



**Regular Session**

**RS**

**Milwaukie City Council**



**MILWAUKIE CITY COUNCIL  
REGULAR SESSION**

City Hall Council Chambers  
10722 SE Main Street  
www.milwaukieoregon.gov

**AGENDA  
OCTOBER 6, 2015**

2,207<sup>th</sup> Meeting

- 1. CALL TO ORDER** **Page #**  
Pledge of Allegiance
  
- 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
  - A. Fire Prevention Month Proclamation** **2**  
Introduced by Doug Whiteley, Clackamas Fire District #1
  - B. National Archives Month Proclamation** **3**  
Introduced by Pat DuVal, City Recorder
  - C. Community Planning Month** **4**  
Introduced by Denny Egner, Planning Director
  - D. Adopt a Road Program**  
Staff: Jason Wachs, Program Services Specialist
  - E. Drive Less Save More Milwaukie**  
Introduced by Linn Davis, Metro
  
- 3. CONSENT AGENDA**

These items are considered routine, and therefore, will not be allotted discussion time on the agenda; these items may be passed by the Council in one blanket motion; any Councilor may remove an item from the "Consent" agenda for discussion by requesting such action prior to consideration of that part of the agenda.

  - A. City Council Meeting Minutes** **6**
    - 1. July 21, 2015, Regular Session;**
    - 2. August 4, 2015, Work Session; and**
    - 3. August 4, 2015, Regular Session.**
  - B. Authorization to Enter into an Agreement with TriMet for Police Services – Resolution** **32**
  - C. Authorization to Enter into an Intergovernmental Agreement (IGA) with Clackamas County for the Use of Youth Offenders Work Crews for the Project Payback Program – Resolution** **56**
  - D. Approval of an Oregon Liquor Control Commission (OLCC) Application for Applied Consulting, LLC, 10957 SE 32<sup>nd</sup> Avenue, New Outlet** **63**
  
- 4. AUDIENCE PARTICIPATION**

The presiding officer will call for citizen statements regarding City business. Pursuant to Milwaukie Municipal Code (MMC) Section 2.04.140, 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 submit it to the City Recorder. Pursuant to MMC Section 2.04.360, "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 under this part of the agenda following a brief staff report presenting the item and action requested. The presiding officer may limit testimony.

**A. Moving Forward Milwaukie: Central Milwaukie Plan and Code 65 Amendments, File Nos. CPA-2015-001 and ZA-2015-001 – Ordinance**

Staff: Vera Koliass, Associate Planner

**6. OTHER BUSINESS**

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

**A. Discussion of Bulky Waste Survey Results**

Staff: Mitch Nieman, Assistant to the City Manager

**B. Council Reports**

**7. INFORMATION**

**8. ADJOURNMENT**

**Public Notice**

Executive Sessions: The Milwaukie City Council may meet in Executive Session immediately following adjournment pursuant to ORS 192.660(2). All Executive Session discussions are confidential and those present may disclose nothing; representatives of the news media may attend as provided by ORS 192.660(3) but must not disclose any information discussed. Executive Sessions may not be held for the purpose of taking final actions or making final decisions and they are closed to the public.

The Council requests that mobile devices be set on silent or turned off during the meeting.

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**Regular Session  
Agenda Item No.**

**2**

**Proclamations,  
Commendations,  
Special Reports,  
& Awards**



**CITY OF MILWAUKIE**  
*"Dogwood City of the West"*

**PROCLAMATION**

**WHEREAS**, Fire Prevention Month is a nationwide coordinated effort sponsored by the National Fire Protection Association each October to encourage the public to prepare for a fire in their homes; and

**WHEREAS**, Clackamas Fire District #1 (CFD1) is committed to ensuring the safety and security of all those living in and visiting the Fire District; and

**WHEREAS**, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at the greatest risk from fire; and

**WHEREAS**, during the month of October, Clackamas Fire District #1 will encourage residents to take measures to make themselves and their families prepared for a fire; and

**WHEREAS**, by encouraging all employees and community members to recognize the importance of reducing the occurrence of home fires and home fire injuries through public education; and

**WHEREAS**, residents receive public education and are able to take actions to increase their safety from a fire in their home; and

**WHEREAS**, fire safety is the responsibility of every citizen within Clackamas Fire District #1 and all citizens are urged to make fire safety a priority by having working smoke alarms; and

**WHEREAS**, residents should install smoke alarms in every bedroom, outside each sleeping area, and on every level of the home.

**NOW, THEREFORE**, I, Mark Gamba, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim the month of **October 2015** as **FIRE PREVENTION MONTH** in the City of Milwaukie with the theme "Hear the Beep Where You Sleep," and all residents of "The Dogwood City of the West" are hereby encouraged to observe this month with applicable programs and activities.

**IN WITNESS WHEREOF**, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 6<sup>th</sup> day of **October, 2015**.

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Mark Gamba, Mayor

ATTEST:

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Pat DuVal, City Recorder





**CITY OF MILWAUKIE**  
*"Dogwood City of the West"*

**PROCLAMATION**

**RS 2. B.**  
**October 6, 2015**

**WHEREAS**, archives and archival institutions are instrumental in collecting, organizing and preserving historical materials that document the history of Milwaukie and its people; and

**WHEREAS**, archival institutions provide information about and access to historical materials that document who we are as a community in an era of evolving information technology; and

**WHEREAS**, municipal and community archival institutions preserve and manage records that possess legal, administrative, fiscal, and historic value, crucial for understanding our shared past and provide guidance for our collective future; and

**WHEREAS**, municipal and community archival professionals and volunteers diligently work to assist the people of this City in preserving the records of our individual and shared experiences; and

**WHEREAS**, the Office of the City Recorder has been an integral part of this municipal corporation since it was first organized in 1903, and today recommends the proclaiming of American Archives Month so that all historical materials may be properly appreciated and preserved.

**NOW, THEREFORE**, I, Mark Gamba, Mayor of the City of Milwaukie, in the County of Clackamas, in the State of Oregon, do hereby proclaim the month of **October 2015** as **National Archives Month** in the City of Milwaukie, and do commend its proper and respectful observance by all citizens of *the Dogwood City of the West*.

**IN WITNESS WHEREOF**, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 6<sup>th</sup> day of **October, 2015**.

\_\_\_\_\_  
Mark Gamba, Mayor

ATTEST:

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





**CITY OF MILWAUKIE**  
*"Dogwood City of the West"*

**PROCLAMATION**

**WHEREAS**, change is constant and affects all cities, counties, rural areas, and other places; and

**WHEREAS**, community planning and plans can help manage this change in a way that provides better choices for how people work and live; and

**WHEREAS**, community planning provides an opportunity for all residents to be meaningfully involved in making choices that determine the future of their community; and

**WHEREAS**, the full benefits of planning requires public officials and citizens who understand, support, and demand excellence in planning and plan implementation; and

**WHEREAS**, the month of October is designated as National Community Planning Month throughout the United States of America and its territories, and

**WHEREAS**, The American Planning Association and its professional institute, the American Institute of Certified Planners, endorse National Community Planning Month as an opportunity to highlight the contributions sound planning and plan implementation make to the quality of our settlements and environment; and

**WHEREAS**, the celebration of National Community Planning Month gives us the opportunity to publicly recognize the participation and dedication of the members of planning commissions and other citizen planners who have contributed their time and expertise to the improvement of the City of Milwaukie; and

**WHEREAS**, we recognize the many valuable contributions made by the professional planners of the City of Milwaukie and extend our thanks for the continued commitment to public service by these professionals;

**NOW, THEREFORE, BE IT RESOLVED** that the month of **October 2015** is hereby designated as **Community Planning Month** in the City of Milwaukie in conjunction with the national celebration of Community Planning Month.

Introduced and adopted by the City Council on October 6<sup>th</sup>, 2015.

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Mark Gamba, Mayor  
City of Milwaukie

ATTEST:

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Pat DuVal, City Recorder





**Regular Session  
Agenda Item No.**

**3**

# **Consent Agenda**



**MINUTES**  
MILWAUKIE CITY COUNCIL  
www.milwaukieoregon.gov

**REGULAR SESSION**  
JULY 21, 2015  
City Hall Council Chambers

**Mayor Gamba** called the 2,202<sup>nd</sup> meeting of the City Council to order at 6:08 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power

Staff Present: City Manager Bill Monahan, City Attorney Tim Ramis, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, Community Development Director Alma Flores, Finance Director Casey Camors, Court Operations Supervisor Carla Bantz, Senior Planner Li Alligood, and Planning Director Denny Egner

**CALL TO ORDER**

Pledge of Allegiance

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

None scheduled.

**CONSENT AGENDA**

It was moved by Council President Batey and seconded by Councilor Power to approve the consent agenda as presented.

**A. City Council Meeting Minutes:**

1. May 19, 2015, Work Session; and
2. May 19, 2015, Regular Session.

**B. Resolution 86-2015: A Resolution of the City Council of the City of Milwaukie, Oregon, revising membership to the Library Services Expansion Task Force.**

**C. Resolution 87-2015: A Resolution of the City Council of the City of Milwaukie, Oregon, authorizing the City Manager to approve the purchase of two patrol vehicles for the Police Department for \$55,430 from Northside Ford Truck Sales.**

**D. Resolution 88-2015: A Resolution of the City Council of the City of Milwaukie, Oregon, authorizing the Mayor to sign and extend the intergovernmental agreement (IGA) with the Tri-County Metropolitan Transportation District of Oregon (Tri-Met) to provide police services to the TriMet Police Division.**

Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting "aye." [5:0]

**AUDIENCE PARTICIPATION**

**Mayor Gamba** reviewed the audience participation procedures.

**Mr. Monahan** said there were no follow up items from the July 7, 2015, meeting.

**Shireen Newton**, Milwaukie resident, spoke regarding code enforcement. She explained that she has a trailer and did not know one had to have heat in it. She received two violation warnings telling her she could not hook her trailer up to electricity. Ms. Newton had made arrangements with Tim Salyers, Code Enforcement Coordinator, to plug it in during the day and unplug it at night. The last time she went camping, she forgot to take the food out of the trailer, and she lost \$100 worth of food. She noted a

lot of other people had lights in their trailers. Mr. Salyers told her that a man had turned her in. Milwaukie Police Officer Neitch told Ms. Newton that she was turned in because people thought someone was living in her trailer; no one lived in her trailer. The City could look in her trailer any time it wanted to. Mr. Salyers told her she could not have an RV and a trailer. She paid her taxes and utilities, and she had rights. There were four places on King Road that had a boat and a trailer that was hooked up to electricity. She knew of people living in their trailers, but she would not turn them in because it was their property. She wanted the Ordinance changed because people had their rights.

**Bill Weiller**, Milwaukie resident, spoke regarding the Monroe Street Neighborhood Greenway Project. It seemed like the City wanted to build an obstacle course with diverters. It was a waste of money that could be used elsewhere. He was concerned that drivers would be forced to take other routes.

**Denise Emmerling Baker**, Milwaukie resident, said she was excited about the improvements in Milwaukie and particularly thanked Dion Shepard and Kelli Keehner. She noted that Mr. Nieman and Councilor Parks were both great assets to the artMOB. Ms. Baker encouraged people to remember that it's not where we are now but where we want to be.

## **PUBLIC HEARING**

### **A. Moving Forward Milwaukie: Downtown Plan and Code Amendments (CPA-2014-02; ZA-14-02), fourth hearing continued from June 16, 2015 – Ordinance**

**Mayor Gamba** announced that the Council voted at its June 16, 2015, meeting to continue the hearing to July 21, 2015. The Council chose to reopen the public testimony portion of the hearing at this time, and Mayor Gamba restated the ground rules for public testimony.

**It was moved by Councilor Power and seconded by Councilor Parks to reopen the public hearing on the application CPA-2014-02 and ZA-14-02. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting “aye.” [5:0]**

**Ms. Alligood** provided information on the supplemental staff report for the fourth hearing of the planning code amendments. She reiterated the goals of the Moving Forward Milwaukie Project which were to remove barriers to development and to allow and encourage types of development the community envisioned for its downtown. The proposed amendments to the Zoning Ordinance were generally intended to increase flexibility for business owners, property owners, and developers and to standardize allowances and requirements throughout downtown, and to implement the regulatory recommendations of the Downtown Concept Plan.

**Ms. Alligood** explained that the three key issues outlined in the staff report were off street parking requirements, by right parking reductions, and height bonuses for structured parking. The current proposal was to remove off street parking requirements for nonresidential uses. Residential parking requirements would be subject to the standards applied in the rest of the City, which were 1.0 to 1.25 spaces per dwelling unit. In recent discussions, Council requested information on parking requirements for different uses and specifically production related office uses. Ms. Alligood reviewed the potential approaches for Council consideration. One was to restrict the size of those types of uses and then to require conditional use approval for production office uses larger than 30,000 to 40,000 square feet (SF) in total area to mitigate potential impacts. The Planning Commission could adopt conditions of approval such as hours of operation, setbacks, size, and things of that nature. This would allow for a public discussion of the proposal and what types of parking impacts may or may not accompany the proposal. The Planning Commission would have the ability to require parking if it seemed appropriate. She was seeking direction from the City Council on this approach that if production related office exceeded a certain size then it would be subject to a conditional use review. She asked for Council input on the appropriate size limit? Did the inclusion of an opportunity for the Planning Commission

to adopt conditions of approval requiring off street parking address Council's concerns about the potential parking impacts of these uses?

**Ms. Alligood** continued and reported that the second key issue for discussion was by right parking reductions. Currently the Code allowed for a maximum of 25% reduction within 1,000 feet of a light rail station and a 10% to 20% reduction for locations within 500 feet of a frequent service bus stop. There was up to a 10% reduction based on the type of use for provision of covered and secure bicycle parking and a 5% reduction for onsite provision of a one car share vehicle. There was some discussion at past meetings about extending the by right light rail station parking reduction throughout the Downtown Mixed Use (DMU) Zone while avoiding the neighborhoods and allowing cumulative by right reductions to exceed 25% and encouraging transportation demand measures (TDM).

**Ms. Alligood** explained that questions for Council related to by right parking reductions included should the existing 25% by right reduction for uses within 1,000 feet of the light rail station be extended to all of the DMU Zone? Should additional by right reductions be available in addition to the currently permitted 25% reduction? If so, what is the maximum percentage of by right reductions?

**Ms. Alligood** said there had also been discussion of allowing a height bonus for structured parking. The current proposal was to permit a height bonus of one story for developments that incorporated structured parking. So far the trigger for allowing the height bonus had not been identified. The proposal for Council consideration was to set a threshold for achieving the height bonus of 30% of a story (either the ground, subterranean, or higher floors) to structured parking as the threshold for getting an additional story. As proposed the structured parking could either be dedicated to the users of the building or available for use by the public. The questions presented for Council to consider were the minimum threshold of 30% of a story to achieve the structured parking height bonus appropriate? Should the structured parking be available for public use, dedicated to site users, or either?

**Ms. Alligood** reported that the staff recommendation was to direct staff to make the desired revisions and to continue the hearing to either August 18, 2015, or September 15, 2015, to adopt plan and code amendments and recommended findings of approval. She noted that no comments had been received since the June 16, 2015, hearing.

**Councilor Churchill** commented on the brevity of the staff report and would have liked to have the PowerPoint in advance.

#### Testimony in Support:

**Denise Emmerling-Baker**, downtown Milwaukie resident, said there was a parking problem in downtown. Employees move cars every two hours throughout the downtown, and at times her guests have had to park on residential streets. She hoped the someday as the City looked to the future that there would be a parking lot somewhere with a pedicab or electric car or downtown shuttle service. She was a proponent of parking meters and paid parking lots. She did not like excluding visitors because of parking. She encouraged the City Council to think about having the first electric shuttle.

**Council President Batey** understood that Ms. Emmerling-Baker lives in North Main Village. That development was built with one parking space per unit, and Council President Batey was curious how many people only used one space and how many have second cars.

**Ms. Emmerling-Baker** estimated that probably more than half of the residents had two cars. Some of them had businesses so were able to buy parking permits. Neighborhood residents do become concerned when parking is taken up in front of their houses.

**Ed Zumwalt**, Milwaukie resident, said towns under Metro's jurisdiction had buildings that were three stories and still retained that small town character like in Lake Oswego. He did not want to build buildings that had two empty floors. He reported that Punky Scott looked at the Interstate Line and talked with business owners who indicated that vitality was actually lost when some businesses moved. What happened to the City's tax base when companies like Beaver Heat Treating were relocated to make way for light rail? On the Interstate Line, businesses actually lost vitality. Almost all Milwaukie residents like its small town feel. How can consultants talk about development only to get Metro cookie cutter towns? You lose the history, charm, and feel. It was important to think in stages of growth. The downtown does not even have a store.

**Councilor Churchill** understood Mr. Zumwalt's concern was scale and small town feel.

**Mr. Zumwalt** said that was correct, and he was also concerned about buildings with no adequate parking requirements. He did not understand getting rid of cars.

**Bill Weiller**, Milwaukie resident, understood the City Council was talking about four story apartments. Would parking be required?

**Councilor Power** explained that the intent of the updates was to standardize the code. The recommendation from the Planning Commission was a three floor standard with additional floors for parking and green buildings to a maximum of five floors. North of North Main Village a developer could go higher. Right now parking was required for residential development. The discussion was whether to reduce it slightly because of the proximity to the light rail station, car share, and bike parking.

**Karen Lambert**, Milwaukie business owner and resident, said as a real estate agent that the idea of having as much parking as possible was really important. Those buying condos and town homes in the Portland and Milwaukie markets generally want a parking spot even though they bike and ride transit. She felt going less than one space per unit would harm Milwaukie's desirability. In response to a question from Councilor Churchill, Ms. Lambert indicated that she did not have any experience with the two new developments on Tacoma Street in Portland, but she did know that parking adds to resale value.

**Close Public Hearing: It was moved by Councilor Parks and seconded by Councilor Power to close the public testimony portion of the hearing. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting "aye." [5:0]**

**Council President Batey** appreciated staff's handling of the off street parking and production related office uses up to 30,000 square feet.

**Councilor Churchill** commented on the collection agency on the second floor of the Key Bank building and expressed his concern about impacts to retail businesses. The company absorbed 14 to 15 on street parking spaces either through permits or rotation. It would still be a huge impact even if people rode transit, and retail businesses were needed to help keep a vibrant downtown. He thought the production related offices should go through a conditional use review with appropriate parking and a threshold of 10,000 square feet or greater. The Key Bank footprint is about 11,000 SF, and the 30,000 SF threshold would equal a three story building of that size.

**Council President Batey** thought parking enforcement was probably not what it should be in terms of employee parking and block rule enforcement.

**Councilor Churchill** did not think one off street parking space per 1,000 SF was an unreasonable expectation in production offices. He felt the Council should consider off street parking for production office development 10,000 SF or greater.

**Councilor Parks** understood that banks were requiring parking when they were considering financing commercial development. She thought 20,000 SF was a more appropriate threshold.

**Council President Batey** commented that the 20,000 SF threshold would be consistent with what was required for the ground floor limit on a conditional use. She saw some symmetry there.

**Mayor Gamba** thought 30,000 SF was a good mark. If Dark Horse Comics were to redevelop it would need about 30,000 SF. Most companies will build appropriately to its own needs. He thought going before the Planning Commission at 30,000 SF was the perfect solution. He did not want to see a full block of production office with no parking. He agreed with Councilor Parks that the banks would require some parking

**Councilor Churchill** noted a lot of production office space developers told him that the banks were not requiring parking but were basically saying that new development would require one space per 1,000 SF. The City was not precluding businesses but rather wanted to address an existing problem if buildings were converted into production offices, then parking should be required. He wanted to hold firm on 10,000 SF; 30,000 SF was a huge footprint and a meaningless limit.

**Council President Batey** asked how many employees there were on the second floor of the Key Bank building and how many parking passes were purchased.

**Mr. Monahan** did not recall the number of employees or the number of passes purchased.

**Councilor Parks** thought there would be changes after light rail opened, and it was incumbent upon the City Council to think about Milwaukie 10 to 20 years from now. Hopefully the character of Milwaukie will be maintained and not be overrun with large buildings. Will there be more people living downtown and fewer single occupancy vehicles? People will still have cars, so the touch point is how to accommodate for those factors today.

**Mayor Gamba** felt it was important to distinguish requirements from what a developer might actually build.

**Councilor Churchill** said if the City allowed a developer to come in and build production office space up to 30,000 SF and not include parking, either as a requirement or voluntarily, would put more pressure on downtown retail.

**Councilor Power** said buildings have been constructed in Milwaukie with parking, and she asked if the City Council felt it was insufficient. Was it correct to assume that parking would not be built if it was not required?

**The group discussed parking at the MODA site. The members agreed upon the Planning Commission conditional use review; square footage remained a point of disagreement.**

**Councilor Power** thought that 20,000 SF seemed reasonable, and that threshold could be revisited to consider what other requirement might be appropriate for the specific type of production office.

**Council President Batey** and **Councilor Parks** agreed that it was important for the Planning Commission to vet applications.

**Council President Batey** and **Councilor Parks** supported the 20,000 SF threshold. **Councilor Churchill** did not support it and would vote against the whole package.

On the question of by right parking reductions the group discussed extending the reductions throughout the DMU but not into the Historic Milwaukie Neighborhood. **Councilor Churchill** was concerned this would put more pressure on downtown businesses that were already struggling along with putting a threshold of 20,000 SF on production office development. It was all cumulative, and if there was not enough retail parking, then retail businesses would be pushed out.

**Council President Batey** found Ms. Emmerling-Baker's and Ms. Lambert's testimonies compelling, and she had heard complaints about parking citations they had gotten on

their second cars. She would support extending the parking reductions throughout the DMU.

**Councilor Power** thought extending reductions throughout the DMU made sense. Additionally, **Councilor Parks** and **Mayor Gamba** supported the proposal.

The group discussed the proposal to increase the additional by right parking reductions above the permitted 25%.

**Councilor Parks** reported that she had recently talked with a developer who specialized in residential and transit oriented development (TOD) who had indicated there was still some parking provided. There was a caveat that if more parking were required in the future, the rest of the space would be built out, but in the meantime, it was used as a community garden. The property was located in the Clackamas Town Center area. The reduction was between .6 and .75.

**Councilor Power** was agnostic about lowering the 25%. She did not think that the bike parking replaced a car on a 1:1 ratio. She would like to consider the fee in lieu of construction (FILOC) idea in the future for those who were developing small properties.

**Councilor Churchill** would support the FILOC as long as it was for structured parking and not surface parking.

The group discussed the amount of the FILOC per parking space.

**Council President Batey** said after the last discussions that perhaps the 25% should be raised, but after tonight's testimony she was no longer in favor of raising the amount.

**Mayor Gamba** had spoken with developers who were looking at Milwaukie, and one very clearly said if the City required more than .5 without any way to reduce the parking requirements that he would go elsewhere to build.

**Councilor Churchill** had heard that .7 was more than adequate.

**Mayor Gamba** thought it would be a different world with light rail.

**Councilor Power** suggested in the interest of moving the package along that Council could assess the residential parking requirements in a year.

**Councilor Churchill** agreed with Councilor Power. The developers were looking for freebies before there was any impact. He recommended assessing the impacts of light rail on development, and if there were no applications in a year or so, then parking ratios could be reconsidered. He was concerned about impact to retail, and he felt there needed to be a balance.

**Councilor Power** said it was not just about retail. Functionally, houses in her neighborhood were selling in less than a day with multiple cash offers. She thought Milwaukie was an attractive option for developers who wanted to build apartments or condos, and she thought car sharing would be a big added value. Milwaukie was extremely desirable.

**Council President Batey** understood it may be parking or something else that would need to be considered in a year. Light rail will be open, and the benefits will have their impacts. The City would also know the neighborhood impacts.

**Mayor Gamba** commented that it seemed like the Council was trying to solve problems that did not exist yet. It would be a good problem to have some tight parking in this area. The downtown was not a ghost town like it was when he moved to Milwaukie, but it was only a bump up from that. There needed to be more people in the downtown, or none of this would happen.

**Councilor Power** understood Mayor Gamba wanted to be more aggressive about providing incentives for people to get on their bikes and give up their cars. The five Council members have done a pretty good job of meeting in the middle and were

shadow boxing with some of the unknowns. She felt the developers should have some predictability and thought there might be incentives for car sharing.

**Mayor Gamba** said anything larger than 800 SF, a studio apartment, 1:1 parking would be required in a market where Portland was not requiring any parking.

**Councilor Churchill** countered this was a different community, and Milwaukie was not in competition with Portland. He would be willing to go to .7. At this time, the Council does not know how light rail would impact the community. He recommended revisiting this matter in 18 months.

**Councilor Power** liked the .7 as long as there was 5% for car sharing.

**Mayor Gamba** thought it should be a base of 1 rather than a range and then do a reduction.

**Ms. Alligood** suggested another approach could be to say that the units would be 800 SF or greater. She did not think the City would want to disincentivize larger units downtown. One could say the maximum requirement downtown was 1 and stepping back from there in just the downtown.

**Councilor Churchill** felt Milwaukie should focus on a 1:1, but he would be willing to go to .7, reluctantly, and give it a test. Milwaukie was not Portland.

**There was consensus that the base parking was 1:1 regardless of size and up to a 30% reduction with the 25% by right with light rail and 5% for bike parking and car share to get to .7 up to 30% cumulative.**

**Councilor Power** suggested the FILOC might come into play if the developer could not make the project pencil out.

**Ms. Alligood** reviewed the next question which was the height bonus for structured parking.

**Council President Batey** said her big concern was that if parking was not required of the developer, then parking probably would not happen unless it was a public/private partnership. To her, the question was how much parking was provided over and above what was required. If it was required, then it should not qualify as a bonus. Anything over that would qualify for a bonus.

**Ms. Alligood** thought the distinctions were whether it was a public/private partnership and whether it was surface or structure parking. Would Council be comfortable with the outcome related to residential development? Council may wish to consider the possibility of pushing buildings higher.

**Councilor Power** said she did not want to inadvertently incentivize something that resulted in a less pleasant pedestrian environment.

**Council President Batey** said if the concern was the impact on the pedestrian experience, then she felt the code was pretty clear, particularly on the Main Street requirements.

**Councilor Power** suggested a height bonus for underground parking although she knew it would be very expensive.

**Council President Batey** typically envisioned second story parking downtown with ground floor retail and two floors above the parking level. She did not wish this proposal to be a sticking point and was willing to withdraw the suggestion. She felt parking would be constructed in the not too distant future, so to have the flexibility to build some parking in someone else's development was appealing to her.

**Ms. Alligood** thought this was a somewhat aspirational allowance, but that did not mean it should not be included.

**Council President Batey** took some comfort in that the Council could require that lots owned by the City have a floor of parking as a condition for development.

**Mayor Gamba** said if the City required the developer of the lot across the street to have retail on Main Street with parking behind that the City would not be able to give it the fifth story bonus.

**Ms. Alligood** said that was correct. The developer would have to have residential, be a green building, or provide lodging.

**Mayor Gamba** recommended that to that end, it should be included. Main Street had to have retail, and the developer would have to meet design standards.

**Councilor Power** did not want to use valuable retail space for parking.

**Ms. Alligood** said Advantis Credit Union, for example, had about 65% of its ground floor dedicated to parking, so there was about 1,000 SF of retail or office space.

**Mr. Egner** said if one were looking at the Cash Spot site, it did not make sense to require 40% of the footprint to be parking. What did make sense was 30% or 60% given the dimensional requirements. Generally, with a smaller space 30% would be a single loaded corridor. With that site, storefronts would need to be provided along Main Street, so it was a complicated development site.

**Council President Batey** said the Cash Spot site was a great example of shallow retail, and if the floor of parking was at the Main Street level, then it was a second floor when you got to McLoughlin Boulevard.

The group discussed public use parking. **Council President Batey** said it should be over and above anything that was required.

**Councilor Churchill** could support onsite users, and he noted the Mayor and Council could support either public or onsite users. The issue of false fronts and unsightliness would be avoided. **The group agreed 30% was an appropriate percentage.**

**Council President Batey** said the goal would be to get to public use parking and should be over and above any parking requirements.

**Councilor Parks** added that if it was used for onsite parkers, then that would free up some on street parking.

**Ms. Alligood** summarized that production offices of a total area of 20,000 SF would require conditional use review; the 25% by right reduction would be extended throughout the downtown with an additional 5% available through either bike parking or car share for a total of 30%; the base requirement for downtown residential is 1:1; and 30% of a story for either public or private structured parking to achieve a height bonus.

**After a brief discussion, it was City Council consensus to remove the height bonus for structured parking at this time.**

**It was moved by Council President Batey and seconded by Councilor Parks to direct staff to make the revisions as discussed for the August 18, 2015, hearing to adopt the plan and code amendments and recommended findings of approval for CPA-14-02 and ZA-14-02. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting “aye.” [5:0]**

**Mayor Gamba recessed the Regular Session at 7:57 p.m. and reconvened the Regular Session at 8:07 p.m.**

## **OTHER BUSINESS**

### **A. Amend Milwaukie Municipal Code by Adding Chapter 2.05, Municipal Court - Ordinance**

**Ms. Bantz** provided the staff report in which the City Council was requested to adopt an Ordinance authorizing the Milwaukie Municipal Court to become a court of record by recording all court proceedings. This action was a result of Governor Kate Brown’s signing of House Bill 3399 into law that requires municipal courts to record their proceedings. The action will become effective on September 1, 2015.

It was moved by Councilor Churchill and seconded by Council President Batey for the first and second readings by title only and adoption of the Ordinance adopting the Court of Record. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting “aye.” [5:0]

Mr. Monahan read the Ordinance two times by title only.

Ms. DuVal polled the City Council: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting “aye.” [5:0]

ORDINANCE No. 2102:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ADOPTING COURT OF RECORD.

## **B. Approve Electric Lightwave (ELI) Franchise Agreement – Ordinance**

Ms. Camors provided the staff report in which the City Council was requested to adopt the Ordinance granting ELI, a limited liability company, qualified to do business in the State of Oregon, a franchise to construct, operate, and maintain a telecommunications network within the City limits of the City of Milwaukie. There have been no issues between the City and ELI during the terms of its previous agreements. The Ordinance would grant a ten year franchise from the effective date.

It was moved by Councilor Churchill and seconded by Council President Batey to adopt the Ordinance granting Electric Lightwave, LLC a non-exclusive franchise for ten years to operate as a telecommunications provider within the City of Milwaukie and authorizing the City Manager to sign a franchise agreement with Electric Lightwave LLC in substantially the form of Exhibit A. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting “aye.” [5:0]

Mr. Monahan read the Ordinance two times by title only.

Ms. DuVal polled the Council: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting “aye.” [5:0]

ORDINANCE No. 2103:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, GRANTING ELECTRIC LIGHTWAVE, LLC. A NONEXCLUSIVE FRANCHISE FOR TEN YEARS TO OPERATE AS A TELECOMMUNICATIONS PROVIDER WITHIN THE CITY OF MILWAUKIE AND AUTHORIZING THE CITY MANAGER TO SIGN A FRANCHISE AGREEMENT WITH ELECTRIC LIGHTWAVE, LLC. IN SUBSTANTIALLY THE FORM OF EXHIBIT A.

The group discussed the City Council agenda order.

## **C. Council Input to Legislative, Regional, and County Issues**

Mr. Monahan said this was the agenda placeholder, and he thought given the legislative schedule that it would be appropriate simply to provide the City Council with updates in the future.

## **D. Council Reports**

Councilor Churchill reminded viewers of the Vietnam Wall and Veterans’ events scheduled over the weekend.

**Council President Batey** attended the North Clackamas Parks and Recreation District (NCPRD) Advisory Board meeting. Councilor Parks volunteered to be Milwaukie's primary representative, and Council President Batey agreed to serve as the alternate.

**Mayor Gamba** read the announcement for the Vietnam Wall Events and Ceremonies hosted by American Legion Post 180 and the City of Milwaukie. Other events included the Historic Milwaukie noon concerts in Scott Park, the Monroe Street Neighborhood Greenway Open House that would focus on Washington Street, a Community Development work shop, the Sunday Farmers' Market, and the Portland Century Ride bike race.

#### **ADJOURNMENT**

**Mayor Gamba** announced that the City Council would meet in executive session immediately following adjournment of the regular session pursuant to ORS 192.660(2) (i) to review and evaluate the job performance of the chief executive officer. The City Council would not be returning to open session.

**It was moved by Councilor Parks and seconded by Council President Batey to adjourn the regular session. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting "aye." [5:0].**

**Mayor Gamba adjourned the regular session at 8:27 p.m.**

Respectfully submitted,

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Pat DuVal, Recorder



**MINUTES**  
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**WORK SESSION**  
AUGUST 4, 2015  
City Hall Conference Room

**Mayor Gamba called the Work Session to order at 4:02 p.m.**

Council Present: Council President Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power

Staff Present: City Manager Bill Monahan, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, Finance Director Casey Camors, and Interim Engineering Director Brad Albert

**City Manager's Report**

**Mr. Monahan** reviewed the Work and Regular Session agendas and the issues raised during the July 21, 2015, Audience Participation. He discussed the implementation of the parking permit program and the impact of light rail on parking. He noted upcoming Study Session dates and reported that staff was working with the Clackamas County Elections Office to place a ballot drop box somewhere east of Hwy 224.

**Councilor Power** discussed starting a new businesses forum and a youth council.

The group discussed food carts and the Orange Line grand opening activities.

**Community Development Update**

**Mr. Egner** discussed the recent Access to Capital Workshop and the work of an ad hoc residential parking committee. He noted that an urban renewal consultant had been identified and he provided an update on the intergovernmental agreement (IGA) with the Oregon Department of Transportation (ODOT) for the 19<sup>th</sup> Avenue Woonerf project.

**Mr. Albert** reviewed final punch-list tasks for Riverfront Park Phase II and the Adams Street Connector projects, and he discussed the work timelines for the 17<sup>th</sup> Avenue Trail project and the Railroad Avenue paving project.

**Mr. Egner** noted recent Planning Commission land use decisions and hearings. He provided updates on the Moving Forward Milwaukie (MFM) Central Milwaukie project and the Monroe Street Neighborhood Greenway project.

**17<sup>th</sup> Avenue Trail Funding**

**Mr. Albert** reported that the Oregon Parks and Recreation Department (OPRD) had declined to award a grant to the 17<sup>th</sup> Avenue Trail project, and he discussed the possibility of reallocating Metro Transportation Improvement Program (MTIP) funding from the Kellogg Creek dam removal project to the 17<sup>th</sup> Avenue Trail project.

The group discussed the role of ODOT in distributing MTIP funds and in promoting the Kellogg Creek Dam removal project. **Mr. Albert** noted that sections of the 17<sup>th</sup> Avenue Trail would be cut if the project was not fully funded.

**Mayor Gamba** explained the process to reallocate MTIP funds, and **Councilor Churchill** remarked on the public perception of reallocating project funds.

The group discussed funding issues, possible funding sources, project timing, and engineering and environmental goals of the Kellogg Dam removal project.

**Councilor Power** noted her support for reallocating the MTIP funds from the Kellogg Dam removal project to the 17<sup>th</sup> Avenue Trail project.

**Councilor Churchill** and **Mayor Gamba** discussed concerns about the 17<sup>th</sup> Avenue Trail project's budget and the perception of the City using MTIP funds on the project.

**Council President Batey**, **Councilor Parks** and **Mayor Gamba** reported that funding for the Kellogg Dam removal project had been discussed with regional, State, and Federal officials for months, and that the project is not likely to be funded for years.

The group discussed how to message the funding reallocation to the public.

**Mr. Monahan** and **Mr. Albert** noted that Council would need to identify funding for the 17<sup>th</sup> Avenue Trail project soon to avoid leaving parts of the project unfinished.

**It was the Council consensus to proceed with the reallocation of MTIP funds from the Kellogg Dam removal project to the 17<sup>th</sup> Avenue Trail project, and to consider how to message the funding reallocation to the public.**

**Councilor Power** suggested that email distribution lists be created to provide updates to the public about the progress being made on Council goals.

**Mayor Gamba** noted he would work to get funding for the Kellogg Dam removal project.

**Council President Batey** and **Mr. Albert** discussed why the OPRD grant for the 17<sup>th</sup> Avenue project was rejected.

**Park and Recreation Board (PARB) Update and Council Goal Discussion: Complete Neighborhood Parks and Develop Stronger Strategy for Maintenance of Existing Parks**

**Mr. Nieman** introduced Lisa Gunion-Rinker, PARB Chair, Lisa Lashbrook, PARB Vice-Chair, Jeroen Kok with the North Clackamas Parks and Recreation District (NCPRD), and PARB member Erin Willet-Holcomb. He noted the upcoming interviews of potential new PARB members and he remarked on the overlap between the annual PARB report and the recently adopted Council goal related to parks.

**Ms. Gunion-Rinker** reported that PARB would like Council feedback on which neighborhood parks to focus on developing first. **Mr. Nieman** noted that the Staff Report included a prioritized list of park projects for Council to consider.

**Ms. Lashbrook** suggested that PARB would like to focus on smaller pocket parks first.

**Council President Batey** commented on the need to finish Kronberg Park, and the group noted PARB's request for Council direction on which parks to work on first.

**Mayor Gamba** suggested that the City should be on the lookout for grant and neighborhood-led funding opportunities for parks.

**Council President Batey** reported that the Riverfront Task Force (RTF) had recently considered restarting the capital campaign for Riverfront Park Phase III, and she discussed the possibility of using urban renewal funds to finish Riverfront Park. She suggested that PARB focus on developing smaller parks like Wichita and Kronberg.

The group discussed PARB's proposal to make the RTF a sub-committee of PARB and how to align PARB and RTF to prioritize the completion of Riverfront Park.

**Councilor Churchill** expressed his support for the PARB focusing on the development of Wichita and Kronberg Parks followed by Riverfront Park in phases over time.

The group discussed how different grant opportunities should be applied to different parks based on the size and source of the grant funding.

**Mr. Kok** pointed out that most grants require a significant financial match and he noted the financial challenge of maintaining and managing new parks. He reported that the cost estimate to complete Wichita Park was \$500,000.

**Council President Batey** discussed the City's match of purchasing the land in the development of Ball Michel Park, and **Ms. Gunion-Rinker** noted the possibility of doing a similar land match for a grant opportunity at Bowman-Brae Park.

**Mr. Nieman** explained that once Council prioritized park projects NCPRD could provide a competitive assessment of available grant opportunities for specific parks.

The group discussed the possibility of NCPRD presenting a bond measure to voters and the need for the City to prioritize park projects in case bond funds are available.

**Mr. Kok** and **Councilor Churchill** discussed annual park maintenance costs.

The group noted public support for increased park funding and discussed groups that could accept private funding for park projects. They talked about starting an adopt-a-park or friends of the parks program and the availability of Metro neighborhood grants.

**Council President Batey** and **Councilors Power and Churchill** discussed Celebrate Milwaukie, Inc. (CMI) serving as a fiscal agent for private donations and grants, and they expressed their preference for a single point of entry for donations.

**Mr. Nieman** and **Ms. Gunion-Rinker** discussed the possibility of PARB acting as the umbrella group for all community organizations to free up NCPRD resources that could be focused on other parks and projects.

**Mr. Nieman** reviewed PARB work goals for the next year including conducting an analysis of park maintenance needs, and **Ms. Willet-Holcomb** discussed ways PARB can increase avenues of communication with the community. **Mr. Nieman** asked for Council feedback on the outlined PARB strategies for facilitating Council's parks goal.

**Council expressed its support for the strategies outlined by PARB to facilitate the Council's parks goal.**

**Mr. Nieman** asked for further Council input on prioritizing park projects, and the group discussed the limited availability of Community Development Block Grants (CDBG) for park projects and the impact of park operational costs.

**Mr. Nieman** and **Ms. Gunion-Rinker** discussed the proposal to make the RTF a sub-committee of PARB and how PARB approached Council's citywide sustainability goal in terms of what PARB's mission and goals should be.

**Mayor Gamba, Councilor Churchill, and Council President Batey** discussed the role of PARB in the citywide approach to sustainability.

**Ms. Lashbrook** expressed concern that there was no staff person assigned to work on sustainability, and **Ms. Willet-Holcomb** noted PARB's need for more definition of what Council means by sustainability.

**Councilor Power** suggested that Council would need time to define sustainability.

**Mr. Nieman** noted that PARB would work on sustainability within their parks role and added that PARB did not want to drop the ball on non-park sustainability efforts.

**Council President Batey** and **Councilor Churchill** commented that Council needs to work on a sustainability goal statement and they expressed support for the proposed PARB strategies. **Ms. Gunion-Rinker** and **Mr. Nieman** noted the sustainability tour program and remarked on the need for Council direction.

**Council President Batey** suggested that PARB and Council had plenty to work on for the next year and that Council could take some time to consider sustainability further.

**Mayor Gamba** asked that PARB consider sustainability in terms of just parks as well as in terms of the big citywide picture, and **Mr. Monahan** discussed the possibility of hiring a staff person to focus on sustainability.

**Mr. Nieman** confirmed that PARB would work on the goals as outlined and he talked about how the completion of Riverfront Park Phase II has made the roles of the RTF and PARB uncertain.

**Councilor Power** noted the inefficiency of Mr. Nieman staffing the RTF and PARB.

**Mr. Monahan** discussed the intention of Council when it downsized the RTF from a board to a limited duration task force and he suggested that it made sense that the RTF should be made a subcommittee of PARB.

The group discussed when Council would consider making the RTF a subcommittee of PARB, **and it was the group consensus to schedule a joint Council, PARB, and RTF meeting.**

**Mr. Nieman** and **Ms. Gunion-Rinker** provided an update on NCPRD's proposal to deal with the geese at Riverfront Park. They discussed the lack of available data on a chemical proposed to mitigate the geese problem and the community outreach effort that would be put in place if the chemical were to be used.

**Councilors Power and Churchill** noted the outreach effort of Portland Parks and Recreation when chemicals are used along the Springwater Corridor and they expressed concern about the use of chemicals in public spaces.

**Mr. Nieman** reported that Council would hear more information about the Tree City USA effort at a future Council meeting and he noted the upcoming Sustainability Tour. He explained that PARB does actively monitor parks and report issues to NCPRD.

The group expressed their appreciation for the work done by PARB and staff.

**Mayor Gamba adjourned the Work Session at 6:09 p.m.**

Respectfully submitted,

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Scott S. Stauffer, Administrative Specialist II



**MINUTES**  
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**REGULAR SESSION**  
AUGUST 4, 2015  
City Hall Council Chambers

**Mayor Gamba called the 2,203<sup>rd</sup> meeting of the City Council to order at 6:18 p.m.**

Council Present: Council President Lisa Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power

Staff Present: City Manager Bill Monahan, City Attorney Tim Ramis, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, Program Services Specialist Jason Wachs, Planning Director Denny Egner, and Associate Planner Vera Kolias

**CALL TO ORDER**

Pledge of Allegiance.

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

**A. National Night Out Proclamation**

**Mayor Gamba** read the proclamation naming August 4, 2015, as National Night Out in the City of Milwaukie and encouraged citizens to support the Milwaukie Police Department and the National Association of Town Watch events.

**B. Drive Less / Save More**

**Mr. Nieman** reviewed the background of the individualized marketing campaign that targeted specific forms of multimodal transportation. The City and Clackamas County were approached by Metro and the Oregon Department of Transportation (ODOT) last fall about participating in this program that is funded by an ODOT grant and administered by Metro.

**Marnie Duke**, Metro Public Affairs Specialist and communications manager for the Regional Travel Options Program. She briefly reviewed the program objectives that included reducing single occupancy vehicle trips, creating positive associations with travel options, enabling partners to reach transportation goals, enhancing resources available to residents, and establishing best practices.

**Mr. Wachs** discussed the role of local partners and provided a project overview. The project partners were Metro, City of Milwaukie, North Clackamas Parks and Recreation District (NCPRD), and TriMet. In July, a target group of about 4,600 Milwaukie households received the initial survey about current travel practices. Marketing will continue until October with a follow up survey in 2016 to determine how practices may have changed.

**Ms. Duke** discussed individualized marketing efforts and materials and door-to-door delivery methods provided through the program. Another component was a series of events including walking and biking tours. The information gathered in the program surveys will be analyzed and evaluated. Metro was also partnering with local schools on their Safe Routes to School and National Walk and Bike to School Month events in October.

**Councilor Parks** commented on how the Drive Less / Save More program had grown over the years since she was involved in the opening of the Green Line as the North Clackamas Chamber of Commerce Executive Director.

**Councilor Power** commented on the delivery area and asked if it could be extended farther east.

**Ms. Duke** replied the program was neighborhood based, and the budget limited the area to about 5,000 household. Materials, however, will be available at community events. The industrial area was not targeted as many companies had employees traveling to work from around the area, and some offered their own incentive programs.

### **C. Vietnam Memorial Wall Event**

**Mr. Nieman** provided a post event follow up of the recent Vietnam Memorial Wall 50<sup>th</sup> Commemoration held at Milwaukie High School. The City of Milwaukie partnered with American Legion Post 180, the North Clackamas School District #12 (NC12), the North Clackamas Chamber of Commerce, downtown Milwaukie businesses, and many donors and volunteers throughout the area. He showed selected photos from the event and reported that there was a veterans' art show at City Hall. The weekend event attracted about 6,000 people to Milwaukie, and volunteers logged about 1,500 hours. There were 67,000 copies of the insert printed for circulation plus 2,000 that were given away at the Wall.

### **AUDIENCE PARTICIPATION [Moved up agenda]**

**Mayor Gamba** reviewed the Audience Participation procedures.

**Mr. Monahan** provided responses to comments and questions from the July 21, 2015, Audience Participation. Shireen Newton, 32<sup>nd</sup> Avenue resident, had expressed concerns about code enforcement. She identified that the Milwaukie Municipal Code (MMC) made it a violation for a person to have a recreation vehicle maintained as a housing unit and that it cannot be attached to utilities such as electricity. In reviewing the reports, it did not seem that there had been a notice of violation sent to this property since 2014. Mr. Monahan reported that there was a Code provision that did make it illegal to live in an RV. The Council may explore that matter at a future work session to determine if that provision is appropriate for the community and consistent with other communities.

**Kelli Keehner, owner of K. Marie and President of the Downtown Milwaukie Business Association (DMBA)**, read a statement to the City Council into the record following the Association's general meeting on July 31, 2015. "As President of the DMBA, she was asked to come to you regarding a recent concern from the DMBA business community following our general meeting on July 31. It is our understanding that as part of the opening celebration for the light rail Orange Line that there are going to be several food trucks brought into town for this event. As business owners, the process of building light rail has been difficult and arduous at times and has had an impact on our businesses and our right to do business in the City of Milwaukie. We worked tirelessly through the building of the light rail the last three years, and now it is our time to shine and reap the rewards. We are proud of our City and the many businesses that it contains. To have temporary event food carts positioned right as the guests to our City come off of the light rail during the opening event was disheartening to all of our businesses. We are highly invested in our City by owning brick and mortar, and we get up every day, come to the City, and offer a daily experience to the guests of Milwaukie. The opening of the Orange Line is our opportunity to show off who we are and what we are and with that bring guests back to Milwaukie to shop, dine, and play in our City. The City's concern will be progress in Milwaukie. We are not saying "no" to progress; look at how many new businesses are opening in Milwaukie. We are excited about what is happening and everyone is motivated to bring more great new businesses to share our downtown streets and have the daily conversations with our guests about the great new businesses that have just recently joined us in as little as the last few weeks. We want to make sure we have the opportunity with this opening event. The business owners have shared many comments electronically and verbally a couple of which she will share. "I'm not opposed to the carts being in the City, but let's put them down past Pietro's so that we drive people through the city." "I am upset because I have worked

really hard for the construction to end and now it feels like business is being taken away from me.” The business owners are sharing their concerns with you as well as the city office. I am here tonight as a representative of the DMBA to insure that the concerns of the business community are relayed to you so that we can answer any questions that you may have about the letters and testimony provided this evening.”

**Councilor Churchill** appreciated hearing the DMBA’s impressions which carry a lot of weight. He understood the concerns that the placement of the food carts at the end of the Adams Street Connector could short circuit the flow of traffic through the downtown. He appreciated the suggestion about putting carts at the north end of town near Pietro’s.

**Mayor Gamba** asked Ms. Keehner if she had received an invitation to be part of the event planning group.

**Ms. Keehner** responded that she had attended the first two planning meetings, but in order for her to attend additional meetings, she would have had to close her store for an hour.

**Mike Miller**, Milwaukie resident, expressed his support for Ms. Keehner and the DMBA. He urged the City Council not to approve the food carts during the September 11 remembrance and the September 12 Orange Line Opening. The downtown businesses have endured 2-1/2 years of construction not only from light rail but also from the City’s utility project that went right down the middle of Main Street. This was a two day opportunity for businesses to recoup some of the money they lost. Some people left and some businesses closed, but these were the folks that hung in there. Some new people have moved in and would like to get their businesses off to a good start. Mr. Miller asked that the City Council not approve the food carts for this event and allow the businesses downtown to recoup some of their funds. He asked what happened to the letters sent to the City by individual business owners in opposition to the food carts.

**Mayor Gamba** said the City Council received three letters and had read them. Typically correspondence was not read into the record.

**Mr. Miller** read one of the letters into the record. “It has been brought to my attention that TriMet is planning to bring a pod of food trucks into the City for the light rail opening. I must say I was shocked and disappointed when I heard of this. I began inquiring immediately as to whom it was that had this idea. I was informed that this was something that TriMet was responsible for, however it was not something that had been approved by the City. This was appalling to say the least. As a business owner in downtown Milwaukie, I can attest to the effects that the construction of light rail has had on our right and ability to conduct business in this City. We have spent the last three years listening to our customers talk about the street closures, the long delays, the uncertainty of available parking, just to name a few. Every one of us has experienced the effect on our pocketbooks, the direct impact to sales, as well as increase in our marketing budgets. We are all trying to encourage people to come back to downtown Milwaukie now that the construction has been completed. So with that information, I would like to ask that you not allow the food carts into downtown Milwaukie if you desire to have a viable and thriving business community in downtown Milwaukie. Should we allow TriMet to continue to take money out of our small town? I say absolutely not. They have taken enough. Isn’t part of the goal of having light rail come through downtown to show off our City? It is a pretty amazing City which continues to get better every single day. Do we not have bragging rights? Is the business community not entitled to reap the reward after the hardship? I should think so.” Written by Kimberly Cairo, Enchante.

**Council President Batey** asked Mr. Miller if he had ever had to wait to eat dinner on First Friday’s, and **Mr. Miller** responded that everyone has had to wait, but that was a good thing. When there are large events in downtown Milwaukie, people will have to wait. Most people were patient enough to do that. He was more concerned about people who have had to endure the real hardships and stuck it out. Now we were telling

them we are going to stick it to you one more time by bringing food carts in to compete with them. Mr. Miller thought that was wrong.

**Ray Peck**, owner of Wind Horse Coffee and Tea, a Main Street business. He had been informed by TriMet this was an opportunity to showcase Milwaukie downtown businesses and there could be 30,000 people on the Orange Line opening day walking downtown and viewing art. Then he heard there were going to be food carts. They wanted people to be thirsty and hungry and to come into the downtown business community on Main Street. With food carts, people will not be coming to the downtown restaurants. He commented that the Vietnam Wall event did not bring in any customers, and he felt there was a disconnect. The food carts would take dollars away from those businesses that had worked hard through the recent construction projects. Now there was an opportunity to showcase local businesses and capitalize on those 30,000 guests and to let them see where they wanted to go. He was concerned they would get caught up in the food carts, and Mr. Peck requested that the food carts, specifically those outside the Milwaukie community, be denied as currently programmed. He felt there should be an opportunity to showcase the downtown businesses.

**Councilor Churchill** heard other businesses comment that there should be something to draw people north from the Adams Street Connector like music or signage.

**Mr. Peck** understood that everything would be loaded in the station area on the south end. He doubted that people would move up Main Street. He did not know about promotional activities or signage to move people north. He understood art was going to be the driving force to draw people through the downtown area.

**Celeste LaDuke**, owner of Designing Women, a Main Street interior design business. She noted the food cart situation would not affect her business. She had found through her experience that having a storefront just off the beaten path did not get the attention that those businesses on the main street attracted. People will congregate at the light rail station and the food carts, and Ms. LaDuke felt there needed to be a carrot to draw people to the north end.

**Councilor Churchill** noticed that Ms. LaDuke was trying to bring her product to the sidewalk.

**Ms. LaDuke** was doing that to draw attention to her business after her move from Sellwood. She wanted the City to support those businesses that had been through so much during construction.

**Council President Batey** said the issue with this event was the opposite of the issue with First Friday. She thought there was an opportunity to have an event in the Graham Building parking lot such as music or a food cart.

**Sue Leslie**, owner of Artistik Edge Salon, located at the south end of 21<sup>st</sup> Avenue near the light rail station. She asked if the decision had been made to put the carts at the south end of town. Her salon struggled for three years during construction, and the City needed to recognize those who kept their businesses alive during that time. She suggested scattering the food carts along Main Street as a compromise. Further, she thought TriMet had a program in place related to a beacon contest, and she suggested incorporating that with the food carts.

**Mayor Gamba** suggested developing a partnership to generate fresh ideas on promoting Milwaukie businesses over the long term.

**Councilor Power** asked Mr. Nieman to delineate between what was planned for the Orange Line Opening and what was planned for the site moving forward as it seemed confusing to people.

**Mr. Nieman** provided a concept of what was currently planned and how much room there was to maneuver at this point. The plan in place was to highlight activities all along Main Street, and the plan had not changed since the Council update in a recent

study session. The ideas have been circulated through the event planning committee since early December, and meeting notices were sent to the DMBA as well as other downtown businesses. There will be a limited Farmers' Market in the municipal parking lot. Restaurants were contacted to have carts and give Milwaukie businesses a presence, but for various reasons including staffing, it was not possible for them to participate outside their businesses. To get passengers off the train to explore downtown Milwaukie there was live music, the Breakside Brewery Beer Garden, and the food required to serve alcohol.

**Councilor Power** understood Mr. Nieman had worked with other agencies that had hosted similar light rail grand openings including Beaverton. No one came to downtown Beaverton because no one could see it from the light rail line, so Mr. Nieman was advised to create events that brought passengers off the train and into the downtown. Specific to the issue of food carts, there had to be food in order to get an Oregon Liquor Control Commission (OLCC) permit.

**Mr. Nieman** said with the number of Orange Line riders anticipated multiple food vendors were required. Breakside Brewery's Beer Garden was substantially larger than the one it opens during First Fridays. The footprint will be basically the entire Adams Street Connector, and there will be way finding signage drawing pedestrians north along Main Street.

**Councilor Power** noted that Wind Horse did not have an increase in business during the Vietnam Memorial Parade which concerned her.

**Mayor Gamba** observed there was not a large turnout for that event. He asked Mr. Nieman to provide Council with a list of activities being programmed.

**Councilor Parks** asked which streets would be closed to vehicular traffic.

**Mr. Nieman** said Main Street was not being closed north of Washington at this time, and to some degree the businesses did not support street closures. He noted concerns about south end businesses during First Fridays which were more focused on the north end.

**Councilor Churchill** had heard comments from citizens that food carts should not come into Milwaukie from Portland for First Fridays. He felt it was important to incorporate comments made tonight from the impassioned business community.

**Mr. Nieman** continued the list of events that were being planned to create a pipeline from the south to the north end of Main Street using a "discover downtown" theme. The beer garden will be located on the Adams Street Connector with food carts parked at west end by Dogwood Park.

**Councilor Churchill** understood the need to have food with the beer garden and asked if Pietro's had been contacted, and **Mr. Nieman** replied that Pietro's had declined because it did not have the capacity to do pizza slices in a hot oven that day.

**Council President Batey** said it was an important point that in order to serve the volume of people expected that it had to be fast and easily prepared. Those who wanted a real meal would patronize the restaurants.

**Mr. Nieman** added that food cart vendors were selective about their locating in Milwaukie because this was a huge event all along the alignment with 11 sites competing for services. He named the participating vendors: Fuego Burritos, Prontobello Pizza, Bro Dogs, Churros Locos, Ken's Top O' Hill, and New Seasons. The limited Farmers' Market was open until 3:00 p.m.

**Council President Batey** understood there was a plan to provide overnight security for the Market vendors.

**Mr. Nieman** noted the 9/11 First Responder Tribute event hosted by Clackamas County, TriMet, and the City of Milwaukie.

**Councilor Churchill** recommended reaching out to the DMBA one more time before the event to ensure all has been done to coordinate with the businesses and resolve the apparent disconnect.

The group agreed to ask Mr. Nieman to come back to City Council one more time with the final details.

#### **D. Moving Forward Milwaukie (MFM): Central Milwaukie Plan and Code Amendments**

**Ms. Kolias** said the purpose of this report was to provide an overview of draft code amendments for Central Milwaukie prior to the first Council hearing on September 1, 2015. Staff requested that Council share any questions and concerns about the proposed amendments. The intent of this discussion was to focus on the zoning code which would implement the vision. The vision for Central Milwaukie was to enhance economic opportunities identified in the Central Milwaukie Land Use and Transportation Plan and to define the area for the first time. Within that vision the City was looking to promote high quality urban design and improve multimodal connectivity within the region as well as other areas of Milwaukie.

**Ms. Kolias** explained that the vision implementation occurs through the regulatory code process. The fundamental concepts were implemented through a combination of use and design standards. The main ideas were to increase flexibility for business and property owners and developers to ensure the development was of high quality design with pedestrian friendly streets.

**Ms. Kolias** continued that the significant proposed code amendments to be discussed at this meeting were the introduction of a new General Mixed Use (GMU) Zone, the introduction of a new Flex Space (FS) Overlay Zone, permitted uses, new and revised development standards that shaped the location, size, and massing of development, new and revised design standards that focused specifically on a baseline design, and new and revised land use review procedures.

**Ms. Kolias** provided an overview of use standards. During the public involvement process citizens and business owners shared many ideas that helped guide the future of this area. It was clear that people used the area for shopping and other commercial activities and wanted those activities to continue with new businesses. There was strong support for mixed use development, restaurants, retail, offices, and employment uses such as light industrial and light manufacturing. Through that visioning process participants talked about employment and family wage jobs on the Murphy opportunity site, and she noted the property was not highly visible from a retail perspective. The code amendments would be used to implement those big ideas within the Land Use and Transportation Plan.

**Ms. Kolias** showed slides comparing the existing five zones and one overlay zone and the proposed four zones and one overlay zone that included the GMU Zone, FS Overlay Zone, and the unchanged R1, R2, and C-CS zones. No changes were being recommended for the Milwaukie Market Place as part of this project. The L-shaped area on the upper right of the project diagram extended across 32<sup>nd</sup> Avenue and encompassed the Providence Milwaukie Hospital area. The proposal included a GMU Zone on both of the opportunity sites with elimination of the R-O-C and Mixed Use Overlay. The FS Overlay Zone would apply to the Murphy opportunity site.

**Council President Batey** asked why the decision was made not to revisit the R1 and R2 zones.

**Ms. Kolias** replied that in one iteration, staff was looking at a neighborhood mixed use zone based on the existing land uses. Staff met with the neighbors to discuss the project and what was allowed now and what was being proposed. At the end of the meeting it was clear that people were happy with what they were allowed to do now and

saw no need to change the zoning to allow for more commercial uses. Currently, office was allowed as a conditional use in the R1 and R2 zone as well as hotels and bed and breakfasts. Residents were agreeable with the higher density and did not want to see any changes.

**Council President Batey** had the impression that after the Oak Street Station was built that there were Myrtle Street residents who were waiting for redevelopment.

**Ms. Kolias** said all of the people who attended the meetings were property owners. She went to each house, and some of the residents indicated that they had just purchased their home, and some lived on Myrtle Street. Based on property owner input, staff felt the zoning should not be changed at this time and could be revisited in the future.

**Councilor Churchill's** recollection of the Planning Commission hearings was similar to Council President Batey's, but perhaps residents' opinions had changed in the interim.

**Ms. Kolias** discussed permitted uses in the GMU Zone. Commercial, residential, office, retail and some manufacturing that was limited to 5,000 square feet (SF) and had to be associated with retail or an eating/drinking establishment use. The FS Overlay Zone was intended to allow more employment based uses like light manufacturing and light industrial specific to the Murphy site location. Llewellyn and Meek Streets provided vehicular access to that area along with bike / pedestrian access. The FS Overlay had frontage on 32<sup>nd</sup> Avenue and some on Harrison Street, but 31<sup>st</sup> Avenue was not intended to be an access point. She noted that a question had come up earlier regarding how the FS uses were different from the GMU Zone. Industrial services like machinery and equipment repair were not allowed, and manufacturing was limited in size and had to be associated with a retail or eating/drinking establishment use. Wholesale trade and trade schools were not permitted in the GMU Zone and were specifically focused in the FS Overlay. One issue had to do with truck traffic and how it would impact the area given the types of uses being proposed for the FS Overlay Zone. The City may wish to think of a way to limit truck traffic and consider limiting trade schools to those that conduct their activities inside.

**Mayor Gamba** understood wholesale trade would involve a warehousing activity and fewer jobs. **Ms. Kolias** replied it would have a warehousing and trucking component, so the City Council may want staff to look into that a bit more.

**Council President Batey** recalled that trade schools were allowed in the Milwaukie Market Place. When the karate school wanted to go in, there was a director's interpretation to determine if it was consistent with allowed uses.

**Ms. Kolias** provided an overview of the development standards created with the intent of encouraging a pedestrian friendly environment. The proposed revisions included new standards for setbacks and off street parking that were applicable to both the GMU and the FS Overlay Zones which reflected different uses. The existing maximum building height in the GMU Zone was three stories, three stories in the R-O-C Zone plus one bonus story with additional vegetation, and the Mixed Use (MU) Overlay Zone was on top of that. She noted that these zones were very difficult to work with. The maximum height in the MU Overlay Zone is two stories or three stories on the McFarland site if development was in the interior. Two story buildings would be permitted within 50 feet of Monroe Street and 37<sup>th</sup> Avenue. There was a one story bonus for residential or green building that applied only when the development was 50 feet away from an abutting residential zone.

**Ms. Kolias** said the purpose of the proposed street setbacks was to establish a consistent wall along key streets. Buildings were allowed and encouraged to build up to the street right of way in the GMU Zone to create a pedestrian friendly environment. Today there was no maximum setback, and the proposal was for no minimum street setback except on a residential street edge. The proposed maximum street setback was 10 to 20 feet with a maximum setback on some key streets to ensure that buildings

came up to the street. The maximum setback in the FS Zone was 50-feet to address off street parking. The proposal included landscaping requirements when buildings were set back from the sidewalk. She noted in discussions the public clearly did not want to see the currently typical strip development with parking in front. The GMU Zone applied to the Murphy site as well as the FS Overlay Zone. She would provide comments on key commercial streets.

**Ms. Kolias** showed a figure in the proposed code that identified where the commercial edge treatment with the maximum 10 foot setback would apply to the key commercial streets identified in the MFM Central Milwaukie process. Harrison Street and 32<sup>nd</sup> Avenue were these key streets.

**Ms. Kolias** addressed off street parking and said there had been a lot of discussion about where that should be located. Parking was not allowed in the GMU Zone between the building and the street but would be allowed in the FS Overlay Zone. Again, this was consistent with the downtown code about making sure that parking was to the side or rear of the development. Also being proposed was a residential edge treatment standard. Development that is adjacent to or abutting lower density residential zones should be compatible with the existing neighborhoods. Currently, setbacks had to match the adjacent front yard setback. The proposal on the McFarland site was a 15 foot minimum setback along Monroe Street and 37<sup>th</sup> Avenue and setbacks applicable to buildings within 50 feet of those streets. The intent was to encourage a development pattern that was compatible with the residential neighborhoods. The 6 foot setback would be applied after the building height reached 35 feet.

**Councilor Churchill** noted the texture of the north side of Monroe Street was much more setback. He appreciated that Ms. Kolias was thinking about that but thought it could take a second look and consider a little more refinement after considering the cross section further. It was a delicate balance, and he was not sure if the intent was to achieve an urban landscape that matched the context of the other side of Monroe Street

**Council President Batey** asked if this kind of treatment applied to Meek Street because she was concerned about flex space occurring with backs of buildings against residential.

**Ms. Kolias** replied that the same treatment applied to Meek Street and where development abutted an R3 or an R5 Zone. The setback did apply as well as the 15 foot setback. In the FS Overlay Zone the standard was an additional 8 foot setback for a total of 23 feet of landscaped area to act as a buffer to the abutting residential zone. The design standards addressed the street facing façade which is what it would be on Meek Street. She would look into the issue of possibly having two street frontages.

**Council President Batey** discussed the feasibility of Clackamas County redeveloping Hillside Manor/Park, and **Mr. Egner** added that staff was monitoring redevelopment of Hillside.

**Council President Batey** agreed and noted the issue came up with Oak Street Square. It was landscaped, but the houses still faced a blank, brick wall.

In response to a question from Mayor Gamba, **Ms. Kolias** said the property to the north of Meek Street was zoned R3.

**Ms. Kolias** showed a chart comparing the existing design standard, the GMU Zone, and the proposed FS Overlay Zone. There were not a lot of standards in the existing code. Off street parking in the GMU Zone had to be to the rear or the side of the development; flex space was exempt from that standard except if it fronted 32<sup>nd</sup> Avenue where the GMU Zone standards applied. The floor area ratio (FAR) in the GMU Zone was 0.5:1 and a little bit less in the flex space to make sure the code was reasonable and did not preclude FS Overlay development.

**Mayor Gamba** noted the 0.3 tended to lean toward warehouse activities. **Ms. Kolia**s agreed with that observation and added that it could be discussed further in the public hearing process.

**Ms. Kolia**s continued the overview of the development standards. The maximum setback in the GMU Zone was 20 feet unless development was on the commercial street edge. It was 50 feet for the FS Overlay Zone except along 32<sup>nd</sup> Avenue, and that accounted for two bays of parking along the front of a flex space building. The existing frontage standard is 35 feet, and the proposal is to drop the GMU Zone frontage to 25 feet to create more opportunity. The FS Zone was exempt from the standard because it was generally developed in a more campus-like style as opposed to a public street with parcels on it. There was no frontage occupancy requirement in the FS Overlay Zone except on 32<sup>nd</sup> Avenue in order to maintain those key commercial streets regardless of the use. In the existing code, the General Commercial (CG) Zone was a Type I review; the R-O-C and MU Overlay was a Type III hearing before the Planning Commission. The proposal was for a Type I review in the GMU Zone and Type II review in the FS Overlay Zone.

**Council President Batey** commented on the off street parking for flex space development on 32<sup>nd</sup> Avenue with access via an interior road. If interior roads were built, then the developer could setback 50 feet which would allow two bays of parking with a drive aisle in the middle.

**Councilor Churchill** wanted to clarify that flex space looked at not roads but parking areas unless the developer was required to build a public street for access. The flex space model typically looked at parking zones between buildings.

**Ms. Kolia**s said part of the amendment package included a supplementary development regulation related to a circulation plan to guide development on large sites by establishing a conceptual plan for access, connectivity, land uses, and circulation. This would apply to the opportunity sites and would apply Citywide requirements. The conceptual master plan would be required for nonresidential development sites of 3 acres or greater and would be applicable to 38 sites in Milwaukie. The plan would indicate how the proposed access system would connect with existing roads, massing of buildings, location of parking, and connection with bike and pedestrian facilities particularly on the Murphy site between Harrison Street and 29<sup>th</sup> Avenue. Flex space development would automatically trigger a preliminary circulation plan. The Type II review process includes a notification plan since this was a larger development of which people needed to be aware. This amendment would apply Citywide and was a way for the Engineering Department to determine if those access points would work.

**Mayor Gamba** asked if the preliminary circulation plan would be triggered by a number of small parcels.

**Ms. Kolia**s replied that the plan would be triggered by the development site itself. There were presently no design standards for Central Milwaukie, so the intent was to encourage building design and construction with durable, high quality materials. The proposed revisions would ensure that Central Milwaukie is attractive and pedestrian friendly, ensures that new buildings provide a sense of enclosure and define the streetscape, and applies to both the GMU and FS Overlay Zones. The FS Overlay Zone was different only in the development standards and the same in the design standards. Ms. Kolia discussed the key corners concept and certain things the City wanted to happen architecturally at these corners. The intent was to reinforce those intersections as places that were important and a gathering place for people. She showed a slide of those key corners where the design standards would be specific to the architecture and to the design of the buildings.

**Councilor Churchill** discussed the intent of reinforcing the key intersections and suggested Ms. Kolia might make some language adjustments.

**Ms. Kolias** said the design standard that went with the key corners was to have the primary entrance at that corner with the intent of staying consistent with the downtown standards as appropriate.

**Councilor Churchill** was thinking about the Holgate Blvd and 39<sup>th</sup> Ave intersection in Portland which was a dead zone at certain times. It was a tricky balance.

**Councilor Power** added that bus stops can be natural gathering places, and they needed to be safe and accessible.

**Ms. Kolias** listed the other design standards for Central Milwaukie including weather protection above building entrances; primary, secondary, and accent building materials on new buildings; standard 30% transparency for nonresidential and mixed use buildings; roof types; and screening requirements for rooftop mechanical equipment. These were not unusual requirements in other jurisdiction; however, they did not exist in the current code.

**Ms. Kolias** reported on the land use review procedures specific to what was being proposed. Type I Review was being proposed throughout the GMU Zone and Type II Review for Flex Space. There was also a provision for a Type II variance to design standards. Staff was preparing for a City Council hearing on September 1, 2015, preceded by a work session tentatively scheduled for August 18, 2015. Ms. Kolias asked if the proposals were appropriate or if changes should be made. She reviewed the key questions including the new GMU Zone, the new FS Overlay Zone, applicability of design and development standards in the GMU and FS Overlay Zones, and the proposed land use review process.

**Councilor Churchill** would probably like more discussion of the building heights. He appreciated the work and thought it was a sound foundation for Central Milwaukie.

**Council President Batey** asked if any of the amendments affected traffic and parking requirements.

**Ms. Kolias** replied those sections had not changed.

**Council President Batey** had two big concerns. She was concerned about retail wanting to build on the Murphy site and emptying out the Milwaukie Market Place. The traffic analysis part of it might give her some comfort because there were certainly some limitations along Harrison Street in terms of access that would make it difficult for any large scale retail. There were empty spaces downtown, in the Milwaukie Market Place, the King Road Safeway, and the Wichita Center. She was concerned about creating yet more retail space to compete with those. If there was a market for it and people went there because it was more appealing, she was worried about the whole empty strip mall scenario. There were more vacancies in the Market Place after Oak Street Square and the King Road Safeway opened. Her second issue was moving from Type III Review to Type II Review that first occurred with the Residential Design Standards. The rationale at the time was that developers wanted predictability to encourage more development, but that has not happened. She was a little concerned that taking the need for a Planning Commission review out of it will result in less desirable projects.

**Ms. Kolias** said in the proposed code, if a development met the standards, then it would be a Type I Review. That was what the GMU Zone was under the current code. The only trigger for a Type III review process would be a variance.

**Council President Batey** discussed the community benefits dialogue test used in Detroit, MI. Any large development over a certain scale had to have a proactive community benefits dialogue. Outside of the two concerns she had mentioned, she thought it was a great package of amendments.

**Councilor Power** could see a benefit of an “and” rather than “either or” language related to height bonuses and particularly with a stepback from adjacent areas. Just this week a major Milwaukie apartment complex sold for \$42 million, and it seemed like people saw a clear need for housing. She thought because of its topography the

McFarland site might lend itself to at least some higher buildings to take advantage of the proximity to the highway. It is close to the downtown area and did not impinge upon the Historic Milwaukie Neighborhood and other areas. She was considering five versus four floors. She understood Clackamas County was aspiring to redevelop the Hillside area but was not sure what was being planned. The McFarland site had two story buildings nearby, but it was lower due to the incline. She could see a developer splitting the parcel with taller buildings on the southern portion and some that were stepped down closer to the residential areas.

The group discussed the eight story residential building to the north of the Murphy site.

**Mayor Gamba** agreed there may be a benefit to having an “and” related to height bonuses particularly given the plan with the setback. Council could explore enhancing that with the setback and look at the feasibility of five stories if green and residential on the interior of the McFarland site and the lower part of the Murphy site.

**Council President Batey** had been thinking about the McFarland site. If the ultimate goal of the Monroe Street Neighborhood Greenway was to use the Washington Street alignment, then a bike corridor next to a five story building and a train corridor did not seem very desirable. She was wondering about even four stories.

**Councilor Power** pointed out the bike lanes in Portland were next to six or seven story buildings and asked Council President Batey why she thought bikers would not use it.

**Councilor Churchill** thought perhaps the bike path needed a more pedestrian scale orientation and not just a circulation cut through. He was concerned about creating a canyon.

**Council President Batey** noted that because of the Brownfields there likely will not be a massive wall. The other issue was windows that would be required for housing but not for other uses.

**Councilor Power** discussed development on the south waterfront where residential was very close to light rail and bike lanes as well as commercial.

**Councilor Parks** would like to see higher buildings particularly on the Murphy site. The proposals went a long way to opening up areas for growth in business and residential. She did not have issues with Type II reviews to help eliminate some of the steps in the process and provide options.

**Mayor Gamba** was in favor of limiting trade schools to inside activities. He liked the “and” related to height bonuses. He would like to see the potential for cottage clusters added as an outright residential use in multifamily development. He understood densities might be an issue, but cottages could be combined with taller residential structures. He did have an issue with the FS Overlay Zone, and he wanted to avoid warehousing because it did not offer much employment or higher wage jobs. He did not wish to see warehouses in Central Milwaukie.

**Councilor Churchill** agreed and thought perhaps it could be controlled by circulation to discourage warehousing.

**The City Council agreed to have further discussion on building height and employment density.**

## **PUBLIC HEARING**

None scheduled.

## **OTHER BUSINESS**

### **A. Council Reports**

The Mayor and Councilors spoke briefly about upcoming community events and commented on what a moving experience the Vietnam Wall Event had been for them.

**Mayor Gamba** announced that the City Council would meet in Executive Session pursuant to ORS 192.660(2)(d) to conduct deliberations with persons designated by the governing body to carry on labor negotiations. The Council would not return to open session.

### **ADJOURNMENT**

**It was moved by Councilor Parks and seconded by Councilor Power to adjourn the Regular Session. Motion passed with the following vote: Councilors Parks, Power, Churchill, and Batey and Mayor Gamba voting “aye.”**

**Mayor Gamba adjourned the regular session at 9:12 p.m.**

Respectfully submitted,

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Pat DuVal, Recorder



MILWAUKIE CITY COUNCIL  
**AGENDA ITEM SUMMARY**

Agenda Item: **RS 3. B.**  
Meeting Date: **Oct. 6<sup>th</sup> 2015**

Title: **TriMet Police Contract Renewal**

Prepared By: Chief Steven Bartol

Department Approval: Chief Steven Bartol

City Manager Approval: Bill Monahan

Approval Date: 10-06-15

**ISSUES BEFORE COUNCIL**

Signing of the new IGA allowing TriMet to reimburse the City of Milwaukie for officers assigned to the TriMet Police Department task force.

**STAFF RECOMMENDATION**

Recommend Council authorizes signing the IGA.

**KEY FACTS & INFORMATION SUMMARY**

As council is aware, the Milwaukie Police Department is a participant in the TriMet Police Department Task Force. Under this model, officers from various police departments in the greater Portland metropolitan area are assigned to the task force to provide police services to both rail and bus transit systems. TriMet reimburses the host departments at 105% of the officer's salary.

The last 5 year contract expired on June 31, 2015. On June 16<sup>th</sup>, 2015, Council approved a new 5 year contract on consent. However, before TriMet could sign the contract, City of Portland took issue with several items and opted not to sign their agreement. TriMet attempted to resolve the issue before the June 30<sup>th</sup> contract deadline, but was unsuccessful. TriMet indicated that the issues raised by Portland were significant enough that it could potentially alter the other individual agency agreements. As a result, they decided not execute the individual agency contracts until after the issues with Portland have been resolved. They anticipate this would occur before the end of September. Until that time their board agreed to extend our current contract with no changes. -On July 21<sup>st</sup>, 2015, council agreed to extend the old contract in order to allow those issues to be worked out. The extension expires September 30<sup>th</sup>, 2015.

It appears that the issues with the Portland contract centered on the use of body worn cameras and a process for appointing lieutenant level managers to the task force. The language relating to body worn cameras in the new proposed contract is actually the language proposed by our attorneys during the original draft, so there is no change for us. It simply announces the intent of TriMet and Portland to have officers assigned to the task use body worn cameras. This would only occur AFTER a subsidiary agreement is reached between the various jurisdictions regarding the acquisition, implementation, and use of the cameras. This process will take time and involve the various agency heads, employee unions and TriMet. The language related to

the selection of a Lieutenant is pretty straight forward and creates no issues for the Milwaukie Police Department. Both sections can be found on page 12 of the IGA, paragraphs E and F.

#### **OTHER ALTERNATIVES CONSIDERED**

None. As Council is aware, TriMet's Orange line opened on September 12, 2015. Although the Police Department continues to work on strategies to enhance services in the downtown core area, we believe it is important to remain a part of this regional effort to provide a safe and secure rider experience on the system which ultimately helps support our local efforts.

#### **CITY COUNCIL GOALS**

Participation in the regional effort to provide police services to the TriMet system ultimately supports the council's goal of, "*Focusing community resources on all-inclusive, bike, pedestrian and street safety program.*"

#### **FISCAL NOTES**

The Milwaukie Police Department currently has one sergeant and one police officer assigned to the TriMet Police Department. As noted above, both officers' salaries are reimbursed at 105%. Failure to renew the contract would terminate TriMet's ability to reimburse us for those salaries. Although those salaries are in the current police department budget, there would be no offsetting revenue stream to the general fund to support them.

#### **ATTACHMENTS**

1. Proposed IGA between the City of Milwaukie and TriMet
2. Resolution

**INTERGOVERNMENTAL AGREEMENT  
AMONG THE TRI-COUNTY METROPOLITAN TRANSPORTATION  
DISTRICT OF OREGON, THE CITY OF PORTLAND AND THE CITY OF MILWAUKIE  
FOR TRANSIT POLICE SERVICES**

Contract No. GS150817LG

**This Agreement is entered into among the Tri-County Metropolitan Transportation District of Oregon (“TriMet”), the City of Portland (Portland) and the City of Milwaukie, pursuant to authority granted in ORS Chapter 190.**

**RECITAL**

TriMet, Portland and the City of Milwaukie (“the parties”) desire to enter into an Agreement with respect to Transit Police Division services including but not limited to deployment strategy, priority of services and administrative procedures.

**AGREEMENT**

The parties agree as follows:

1. **TERM:** The initial term of this Agreement shall be from September 29, 2015 through June 30, 2016. Thereafter, this Agreement will automatically renew for four successive one-year terms (July 1 through June 30) commencing on July 1, 2016, unless terminated sooner under the terms of this Agreement.
2. **RESPONSIBILITIES OF PARTIES:** See attached Exhibits A and Exhibits 1 through 4.
3. **TERMINATION:**
  - a. Any party may terminate this Agreement for its convenience and without penalty by giving the other parties thirty (30) days written notice of its intention to terminate.
  - b. If TriMet is unable to appropriate sufficient funds to pay the City of Milwaukie for their services under this Agreement, TriMet must notify the City of Milwaukie and Portland and this Agreement shall automatically terminate as of the end of the last fiscal year for which such appropriations are available.
  - c. In addition to the rights afforded under subparagraphs (a) and (b) above, this Agreement may be terminated by a party as a result of a material breach of an obligation by another party to this Agreement as provided by law or in equity. Prior to such a termination, the terminating party must provide the other parties with thirty (30) calendar days written notice of the material breach, including a detailed explanation of the breach during which period the breaching party may cure the material breach (“Cure Period”). If at the end of the Cure Period the breaching party has not cured the default, the terminating party may terminate this Agreement for default and pursue any available legal or equitable remedies.
  - d. Any obligations arising prior to the date of termination survive the termination, including any obligation to defend, indemnify and hold harmless any other jurisdiction.

4. INDEMNIFICATION:

Portland and the City of Milwaukie will be responsible for the work of the officers assigned to the TriMet Transit Police Division.

Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the City of Milwaukie shall indemnify, defend and hold harmless TriMet and Portland from and against all liability, loss, and costs arising out of or resulting from the acts of the City of Milwaukie, its officers, employees, and agents in the performance of this Agreement. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, TriMet shall indemnify, defend, and hold harmless the City of Milwaukie and Portland from and against all liability, loss, and costs arising out of or resulting from the acts of TriMet, its officers, employees, and agents in the performance of this Agreement. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, Portland shall indemnify, defend, and hold harmless the City of Milwaukie and TriMet from and against all liability, loss, and costs arising out of or resulting from the acts of Portland, its officers, employees, and agents in the performance of this Agreement.

5. INSURANCE: Each party shall be responsible for providing workers' compensation insurance for their respective employees, as required by law, and may elect to commercially insure or self insure for any other liabilities assumed under this Agreement.
6. ADHERENCE TO LAW: Each party must comply with all federal, state, and local laws and ordinances applicable to this Agreement.
7. ACCESS TO RECORDS: Each party must have access to the books, documents, and other records of the other parties related to this Agreement for the purpose of examination, copying, and audit, unless otherwise limited by law.
8. SUBCONTRACTOR AND ASSIGNMENT: No party shall subcontract or assign any part of this Agreement without the written consent of the other parties.
9. ATTORNEY FEES: In the event a lawsuit is filed to obtain performance of any kind under this Agreement, the prevailing party is entitled to additional sums as the court may award for reasonable attorney fees, all costs, and disbursements, including attorney fees, costs, and disbursements on appeal.
10. SEVERABILITY: The parties agree that, if any term of this Agreement, is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms will not be affected.
11. This Agreement is funded in part by a U.S. Department of Homeland Security Grant Agreement between TriMet and the U.S. Department of Homeland Security. This Agreement is subject to all provisions prescribed for third party contracts by that financial assistance agreement as set forth in the attached and incorporated Exhibit A.

12. ENTIRE AGREEMENT: This Agreement as set forth herein incorporates by reference all of the terms and conditions of Exhibits A and the Exhibits 1 through 4 attached hereto which are made a part of this Agreement and constitutes the entire agreement among the parties. This Agreement may be modified or amended only by the written agreement of the parties.
13. NOTICES: The parties must send any notices, bills, invoices, reports, or other written communications required by this Agreement through the United States Mail, first-class postage paid, or personally delivered to the addresses below:

The parties have caused this Agreement to be executed by their duly appointed officers, authorized to bind the party for which they sign.

**CITY OF MILWAUKIE**  
**10722 SE Main St.**  
**Milwaukie, OR 97222**

**CITY OF PORTLAND**  
**1221 SW 4<sup>TH</sup> Ave.**  
**Portland Or. 97204**

**TRI-COUNTY METROPOLITAN  
TRANSPORTATION DISTRICT OF  
OREGON (TRIMET)**  
**4012 SE 17<sup>th</sup> Ave.**  
**Portland, OR. 97202**

\_\_\_\_\_  
Mark Gamba  
*Mayor*

\_\_\_\_\_  
Charlie Hales  
*Mayor*

\_\_\_\_\_  
Harry Saporta  
*Executive Director, Safety, Security and  
Environmental Services*

\_\_\_\_\_  
*date*

\_\_\_\_\_  
*date*

\_\_\_\_\_  
*date*

\_\_\_\_\_  
Mary Hull Cabellero  
Auditor

\_\_\_\_\_  
date

Approved as to form:

\_\_\_\_\_  
Legal Counsel

\_\_\_\_\_  
Tracy Reeve, City Attorney

\_\_\_\_\_  
TriMet Legal Counsel

\_\_\_\_\_  
date

\_\_\_\_\_  
date

\_\_\_\_\_  
date

Exhibits:

Exhibit A – U. S. Department of Homeland Security Grant Requirements

Exhibit 1 – Transit Police Division Administration & Operations

Exhibit 2 – Transit Police Division Staffing Letter

Exhibit 3 – Transit Police Division Personnel Operations

Exhibit 4 – SOP A-20 Transit Police Standard Operating Procedure

## EXHIBIT A

### U.S. DEPARTMENT OF HOMELAND SECURITY GRANT REQUIREMENTS

As used below, the term “Contractor” shall mean the City of Milwaukee.

#### I. DEFINITIONS

- A. Homeland Security Directive includes any Homeland Security circular, notice, order or guidance providing information about Homeland Security grants, programs, application processing procedures, and Project management, including grant requirements and guidelines.
- B. Government means the United States of America and any executive department or agency thereof.
- C. Homeland Security means the United States Department of Homeland Security (DHS) or its Office for Domestic Preparedness, and including but not limited to the Federal Emergency Management Agency (FEMA).
- D. Third Party Subcontract means a subcontract at any tier entered into by Contractor or a subcontractor, financed in whole or in part with Federal assistance originally derived from Homeland Security.

#### II. FEDERAL REQUIREMENTS

- A. Homeland Security requires that a grant recipient require that any contractor employed in completion of a DHS grant project comply with the applicable requirements of Title 2, Part 200 of the Code of Federal Regulations (C.F.R.), the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, the terms and conditions of which are incorporated herein by reference. In addition, any such contractor shall require each of its subcontractors employed in the completion of the project to comply with the foregoing requirements
- B. Contractor shall at all times comply with all applicable terms, conditions, regulations, policies, procedures and Homeland Security Directives, including without limitation those listed directly or by reference in the financial assistance agreement between TriMet and the Homeland Security, as they may be amended or promulgated from time to time during the term of this Agreement, which shall be deemed to be incorporated herein. Contractor’s failure to so comply shall constitute a material breach of this Agreement. Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
- C. All Homeland Security mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail

to perform any act, or refuse to comply with any requests which would cause TriMet to be in violation of the Homeland Security terms and conditions.

### III. ACCESS TO RECORDS

- A. Contractor agrees to provide TriMet, Homeland Security, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions.
- B. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. Contractor agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than six years after the later of: (a) the date of termination or expiration of this Agreement or (b) the date Contractor receives final payment under this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until TriMet, Homeland Security, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.
- D. Contractor agrees to include paragraphs A, B, and C above in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### IV. DEBARMENT AND SUSPENSION

This Agreement is a covered transaction for purposes of **2 CFR Part 200**. As such, Contractor is required to verify that none of Contractor, its principals, as defined at **2 CFR Part 180**, or affiliates, as defined at **2 CFR Part 180**, are excluded or disqualified as defined **therein**. By signing this Agreement, Contractor makes a material representation of fact relied upon by TriMet that Contractor has complied with **2 CFR Part 180**. If it is later determined that Contractor knowingly rendered an erroneous representation of compliance with **2 CFR 200**, in addition to and without limitation of the remedies available to TriMet, the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Contractor is required to comply with **2 CFR Part 200** throughout the term of this Agreement, and must include the requirement to comply with **2 CFR Part 200** in any lower tier covered transaction it enters into.

### V. NO FEDERAL GOVERNMENT OBLIGATIONS TO CONTRACTOR

- A. TriMet and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Government, the Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to TriMet, Contractor, or any other party (whether or not a party to that Agreement) pertaining to any matter resulting from the underlying Agreement.

- B. Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**VI. CONTRACT WORK HOURS AND SAFETY STANDARDS** (*applicable to non-construction contracts in excess of \$2,500 that employ laborers or mechanics*)

- A. **Compliance:** Contractor agrees that it shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-330) and 40 U.S.C. 3701-3708 as applicable, as amended and as supplemented by Department of Labor regulations (29 C.F.R. Part 5), which are incorporated herein.
- B. **Overtime:** No contractor or subcontractor contracting for any part of the work under this Agreement which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- C. **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause in Paragraph B of this section, Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph B of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph B of this section.
- D. **Withholding for unpaid wages and liquidated damages** – TriMet shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph C of this section.
- E. **Subcontracts** - The contractor or subcontractor shall include in any subcontracts the clauses set forth in paragraphs A through D of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A through D of this section.

**VII. NOTICE OF REPORTING REQUIREMENTS**

Contractor shall comply with the reporting requirements of Homeland Security stated in 2 CFR Part 200.328 , The Contractor agrees to include the above clause in each third party

subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## **VIII. COPYRIGHTS**

- A. Contractor agrees that Homeland Security shall have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for government purposes:
  - 1. The copyright in any work developed with the assistance of funds provided under this Agreement;
  - 2. Any rights of copyright to which Contractor purchases ownership with the assistance of funds provided under this Agreement.
- B. Contractor agrees to include paragraph A above in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## **IX. PATENT RIGHTS**

- A. General. If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under this Agreement, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, TriMet and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the Homeland Security. Unless the Government later makes a contrary determination in writing, irrespective of the Contractor's status (large business, small business, state government or instrumentality, local government, nonprofit organization, institution of higher education, individual), TriMet and Contractor agree to take the necessary actions to provide, through Homeland Security, those rights in that invention due the Government in accordance with 44 CFR Part 13.36(i) (8).
- B. The Contractor also agrees to include paragraph A above in each third party subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by Homeland Security.

## **X. ENERGY CONSERVATION REQUIREMENTS**

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub L. 94-163, 89 Stat.871). Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

In addition, to the extent applicable, Contractor shall comply with the requirements of 2 CFR Part 200.322 regarding procurement of recovered materials.

## **XI. ENVIRONMENTAL REQUIREMENTS**

- A. Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. Contractor agrees to report each violation of these requirements to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to Homeland Security and the appropriate EPA regional office.
  
- B. Contractor agrees to comply with applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401, et seq. Contractor agrees to report each violation to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to Homeland Security and the appropriate EPA Regional Office.
  
- C. Contractor agrees to include the requirements at paragraphs A, B and C above in each third party subcontract exceeding \$150, 000 financed in whole or in part with Federal assistance provided by Homeland Security.

**CERTIFICATION**  
**REGARDING LOBBYING**

*Certification for Contracts, Grants, Loans, and Cooperative Agreements*

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loan, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The City of Milwaukie certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

By: \_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Title of Authorized Official

## EXHIBIT 1

### TRANSIT POLICE DIVISION ADMINISTRATION & OPERATIONS

#### 1. SERVICE LEVEL

For the term of this Agreement, the City of Milwaukie will provide one or more full-time officer(s) for assignment to the Transit Police Division (hereinafter Division), in such numbers and classifications as the parties mutually agree in writing, by letter among the City of Milwaukie Chief of Police, the Transit Police Division Commander and TriMet's Executive Director - Safety, Security and Environmental Services ("Executive Director") with such letter in the form set forth in Exhibit 2. If a vacancy of any of the agreed-upon number of officers is not filled within 90 days, the parties agree that TriMet may reassign the opening to another jurisdiction, to provide officer(s) to the Division. The City of Milwaukie personnel assigned to the Division will remain employees of the City of Milwaukie and will not be considered employees or agents of TriMet or the City of Portland (Portland). For purposes of this Agreement, the officer(s) assigned to the Division will be referred to as assigned to the TriMet Transit Police Division.

#### 2. OPERATIONS

- a. Deployment Strategy and Priority for Services: The parties recognize that they have legitimate interests in the management and deployment of officers assigned to the Transit Police Division. The parties will work together to ensure:
- (1) Visible Presence: The priority for Transit Police deployment is presence on the transit system vehicles and at transit system public facilities.
  - (2) Calls for Service: In general, response to 9-1-1 calls for transit system incidents shall be responded to by local law enforcement from the respective jurisdiction.
  - (3) Arrests: Arrests on the transit system incidents shall be by the respective Transit Police or local law enforcement that originated action on the incident.
  - (4) Law Enforcement Support: Transit Police and local law enforcement shall be responsible for law enforcement support activities for their respective primary areas of responsibility.
  - (5) Enforcement: Transit Police enforcement shall focus on TriMet ordinances, including fare enforcement, and State and City laws to help ensure the security of passengers, employees, and transit system property.
  - (6) Problem Orienting Policing: Transit Police deployment shall focus on identified problem areas, routes and/or transit centers/transfer points based on data relative to the greatest needs for "preventive action"; using community policing strategies whenever possible.

- b. Agency Cooperation and Coordination:
- (1) The parties will work closely and continuously communicate with each other to ensure that the resources, strategies, work force deployment, and initiatives of TriMet, Portland, and the City of Milwaukie are coordinated and effective.
  - (2) The Commander, TriMet Transit Police Division, or his/her designee, will coordinate contact with the parties to insure that the resources, strategies, work force deployment, and initiatives of the Division and those of the respective law enforcement agencies are coordinated and effective.
  - (3) The City of Milwaukie agrees to work cooperatively in an effort to increase reporting of TriMet related incidents. The City of Milwaukie agrees to provide to the Division TriMet coded reports, data, and records. TriMet agrees to make available to the City of Milwaukie, through the Division, particular data, reports, records, etc. that will assist in fulfilling the mission as outlined in this document.
- c. Officer Seniority: Determination of officer seniority of the Transit Police Division for purposes of making shift, vacation, holiday, and overtime assignments shall be according to the attached Exhibit 3.
- d. K-9 Unit Training Facility: TriMet has entered into a ground lease (hereinafter "Lease") with the Port of Portland effective September 17, 2007 for the use of certain premises (hereinafter "Premises") to house explosives storage magazines in support of TriMet's training requirements to maintain U.S. Department of Homeland Security, Transportation Security Administration ("TSA") certification for K-9 units. Certain Transit Police Division personnel as designated by TriMet and TSA will be authorized to access and utilize the Premises for purposes of TriMet's K-9 unit training in accordance with the Lease terms. The City of Portland agrees that the work and operations of the Division including assigned transit police personnel, with respect to activities relating to the Premises, are subject to and shall comply with all provisions and requirements of the Lease, the terms of which are incorporated into and made part of this Agreement, and specifically any obligations of TriMet as Lessee.
- e. Body Cameras: It is the intent that sworn officers will wear body cameras, subject to a Subsidiary Agreement law enforcement jurisdiction and Portland reaching mutual written agreement regarding the acquisition, implementation, and use of body cameras. Portland shall be responsible for the Division's acquisition, implementation, and use of body cameras. This is subject to additional policy development and legislation.
- f. Selection and Assignment of a Lieutenant. In the event of any other Lieutenant position vacancy or proposed re-assignment for any reason, the Transit Police Commander shall solicit from Portland or one or more Subsidiary jurisdictions potential candidates to fill the position. In the case of Subsidiary jurisdictions, the Chief of Police/Sheriff of the Subsidiary jurisdiction shall forward a letter of recommendation to the Transit Police Commander, along with backgrounds and resumes, of potential candidates who can fulfill the obligations of the Lieutenant as set forth in this Agreement. The Transit Police Commander will discuss with the Executive Director the backgrounds and resumes of potential candidates, as well as affording the Executive Director the opportunity to meet

with and interview the candidates. The Executive Director will provide input and recommendations to the Transit Police Commander prior to the Transit Police Commander's appointment to ensure that the candidate can fulfill the obligations of Lieutenant as set forth in this Agreement.

- g. Term of Assignment: It is desired that Officers assigned to the Transit Police Division serve a minimum of three (3) years. The assignment shall be periodically reviewed and revised, including extension of assignments, as mutually agreed upon by TriMet and the City of Milwaukie.
- h. Supplemental Police Services: TriMet agrees to pay for supplemental Division police services on an intermittent basis to assist the Division in responding to occasional community impacts or surges that require additional policing. The Executive Director must approve the use of supplemental Division police services prior to deployment by the Division Commander. Once approval is received from the Executive Director, the Division Commander will submit in writing to the Executive Director the name of the Subsidiary Agreement jurisdiction providing the supplemental police services, and the number and names of personnel being assigned.

### 3. REIMBURSEMENT OF COSTS

- a. Personnel Costs: The City of Milwaukie must pay the salaries, overtime, insurance, retirement, and other benefits ("Personnel Costs") of its respective personnel serving in the TriMet Transit Police Division. The City of Milwaukie shall invoice TriMet monthly for all actual incurred Personnel Costs for such Division personnel. Administrative fees charged by the City of Milwaukie to TriMet in connection with billings shall not exceed the sum of 5% of direct costs of salaries, overtime, insurance, retirement and other benefits paid to its personnel (Personnel Costs) assigned to the Division. TriMet agrees to compensate the City of Milwaukie within thirty (30) days after receiving the invoice. Invoices should be submitted to TriMet, Attn: Accounts Payable-FN4, 4012 SE 17<sup>th</sup> Avenue, Portland, OR 97202.
- b. Training/Meeting Costs. Training and meeting costs must be pre-approved by the Commander. Transit Police personnel must follow training protocols established by their respective agencies and complete the necessary paperwork to attend training. Trainings must be scheduled at least 30-days in advance. If approved by the Commander, the Commander shall forward the training/ meeting cost requests to TriMet's Executive Director for final approval.
- c. Equipment and Uniforms: City of Milwaukie shall assign officers to Transit Police with a standard uniform and a complement of personal equipment at its own expense. Non-personal equipment purchased at TriMet's expense specifically for Transit Police shall be for the exclusive use of Transit Police, regardless of title. Personal equipment (such as but not limited to TASERs) purchased by TriMet for the use of officers from other agencies that do not provide such equipment shall remain for exclusive use within Transit Police, regardless of title.

Expenses associated with routine replacement of uniform and equipment damaged or worn-out in normal use shall be billed to TriMet subsequent to pre-approval by the Executive Director.

Operating costs for equipment (such as but not limited to telecommunications, radios and mobile telephones) shall be billed to TriMet subsequent to the pre-approval by the Executive Director. Monthly equipment replacement reserve costs for those items Portland manages in that manner shall be billed to TriMet.

Portland shall be responsible for its incurred expenses in performing this Agreement unless authorized and approved by the Executive Director in accordance with this subparagraph d.

- d. Any reimbursement by TriMet of costs or expenses incurred by Portland or Subsidiary Agreement jurisdictions in the performance of this Agreement not included in subparagraphs (a) and (b) shall be subject to the Executive Director's prior authorization and approval, including but not limited to expenditures for supplies, vehicles, equipment and uniforms.
- e. Amount: Before December 1<sup>st</sup> of each year of this Agreement, the City of Milwaukie must submit to TriMet a proposed annual budget for services under this contract for next fiscal year (July 1 through the following June 30). The parties will then agree on the compensation to be paid by TriMet for services to the City of Milwaukie under this Agreement. If the parties cannot agree on such compensation by June 1<sup>st</sup>, any party may elect to terminate this Agreement without penalty.

**EXHIBIT 2**  
**TRANSIT POLICE DIVISION STAFFING LETTER**

(on TriMet letterhead)

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(date of letter)

Chief of Police  
The City of Milwaukie  
10722 SE Main St.  
Milwaukie, Or. 97222

RE: The City of Milwaukie Police Staffing to TriMet Transit Police Division

Dear \_\_\_\_\_:

This letter is issued pursuant to the September 29, 2015 Agreement among the Tri-County Metropolitan Transportation District of Oregon (TriMet), the City of Portland and the City of Milwaukie, for TriMet Transit Police Services, as amended, to establish or change the number of police officers assigned from the City of Milwaukie to the TriMet Transit Police Division.

Prior Staffing from (effective date of agreement), 2015, To-Date

- from (effective date of agreement), 2015 to (date) (specify number of officer(s))
- from (date) to (date) etc. (specify revised number of officer(s) etc.)
- from (date) to (effective date of this staffing change) (specify revised number of officer(s))

Staffing from (effective date of this staffing change)

- from (effective date of this staffing change) (specify revised number of officer(s))

Any future change in the number of officers assigned from the City of Milwaukie Police to the TriMet Transit Police Division is subject to mutual agreement by the parties by subsequent letter in similar form.

Sincerely,

Harry Saporta  
Executive Director, Safety, Security & Environmental Services  
TriMet

Agreed to by the City of Milwaukie:

Agreed to by the City of Portland:

\_\_\_\_\_  
Sheriff

\_\_\_\_\_  
date

\_\_\_\_\_  
Transit Police Commander

\_\_\_\_\_  
date

## **EXHIBIT 3**

### **TRANSIT POLICE DIVISION PERSONNEL OPERATIONS**

It is the intent of this Agreement: (1) to recognize that the TriMet Transit Police Division (Division) is staffed by police officers from multiple jurisdictions, each covered by their respective collective bargaining agreements, but that shifts, days off, vacations and overtime need to be assigned in a fair and equitable manner; (2) to provide for assignment of shifts, days off, vacations and overtime by seniority; (3) to allow for the change of shift hours of operation and to re-allocated positions and days off within certain shifts to maintain an appropriate balance of field strength.

#### **THE PARTIES AGREE THAT:**

1. Current and future City of Milwaukie officers assigned to the Division will use their City of Milwaukie date of hire seniority as the means to select shifts, days off, vacations and overtime.
2. Current and future City of Milwaukie officers assigned to the Division will abide by the provisions of this Exhibit 3.
3. Seniority shall be defined as the length of uninterrupted service by the officer in his/her agency within the officer's Civil Service classification following the officer's most recent appointment. Time spent in the Armed Forces, on military leaves of absence, other authorized leaves and time lost because of duty-connected disability shall be included in length of service. If an officer who has been promoted reverts to a position she/he formerly held, the officer's seniority shall be the sum of the seniority earned in the promotional class and in the class to which the officer reverts.
4. Subject to staffing needs and maintaining efficiency of the Division/Detail, seniority shall be the prime factor in the selection of shifts and days off provided the officer is otherwise qualified. Seniority shall govern in the selection of vacation and holidays.
5. In the case of voluntary transfer and/or assignment, the seniority of an officer shall apply immediately to the officer's choice concerning holidays and vacations. The transferring officer may not use seniority to bump another officer's shift or days off until 45 days from the date of the written request.
6. In case of involuntary transfer and/or assignment, the seniority of an officer shall apply immediately to the officer's choice concerning holidays and vacation. In the event of an involuntary transfer, the Division shall accommodate the shift and/or days off preferences of transferring officers immediately, and shall not involuntarily bump any other officer for at least thirty (30) days from the time the bumped officer receives notice of the bump. The transferring officer may not use seniority to bump another officer's shift or days off until 30 days from the date of the written request.
7. For the purposes of this Agreement, the phrase "Transferring Officer" shall refer to an officer desiring to change shifts, days off or assignments, or an officer who is involuntarily transferred.
8. The Division shall prepare a form to be used by officers desiring to transfer from one shift, assignment, or day off configuration to another within the same reporting unit. For the purposes of this Agreement, this form shall be referred to as the "Transfer Request Form." The Transfer Request Form shall contain a place for transferring officers to indicate their preferences with respect to shifts and days off.

9. A transferring officer may complete a Transfer Request Form at any time. If the officer is seeking or anticipating a transfer, the officer shall file the Transfer Request Form with a Division Lieutenant. If the officer is seeking a change in days off or shifts which do not involve a transfer between reporting units, the Transfer Request Form shall be filed with the officer's shift commander. The Division will forward a copy of the Transfer Request Form to the location of the anticipated transfer.

10. In the event of a change in days off or shifts that do not involve a change in reporting units, the time frames referred to in Sections 5 and 6 of this Exhibit 3 shall begin to run when the transferring officer submits the Transfer Request Form.

11. When the Division knows that an officer's preferences as indicated on a Transfer Request Form will result in the displacement of the shift or days off of another officer (referred to herein as the Transferred Officer), the Division shall notify the Transferred Officer as soon as possible of the fact that he or she may be bumped.

12. The Division shall accommodate the shift and/or days off preferences of transferring officers on a faster time schedule than that contained in Sections 5 and 6 of this Exhibit 3, if, in the Division's judgment, it is operationally sound to do so, provided that no other affected officer is bumped from his or her days off or shift who objects to the accommodation.

13. An officer may exercise seniority to bump another officer for shift and days off only once in ninety (90) days.

14. **Vacations.** Employees shall be allowed to select two vacation periods on the basis of seniority. Each vacation period must be of a minimum duration of one day. Vacation time shall be scheduled by the Division with due consideration being given to requests from officers which shall be determined among officers of equal rank by seniority; provided, however, that each officer shall be permitted to exercise the right of seniority only once each year. The sign-up deadline for the exercise of seniority in the selection of vacations shall be March 15 for the calendar year running from April 15 through April 14 of the following year.

15. **Holiday Assignment.** Where the shift strength is reduced or increased on holidays, consistent with the needs of the Division, assignments shall be offered to the most senior officer. Except for an emergency, the Division shall provide a minimum of ten (10) days' notice of any deviation from normal shift strength so that officers may plan the use of their time.

A. Where shift strength is reduced, the most senior officer scheduled for duty on the shift shall be offered the option of working or not. Where shift strength is increased, the most senior officer on the shift shall be offered the option of working or not.

B. For purposes of this section, New Year's Eve and Christmas Eve shall be treated as holidays.

16. **Seniority for Vacation Purposes upon Transfer.** If an officer is involuntarily transferred, the Division shall honor the officer's pre-selected vacation times, and shall not disrupt the pre-selected vacation time for other officers in the division to which the officer is involuntarily transferred. If an officer accepts a voluntary transfer, the Division shall attempt to accommodate, to the extent possible, the officer's pre-selected vacation times.

17. **Shift Overtime.** Where the overtime is not directly related to activities begun by an officer during the officer's regular shift, and where the planned overtime is anticipated to be four (4) hours or more in duration, the overtime shall be offered, in the order of seniority, to officers in the Division. Once each eligible officer has had the opportunity to work shift overtime in a pay period, officers may once again use their seniority to work shift overtime as described above, and the seniority list shall rotate in the same fashion thereafter. The Division shall maintain a list in each reporting unit upon which officers must place their names indicating a willingness to work shift overtime. If an officer is incorrectly passed over for shift overtime, the officer shall be allowed to work a makeup overtime assignment within the next two pay periods following the discovery of the error. The officer and the Division shall mutually agree upon the makeup overtime assignment, which shall not displace another officer's already-selected overtime assignment. An officer who has been incorrectly passed over shall not be otherwise entitled to compensation for the missed overtime.

18. **Work Hours.** An officer will normally be given adequate advance notice of any change in the officer's regular hours of work, except where an emergency (an emergency is defined as an unforeseen event affecting the Division's ability to perform its mission) exists. Notice given less than forty-eight (48) hours (or seventy-two [72] hours under the Four-Ten Plan) before the officer is to begin work under the changed schedule entitles the officer to compensation at the overtime rate for those hours not exceeding eight (8) hours that are earlier, later, or different from the hours the officer last worked in a work day. A police officer is not entitled to compensation under the overtime rate if the officer is otherwise entitled to compensation under the same hours of work, or if shift changes are the result of a voluntary transfer or promotion.

19. **Discipline.** Discipline and discharge of the City of Milwaukie officers assigned to the Division will be the responsibility of the City of Milwaukie and in accordance with the Collective Bargaining Agreement between the City of Milwaukie and the Milwaukie Police Employees Association.

20. **Citizen Complaints.** All citizen complaints concerning the City of Milwaukie officers to be referred to the City of Milwaukie Chief of Police with the finding copied to the Commander, Transit Police Division. The City of Milwaukie agrees to:

- A. Maintain a police accountability system as described at subsections (B) through (G) below.
- B. Provide an accountability system intake point to which the other participating Transit Police jurisdictions ("jurisdictions") can refer or deliver complaints about the City of Milwaukie officers working in the Transit Police Division.
- C. Receive, review and evaluate all complaints referred or delivered by the other jurisdictions concerning its officers who work in the Transit Police Division.
- D. Deliver all complaints about an officer who works in the Transit Police Division received from citizens or generated by peace officers to the accountability system intake point of the subject officer's employing jurisdiction.
- E. Absent a conflict with ORS 181.854 (3), permit investigators from other jurisdictions to share information with their counterparts investigating or reviewing an incident involving a Transit Police Division officer.
- F. Adhere to Portland Police Bureau Transit Police Division SOP A-20 (Exhibit 4) to the extent it does not conflict with the City of Milwaukie labor agreement and agency procedures or directives.
- G. Conduct joint investigations when necessary and appropriate.

21. **Collective Bargaining Agreement.** All other terms and conditions of any current Collective Bargaining Agreement between the City of Milwaukie and the Milwaukie Police Employees Association shall remain in effect as to other issues not addressed by this Exhibit 3. In the event of a conflict between such Collective Bargaining Agreement and this Exhibit 3, the provisions of such Collective Bargaining Agreement shall govern.

**EXHIBIT 4**  
**TRANSIT POLICE STANDARD OPERATING PROCEDURES**

**SOP: A-20**

**EFFECTIVE: April 1, 2012**

**REVIEW: April 1, 2014**

SUBJECT: Non-Criminal and Criminal Investigations Involving Transit Police Members

**PURPOSE:**

To establish a process for handling non-criminal and criminal investigations that respects all rights and privileges under the affected member's collective bargaining agreement and the member's agency policies.

**DEFINITIONS:**

*Partner Agency:* Any police agency that has a current Intergovernmental Agreement with the Tri- county Metropolitan Transit Authority to supply law enforcement services.

*Non-criminal Complaint:* A complaint made against an officer or deputy where there are no allegations of criminal conduct.

*Criminal Investigation:* An investigation to determine criminal culpability.

*Lead Agency:* The agency taking primary responsibility for the non-criminal or criminal investigation.

**POLICY:**

**Non-Criminal Investigations**

Non-criminal complaints received by the Transit Police Division (TPD), Internal Police Review (IPR) or any partner agency will be referred to the respective member's agency for disposition. The member's agency will be the lead agency and will be responsible for processing/investigating the complaint using their policies.

**Criminal Investigations**

Complaints or events that warrant a criminal investigation will be referred to the jurisdiction of occurrence. The jurisdiction of occurrence will become the lead agency. The lead agency will be responsible for processing/investigating the incident using their policies.

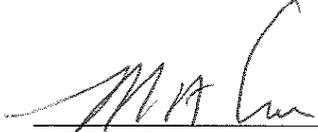
**Cooperation**

All partner agencies acknowledge that investigations should be thorough and completed without unreasonable delay. Partner agencies will cooperate with the lead agency in an investigation, to the extent allowed by their (partner agency) policies and collective bargaining agreements, to ensure the investigation is thorough and completed in a timely manner.

**Notifications**

When the lead agency receives a complaint or opens an investigation where there is alleged misconduct by a TPD member, the lead agency will notify the TPD commander and the employing agency as soon as possible.

At the completion of each investigation the lead agency will apprise the TPD commander and the employing agency of the findings.



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MICHAEL A. CREBS  
Commander Portland Police  
Transit Police Division



**CITY OF MILWAUKIE**

*"Dogwood City of the West"*

**Resolution No.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE MAYOR TO SIGN AND EXTEND THE INTERGOVERNMENTAL AGREEMENT WITH THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON TO PROVIDE POLICE SERVICES TO THE TRIMET POLICE DIVISION .**

**WHEREAS**, the City of Milwaukie is developing strategies to provide high quality livable communities; and

**WHEREAS**, the City Council has directed city staff to develop cost effective programs to improve the community livability and safety; and

**WHEREAS**, TriMet and the City of Milwaukie cooperate to provide safety programs on TriMet conveyances and properties;

**Now, Therefore, be it Resolved** that the City Council authorizes the Mayor to sign and extend the intergovernmental agreement with TriMet to receive reimbursement for personnel services.

Introduced and adopted by the City Council on **October 6<sup>th</sup>, 2015**.

This resolution is effective on **October 6<sup>th</sup>, 2015**.

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Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC

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Pat DuVal, City Recorder

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City Attorney



MILWAUKIE CITY COUNCIL  
**STAFF REPORT**

Agenda Item: **RS 3. C.**  
Meeting Date: October 6, 2015

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Intergovernmental Agreement with Clackamas County for using Youth Offenders Work Crews for the Project Payback Program**

From: Gary Parkin, Public Works Director

Date: September 22, 2015 for the October 6, 2015 meeting

### **ACTION REQUESTED**

Grant approval for the City Manager to enter into an Intergovernmental Agreement (IGA) with Clackamas County for the use of Youth Offender Work Crews for the Project Payback Program.

### **HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

No specific Council action noted, however over the past several years the City budget has included a line item for this program.

### **BACKGROUND**

Clackamas County Juvenile Department, in collaboration with its partners, offers Project Payback Program services primarily to hold youth offenders accountable to pay back their victims for any financial losses resulting from the youth's criminal behavior. The program strives to do this through work projects that are meaningful to the community and simultaneously build the work and social competencies of the referred youth.

The County seeks partners in the community that will furnish work that provides support to community members in need, will enhance and beautify public spaces, support community events or activities, build infrastructure for public spaces, and engage advanced skill sets which can be taught to crew members.

The program provides low cost work crews (\$340/day) consisting of at least two adult staff and between four and eight youth. The program provides income to youth offenders to pay back their victims and provides job-skill learning opportunities. It is a low maintenance partnership for the City to join as the County provides complete management.

The proposed IGA is in support of Facilities Division work. This program has been used in the past, as recently as last fiscal year. The work provided has been related to landscape maintenance in the right-of-way or within City properties not covered by the annual landscape maintenance contract, primarily blackberry removal from City property. It is anticipated that work done under this IGA would be similar.

Code enforcement has a similar IGA in place with the County for the adult program but there is no current City agreement with the youth program.

**CONCURRENCE**

Facilities has an established positive relationship with this program.

**FISCAL IMPACTS**

Contract limit is supported by the Facility budget (Material and Services, Facility Repair line). This is an expense that was anticipated and the City controls use of the program.

**WORK LOAD IMPACTS**

Using this program has resulted in work load reduction in the past as the program is easy to schedule and the work crews are managed completely by the County Correction personnel.

**ALTERNATIVES**

Work without this option, deferring work as necessary.

**ATTACHMENTS**

1. Intergovernmental Agreement (IGA) with Clackamas County
2. Resolution

# ATTACHMENT 1

## INTERGOVERNMENTAL AGREEMENT BETWEEN CLACKAMAS COUNTY, OREGON AND THE CITY OF MILWAUKIE, OREGON FOR THE PROVISION OF YOUTH WORK CREWS FOR THE PROJECT PAYBACK PROGRAM

### I. Purpose

This agreement is entered into between Clackamas County (COUNTY), by and through its Juvenile Department and the City of Milwaukie (CITY) for the cooperation of units of local government under the authority of ORS 190.010. This agreement provides the basis for the Juvenile Department, Project Payback, Green Corp Program, or COUNTY contractor to provide supervised Youth Offender Work Crews (Work Crew) to perform general labor at sites under the control of the CITY.

### II. Scope of Work and Cooperation

A. CITY agrees to accomplish the following work under this agreement:

1. Identify Work Crew projects, such as litter patrol, brush cutting/clearing, painting, ivy removal and leaf pick up/removal in Milwaukie. Projects may include event set up, light construction, or other mutually agreed upon work.
2. Schedule Work Crew projects on a mutually agreed upon schedule.
3. Provide needed materials.
4. Obtain right of entry for work done on property not owned or controlled by the CITY.

B. COUNTY agrees to:

1. Provide a Work Crew supervisor to supervise the Work Crews.
2. Provide a work crew to perform general labor on a mutually agreed upon schedule. Work crew size will average four youths. Total labor hours per crew will average twenty-four (24) labor hours.
3. Provide necessary equipment needed by the Work Crew.
4. Use best efforts to resolve any dispute with CITY should Work Crews not complete a project to CITY'S substantial satisfaction.

III. Compensation

A. Compensation. CITY agrees to pay COUNTY an amount not to exceed \$340.00 per day for up to 26 days, total amount not to exceed \$8,840.00 for the services set forth in this Agreement.

B. Payments. Interim payments shall be made on the basis of requests for payment submitted as follows:

1. COUNTY may bill quarterly, including itemized detail of hours worked.
2. All requests for payment are subject to the approval of CITY consistent with the terms of this Agreement.
3. CITY payments shall be mailed to:

Clackamas County Juvenile Department, 2121 Kaen Road, Oregon City  
OR 97045; Attn. Crystal Wright

IV. Liaison Responsibility

Gary Parkin will act as liaison from CITY for this project. Mark McDonnell will act as liaison from the COUNTY.

V. Special Requirements

A. Hazardous Materials. No Work Crew provided under this agreement shall be required to clean up any work site when known or suspected hazardous materials are present.

B. Conformance to Laws. COUNTY and CITY agree to comply with all applicable local, state and federal ordinances, statutes, laws and regulations. Specifically, COUNTY shall comply with Oregon Public Contracting Provisions pursuant to the requirements in ORS 279B.020 and 279B.220 through 249B.235.

C. Indemnification. CITY agrees to indemnify, save harmless and defend the COUNTY, its officers, commissioners, and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault, or negligence of CITY or its employees. COUNTY agrees to indemnify, save harmless, and defend the CITY, its officers, commissioners, and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors,

omissions, fault, or negligence of COUNTY or its employees subject to the limitations if applicable set forth in Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 to 30.300.

- D. Insurance. Each party agrees to maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.269 through 30.274. COUNTY will provide liability insurance for those individuals on the work site for the purposes of all activities undertaken pursuant to this agreement and also provide adequate automobile insurance for any transport vehicle used to transport the Work Crews. If applicable, workers' compensation insurance shall also be provided. It is agreed to the extent permitted by law that COUNTY'S self-insurance shall meet the obligations of this paragraph.
- E. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this agreement shall be clearly identified and readily accessible. Such reports and documents should be retained for a period of three (3) years after receipt of final payment under this agreement, provided that any records and documents that are subject to audit findings shall be retained for a longer time until such audit findings are resolved.
- F. Access to Records. The COUNTY shall have access to the books, documents, papers, and records of the CITY which are directly pertinent to the agreement for the purpose of making audit, examination, excerpts, and transcripts.

#### VI. Amendment

This agreement may be amended at any time with the concurrence of both parties. Amendments become a part of this agreement only after the written amendment has been signed by both parties.

#### VII. Term of Agreement

- A. Effective date. This agreement becomes effective July 1, 2015 or upon final signature whichever is later, and continues until June 30, 2016, unless amended or terminated in accordance with this Agreement. This IGA can be renewed for up to two (2) additional one year terms with the written approval of both parties.
- B. Termination. This agreement is subject to termination by either of the parties following thirty (30) days written notice to the other.

#### VIII. Debt Limitation of Oregon Counties

This Agreement is expressly subject to the debt limitation of Oregon Counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore.

*WHEREAS, the aforementioned is hereby agreed upon by both parties and executed by the duly authorized signatures below.*

**CITY OF MILWAUKIE**

**CLACKAMAS COUNTY, OREGON  
BOARD OF COUNTY COMMISSIONERS**

Chair: John Ludlow  
Commissioner: Jim Bernard  
Commissioner: Paul Savas  
Commissioner: Martha Schrader  
Commissioner: Tootie Smith

\_\_\_\_\_  
Bill Monahan, City Manager

Signing on Behalf on the Board:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved as to form:

Kim Ybarra, 4/16/2015  
County Counsel

ATTACHMENT 2



**CITY OF MILWAUKIE**

*"Dogwood City of the West"*

**Resolution No.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH CLACKAMAS COUNTY FOR USE OF YOUTH WORK CREWS FOR THE PROJECT PAYBACK PROGRAM.**

**WHEREAS**, Clackamas County has instituted a program that allows for youth offenders to participate in work crews; and

**WHEREAS**, the work crews provide a positive experience for the youth offenders and the community benefits from restitution payments and work projects; and

**WHEREAS**, the program provides a service that is mutually beneficial for the City, performing work that complements a small Facilities crew with a managed work crew;

**Now, Therefore, be it Resolved** that the City Manager is authorized to enter into an Intergovernmental Agreement with Clackamas County for the purpose of utilizing the Youth Offenders Work Crews for the Project Payback Program.

Introduced and adopted by the City Council on \_\_\_\_\_.

This resolution is effective on \_\_\_\_\_.

\_\_\_\_\_  
Mark Gamba, Mayor

ATTEST:

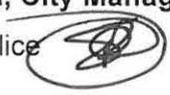
APPROVED AS TO FORM:  
Jordan Ramis PC

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

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

**RS 3. D.**  
**October 6, 2015**



**To:** Mayor Gamba and Milwaukie City Council  
**Through:** **Bill Monahan, City Manager**  
**From:** Steve Bartol, Chief of Police   
**Date:** September 16, 2015  
**Subject:** **O.L.C.C. Application – The Office – 10598 SE 32<sup>nd</sup> Ave.**

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**Action Requested:**

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from The Office – 10598 SE 32<sup>nd</sup> Ave.

**Background:**

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



**Regular Session  
Agenda Item No.**

**5**

**Public Hearing**



MILWAUKIE CITY COUNCIL  
STAFF REPORT

Agenda Item: **RS 5. A.**  
Meeting Date: **October 6, 2015**

To: Mayor and City Council

Through: Bill Monahan, City Manager  
Alma Flores, Community Development Director  
Dennis Egner, Planning Director

Subject: **Moving Forward Milwaukie: Central Milwaukie Plan and Code Amendments (CPA-2015-001, ZA-2015-001)**

From: Vera Kalias, Associate Planner

Date: September 28, 2015

### **ACTION REQUESTED**

Open the public hearing for application CPA-2015-001, ZA-2015-001. Discuss the proposed amendments to the Central Milwaukie use standards and design and development standards. Take public testimony and provide direction to staff regarding desired revisions to the proposed amendments.

This is the second hearing on the central Milwaukie plan and code amendment package. The draft ordinance and Findings of Approval will be provided at a final hearing on the amendments at a later date.

### **HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

Council has discussed the Central Milwaukie Plan and Code Amendments on numerous occasions since 2014. Recent decisions and key points of direction for Central Milwaukie are listed below.

**September 1, 2015:** At the public hearing, Council discussed the draft [Central Milwaukie Land Use and Transportation Plan](#), proposed amendments to the Comprehensive Plan, and proposed amendments to the Transportation System Plan. Council requested additional information and revised code language regarding warehouse use in the Flex Space Overlay, maximum building height, and commercial parking facilities in the General Mixed Use Zone.

**July 14, 2015:** The Planning Commission unanimously recommended approval of the central Milwaukie plan and code amendments.

### **BACKGROUND**

See the [September 1, 2015 staff report](#) for a discussion of project background and the public process and outreach, as well as all of the proposed amendments. During the September 1 public hearing, there was public testimony and Council discussion about the *Central Milwaukie Land Use and Transportation Plan*, Comprehensive Plan – Chapter 4 policies, recommended Transportation System Plan (TSP) projects, and proposed zoning code amendments.

## **A. Existing Code History**

Currently, there are three commercial zones (General Commercial CG, Residential-Office-Commercial R-O-C, Community Shopping Commercial C-CS), two residential zones (R-1 and R-2), and one overlay (Mixed Use Overlay MU) in Central Milwaukie. The R-O-C Zone and associated MU Overlay have specific requirements for and limitations on the type of development that can locate there, including very specific development types. The CG Zone is very permissive in terms of allowed uses, but has very few development and no design standards. The proposed code amendments address these differences with a new zone (General Mixed-Use Zone GMU), a new overlay (Flex Space Overlay FS), and new design and development standards.

The proposed amendments will not apply to the C-CS, R-1, or R-2 zones.

## **B. Proposed Amendments**

The City is proposing amendments to its existing Central Milwaukie zones and use standards to: establish new, consistent zoning; allow a broader range of residential and mixed use development; establish new design and development standards; and streamline the review process for development on two key opportunity sites. The amendments are intended to implement the vision of the *Central Milwaukie Land Use and Transportation Plan*, which is also proposed for adoption as part of this amendment package.

## **KEY ISSUES**

### **Summary**

The following key issues have been identified for the Council's deliberation. During the September 1 public hearing, Council reviewed the draft amendments and provided direction to staff regarding potential revisions. Staff has identified the following key issues on which Council direction is being requested.

- A. Is warehousing an appropriate use in the Flex Space Overlay if it is accessory to an allowed use? If this is allowed, should there be a maximum size?
- B. Should the proposed additional height bonus, resulting in a maximum 5-story height limit, be allowed only in specific areas or should it be allowed everywhere subject to a Building Height Variance? Should building step backs be required?

### **Analysis**

#### **A. Is warehousing an appropriate use in the Flex Space Overlay if it is accessory to an existing allowed use? If this is allowed, should there be a maximum size?**

At the September 1 public hearing, Council provided direction that standalone warehousing would not be permitted in the Flex Space Overlay. However, Council indicated it would consider language allowing warehouses that are accessory to an existing permitted use in the overlay. The following draft language is provided for Council discussion, and would be included in the newly proposed MMC 19.404:

## **Accessory Uses**

*Uses accessory to and in conjunction with uses permitted outright may include the following:*

*Warehousing and distribution associated with a permitted manufacturing use. Products stored at and distributed from the warehouse shall be those assembled or manufactured at the facility permitted in the overlay zone. The accessory warehouse may be located within the associated manufacturing building or in a separate building and shall occupy up to a maximum of 25% of the floor area of the associated manufacturing building, or 10,000 sf, whichever is less.*

### Questions for Council

1. Should warehousing as an accessory use be permitted in the Flex Space Overlay?
2. If so, should there be a maximum size?

### **B. Should the proposed additional height bonus, resulting in a maximum 5-story height limit, be allowed only in specific areas or should it be allowed everywhere subject to a building height variance? Should building step backs be required?**

In order to encourage the provision of residential uses and green building certification, no changes to the base maximum building height is proposed, but the amendments include a height bonus of 1 story for either the inclusion of residential uses or green building certification. The current proposed language states that the bonus only applies to development that is a minimum of 50 ft away from a residential zone.

At the September 1 public hearing, Council indicated a willingness to discuss a maximum height of 5 stories for buildings that were located far enough away from the street to avoid an out-of-scale appearance. Council requested information from staff regarding setbacks for 5-story buildings.

In order to determine appropriate setbacks, staff looked at street cross-sections with a building constructed at the base maximum height of 3 stories/45 ft and its relationship to a 5 ft tall pedestrian across the street. Both 37<sup>th</sup> Ave and Monroe St are collector streets, which have a right-of-way width of 60 ft.<sup>1</sup> When we include the 60-ft right-of-way width, this results in an "effective setback" of 75 ft for a 3-story building from the far sidewalk when accounting for the minimum 15 ft setback required (i.e. 60 ft + 15 ft = 75 ft).

Using this ratio to establish a sight line to a 4-story and a 5-story building results in effective setbacks from the sidewalk across the street of 100 ft and 145 ft respectively. This also maintains an angle of vision of less than 30 degrees. People typically feel more comfortable if the surrounding buildings are no higher than 45 degrees above the horizontal. This achieves a satisfactory proportion in the relationship of building heights to the street line.<sup>2</sup> Please refer to Table 1 and Figure 1 for details.

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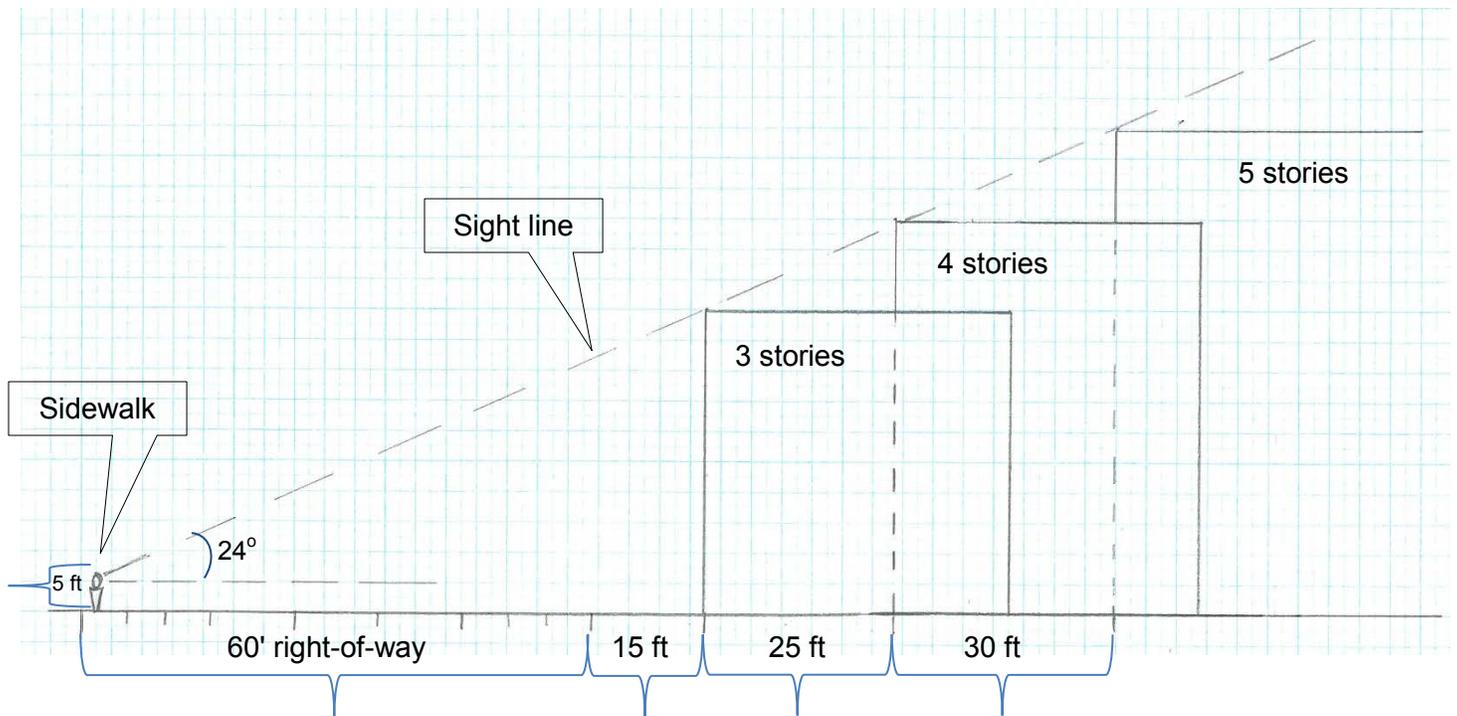
<sup>1</sup> The 60 ft right-of-way width applies with the proposed Monroe Street Neighborhood Greenway as well.

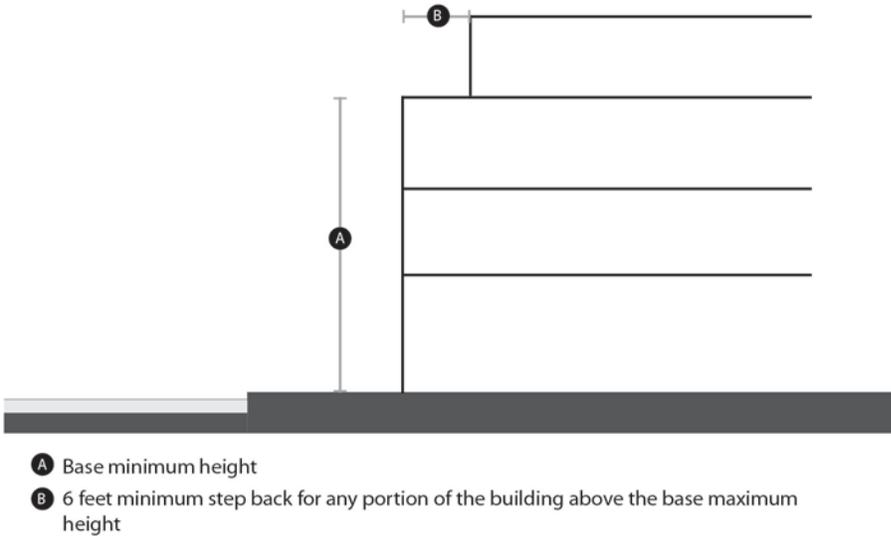
<sup>2</sup> Jan Gehl, *Cities for People*, Island Press. 2010.

**Table 1. Setbacks and Building Height**

Building Height	Setback from Sidewalk Across the Street	Actual Setback
3 stories/45 ft	75 ft	15 ft
4 stories/57 ft	100 ft	40 ft
5 stories/69 ft	145 ft	85 ft

**Figure 1. Setbacks and Building Height**





Regarding the mechanism to allow the additional bonus story for a maximum building height of 5 stories, there are two options for Council's consideration:

- allow 5-story buildings throughout the GMU with a Type III Building Height Variance; or
- allow 5-story buildings only in certain locations, such as the McFarland and Murphy sites

Allowing 5-story buildings throughout the GMU with a Type III Building Height Variance was discussed at the September 1 public hearing. This would require approval criteria specific to central Milwaukie, as the criteria developed through the downtown code amendment process do not neatly apply to central Milwaukie. Should Council go in this direction, staff would need to craft these criteria to ensure that the criteria provide sufficient information for applicants, staff, and the Planning Commission. This review process would include review against compatibility and design criteria to ensure that buildings permitted with an additional height bonus meet very specific criteria.

To date, the vast majority of the discussion about 5-story buildings has been about the Murphy and McFarland opportunity sites. The Council may wish to consider restricting 5-story buildings to only these sites, subject to specific development standards, such as setbacks and building step backs as discussed above.

#### Questions for Council

1. Should the 5-story maximum building height be allowed only on the Murphy and McFarland sites?
2. Should the 5-story maximum building height be allowed throughout the GMU subject to a Type III building height variance?
  - a. If so, what should the approval criteria be?
3. Should buildings include a 6-ft step back for floors above the base maximum building height?
4. Are the following building setbacks appropriate: 3 stories: 15 ft; 4 stories: 40 ft; 5 stories: 85 ft.

## **CONCURRENCE**

The Planning Commission has recommended approval of the amendments; the Engineering Department and the Building Official have reviewed the proposal and concur.

## **FISCAL IMPACTS**

These amendments are part of the Moving Forward Milwaukie project scope. An outcome of adoption of these amendments is increased flexibility for new development, which may make new development more likely.

## **WORK LOAD IMPACTS**

It is anticipated that the streamlined code and land use review procedures will result in increased development activity in central Milwaukie. This would result in an increased workload for Planning, Engineering, and Building Department staff.

## **ALTERNATIVES**

The proposed amendments are the result of public input by numerous individuals over many months, as well as dozens of hours of consideration by the project advisory committee and the Planning Commission. As the body with final approval authority on the amendments, Council may wish to direct staff to consider alternative approaches to any portion of the proposed code. Changes to the proposed amendments would require direction from Council about the desired change, and would require the adoption hearing to be continued to a future date.

## **ATTACHMENTS**

1. Please refer to the [September 1, 2015 staff report](#).