In Compliance	Safeway #2690	4320 SE King Rd.	PO Box 29096 MS 6531	Phoenix
		School	In compliance	Milwaukie High School	11300 SE 23rd Ave.	11300 SE 23rd Ave.	Milwaukie
		School	In Process	Waldorf (private)	2300 SE Harrison	2300 SE Harrison	Milwaukie
		School	No Grease	Milwaukie Grade School	11250 SE 27th Ave.	11250 SE 27th Ave.	Milwaukie
		School	In Process	Linnwood Elementary	11909 SE Linwood Ave.	11909 SE Linwood Ave.	Milwaukie
		School	In Process	Ardenwald Elementary	8950 SE 36th Ave.	8950 SE 36th Ave.	Milwaukie
		School	No Grease	Campbell	11326 SE 47th Ave.	11326 SE 47th Ave.	Milwaukie
		School	No Grease	Lewelling	5325 SE Logus Rd.	5325 SE Logus Rd.	Milwaukie
		School	No Grease	Rowe Middle School	3606 SE Lake Rd	3606 SE Lake Rd	Milwaukie
		Hospital	In Process	Milwaukie Providence Hospi	10150 SE 32nd Ave	10150 SE 32nd Ave	Milwaukie
		Bar/ Eatery	Enforcement/ Install	River Roadhouse			

7.
INFORMATION

North Clackamas Parks and Recreation District
MILWAUKIE CENTER/COMMUNITY ADVISORY BOARD
Minutes of July 11, 2008

MEMBERS PRESENT: Chuck Petersen, Molly Hanthorn, Jane Hanno, Ben Horner-Johnson, Kim Buchholz, Eleanor Johnson, Carolyn Mills

MEMBERS EXCUSED: Ben Tabler, Joan Staley, Katie Rudfelt

MEMBERS UNEXCUSED: Joy Estes

STAFF PRESENT: Joan Young, Donna Lugibihl, Abby Kennedy

GUESTS: None

CALL TO ORDER: Eleanor called the meeting to order at 9:35 am, filling in for Joan S. who is in Washington, DC. Chuck made a motion to accept the minutes as printed and Ben Horner-Johnson seconded the motion. The minutes were approved unanimously.

CORRESPONDENCE: Joan Y read a letter to the Board from Molly Hanthorn, submitting her resignation from the District Advisory Board. Eleanor Johnson volunteered to fill Molly's position until it expires in March 2009. Molly made a motion to have Eleanor serve the remainder of her term on the District Advisory Board and it was seconded by Kim. It passed unanimously.

BOARD/COMMITTEE REPORTS

NC DISTRICT ADVISORY BOARD MEETING
Molly reported there was no meeting. There will be a short meeting on July 30 prior to the Barton Park concert.

NC PARK STEWARDSHIP COMMITTEE
Eleanor reported on several items:
Horse arena – work has resumed on it with the drier weather. There are groups interested in using it.
Acoustics – always an issue. Discussed the idea of putting barriers at the dugouts to help keep the noise down.
Dog Park – no action at this time.
Orthodox Church – Father Tate said there's been a water problem since the fields were put in.
Speed bump – Eleanor said that a speed bump needs to be put in as you enter the park for safety reasons.

It was noted that Eleanor will no longer be able to serve on the Stewardship Committee since she will be on the District Advisory Board. Ben Horner-Johnson might be willing to serve as a rep. from the PCAB if the time is changed. That's a possibility.

PROGRAM/SERVICES COMMITTEE

Abby Kennedy attended this meeting and reported that at the Ice Cream Social on Aug 8, there will be Wii demonstrations at 2 stations where people can try it out.

The 10 week Keep on Trekkin' Walking program will start up again on Tue, Sept 9 and people can have a fitness assessment, if they choose.

There will be some new classes starting in the Fall, including Art Literacy and additional Spanish classes.

The Travel Program's trips have been very successful. Trips have been filling quickly so sometimes they offer them a second time. Beth, Tina and Todd went to Springfield to learn how their Center schedules overnight trips. An overnight trip to the coast is planned through the Milwaukie Center Travel Program in the Spring.

A Place at the Center, the respite program, has 3 new participants.

The Savor your Health workshop had 105 people attending, with 51 getting their blood pressure and blood glucose checked.

Abby spoke about programs that are offered and how to determine when to start up new offerings and when to discontinue them. Cheryl Nally will be involved in implementing a process and getting feedback on these issues.

The Legacy Foot Clinic program is experiencing some problems with a lack of nurses and a sizable increase in cost, from $25 to $33 starting Aug 1. Cheryl Nally has been checking into other foot care services and other options.

NUTRITION/TRANSPORTATION COMMITTEE

Jane attended the meeting and reported that the Nutrition Program's MOW's numbers are up and the congregate numbers are down. Restaurants support for the Meals program has been pretty limited except for Sweet Tomatoes and will probably not be pursued in the future. The "Best in the West" Bazaar will be increasing vendor rates from $35 to $50. Budget is in pretty good shape. Cheryl will be coordinating a task force to review nutrition on-site services, including the congregate lunch program and Pete's Café. There's also been an issue with the bread table and closing it up early with the need to catch the people who come in a little later.

Marty reported that transportation ridership is down and there have been a number of repairs on the buses. It was discovered that the diesel bus, which has only 12,000 miles, was getting diesel fuel with too much biofuel in it. The program will be looking at fare increases in the future.

There's been a large donation of firewood for the Emergency Firewood Program which will be starting up in the Fall.

BUILDING REVIEW COMMITTEE

Ben attended the meeting and reported that the capital projects were all approved. There's a new member to the committee, Al Crompton, who has been working with Larry and helping with various projects. He's also been working with Cascade Charter School.

The awning on the Center that was damaged in December will be inspected by Larry, the insurance adjustor and the contractor and hopefully be repaired soon.

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The carved wooden eagle head that was made and donated by a member of the woodcarving group, will be fastened to the utility box for all to admire.

The committee discussed and approved moving the Volunteer board to the wall by the entrance next to the map. Joan mentioned that this might be a safety hazard so it would need to be approved by the Center Safety Committee first. The committee also discussed the process for bringing new issues, comments and complaints to the committee for their review.

FRIENDS OF THE MILWAUKIE CENTER, INC.
Joan reported that the Donor Appreciation luncheon was in June where the Friends present gifts to the Center's programs and the annual "Friend of the Center" is announced. This year's "Friend" is Willamette View, Inc., who has been a great partner with the Milwaukie Center.
The Endowment Fund financial advisor has taken a new job so the Friends are looking for a new advisor.
Jo Ann Santell will need to step down from her position with the Friends to help rebuild her old business.

CENTER REPORT
Joan handed out a flyer from the Senior Citizens League which noted that seniors have lost 51% of their buying power since 2000. Joan also said that the MOW program has been hurt by the ever rising cost of gas. Drivers are finding it harder and harder to drive because of the cost and some organizations are looking at cutting back or providing frozen meals.
On the monthly report for June 2008, Joan mentioned some of the upcoming events including the Ice Cream Social and Beach Bum Day, Healthy Aging Workshop, Annual Maintenance Week and Clackamas Live!
It was reported that 300 people have signed up for the summer term classes.

INFORMATION/ANNOUNCEMENTS
Kim wanted to thank the Friends for recognizing Willamette View at the Annual Donor Appreciation luncheon. He regretted missing the event but there was a fire at one of their facilities that he had to tend to.

ADJOURN –The board meeting was adjourned by Vice Chair Eleanor Johnson at 10:35 am.

Minutes prepared by: Donna Lugibihl

North Clackamas Parks and Recreation District

Milwaukie Center

Monthly Report for July 2008

Programs/Services

During the month of July, over 60 people enjoyed day trips from the Milwaukie Center 39er's Travel Program to the mountains, Gustav's and Willamette Shore Trolley.

Social Services staff bring together resources to assist older adults to stay independent for as long as possible. Recently, staff completed a Geriatric Assessment for a vision impaired client to assist with maintenance of independence, safety and well being. There are no family members residing in the area. Several safety measures have been implemented in the client's home such as grab bars, locks on doors and windows. Meals on Wheels and housekeeping services were also implemented.

The second of a 3-part "Savor Your Health" series, focused on managing your heart health and keeping diabetes and cholesterol in check, was a great success. Over 115 people attended the event, attending presentations and accessing blood pressure, blood sugar and cholesterol checks at no cost.

To date, over 18 gallons of blueberries have been picked by volunteers at the Stringfield Family Park for the Nutrition program services. The blueberries provide a fabulous source of antioxidant and vitamins which are used in the meals.

On Tuesday afternoons this summer, over 30 children are attending four children's dance classes at the Milwaukie Center: Creative Movement, Pre-Ballet and Tap, Hip Hop and A Taste of Dance.

The Friends of the Milwaukie Center is expanding its recycling program to include used cell phones, ink cartridges, digital cameras, digital picture frames, GPS devices and MP3 players. If you know of anyone who is "trading in on a new model", consider donating to Friends of the Milwaukie Center – each donation generates needed funds and makes good "green sense."

Entertainment books 2009 are now available for $20! Books can be purchased in the Gift Shop or in the Friends office. All proceeds help build the Friends of the Milwaukie Center Endowment Fund.

Pick up your copy of the Friends of the Milwaukie Center 2008 Annual Report.

Coming Up

Ice Cream Social and Beach Bum Day, Fri. Aug. 8, 12:30 – 1:30 pm. Best outfit wins the "Beach Bum Award". Try playing sports using **Wii**, a fun, interactive video game or have your palm read!

Savor Your Health event, "Managing and Improving your Quality of Life", Tue, Aug 19, 9 am – 1 pm.

Healthy Aging Workshop – "Osteoporosis – A Naturopathic Approach", Mon, August 22, 10:30 – 11:30 am. A naturopathic look at osteoporosis both through research and treatment.

Annual Maintenance Week, Mon. – Fri. Sept. 1-5. The Milwaukie Center will be closed for annual maintenance and clean up. Meals on Wheels will be delivered and staff will answer phones.