

# REGULAR SESSION



**MILWAUKIE CITY COUNCIL  
REGULAR SESSION**

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

**AGENDA  
October 1, 2013**

2,159<sup>th</sup> Meeting

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

**2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**

- A. Portland General Electric Agreement Award** **2**
- B. Domestic Violence Awareness Proclamation** **3**
- C. National Archives Month Proclamation** **4**
- D. National Community Planning Month Proclamation** **5**
- E. Portland Milwaukie Light Rail Update** **6**  
Staff: Light Rail Design Coordinator Stacy Bluhm
- F. Street Surface Maintenance Program Annual Report** **7**  
Staff: Engineering Director Jason Rice

**3. CONSENT AGENDA**

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

- A. City Council Meeting Minutes** **18**
  - 1. August 20, 2013, Work Session;**
  - 2. August 20, 2013, Regular Session; and**
  - 3. August 22, 2013, Study Session**
- B. A Resolution Approving the City Manager to Enter into an Agreement with Portland General Electric for Purchase of Clean Wind Renewable Power** **33**
- C. A Resolution Assessing the Costs of Abatement of the Nuisance Located at 12191 SE Grove Loop and Entering the Same on the Docket of City Liens Pursuant to Milwaukie Municipal Code § 8.04.200(D)** **45**

**4. AUDIENCE PARTICIPATION**

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

**5. PUBLIC HEARING**

*Public Comment will be allowed on items under this part of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.*

**A. None scheduled**

**6. OTHER BUSINESS**

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

**A. Council Reports**

**7. INFORMATION**

**8. ADJOURNMENT**

**Meeting Information**

- 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 are allowed to attend Executive Sessions 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.
  - Executive Sessions are closed to the public.
- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503-786-7555
- During meetings the Council asks that all pagers and cell phones be set on silent mode or turned off.

2.

PROCLAMATIONS,  
COMMENDATIONS,  
SPECIAL REPORTS,  
AND AWARDS



RS 2. A.

# Certificate of Partnership

presented to

## City of Milwaukie, Oregon

By the U.S. Environmental Protection Agency's Green Power Partnership  
in recognition of efforts to reduce the risk of climate change  
through the use of green power.

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Elizabeth Craig, Acting Director  
Climate Protection Partnerships Division, EPA

RS 2



RS 2. B.

## PROCLAMATION

**WHEREAS**, domestic violence is a tragic and serious crime that affects millions of American of all races, ages, gender, and income levels; and

**WHEREAS**, children in violent homes are especially at risk to suffer abuse and neglect at a rate higher than the national average; and

**WHEREAS**, domestic violence costs this nation billions of dollars annually in medical expenses, police and court costs, shelters, foster care, sick leave, absenteeism, and non-productivity; and

**WHEREAS**, only a coordinated community effort will put a stop to these heinous crimes that have such a detrimental impact on more than just the family involved; and

**WHEREAS**, Domestic Violence Awareness Month provides an excellent opportunity for citizens to learn more about preventing domestic violence and to show support for the numerous organizations and individuals who provide critical advocacy, services, and assistance to victims.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and City Council of the City of Milwaukie, in the County of Clackamas, in the State of Oregon, that the month of October 2013 is proclaimed as Domestic Violence Awareness Month and all citizens are urged to work together to eliminate domestic violence from our community.

Introduced and adopted by the City Council on October 1<sup>st</sup>, 2013

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Jeremy Ferguson, Mayor  
City of Milwaukie

ATTEST:

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Pat DuVal, City Recorder



RS 3



RS 2. C.

## PROCLAMATION

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

**WHEREAS**, archival institutions provide information about and access to historical materials that document Milwaukie's history in an era of constantly evolving information technology; and

**WHEREAS**, municipal and local archival institutions manage records that possess legal, administrative, fiscal and historic value, crucial for understanding the past and for providing guidance for the future; and

**WHEREAS**, municipal and local archival institutions assist the people of the City of Milwaukie in preserving the resources that document their everyday lives and activities; and

**WHEREAS**, the City of Milwaukie Office of the City Recorder, established with this municipal government in 1903, sees the proclaiming of American Archives Month in this City as a means of promoting the appreciation and preservation of historical material;

**NOW, THEREFORE, BE IT RESOLVED** that the month of October 2013 is hereby designated as National Archive Month in the City of Milwaukie in conjunction with the nationwide American Archive Month celebration.

Introduced and adopted by the City Council on October 1<sup>st</sup>, 2013

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Jeremy Ferguson, Mayor  
City of Milwaukie

ATTEST:

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Pat DuVal, City Recorder



American Archives Month  
*in* **MILWAUKIE**



RS 2. D.

## 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 2013 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 1<sup>st</sup>, 2013

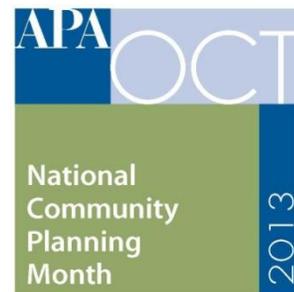
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Jeremy Ferguson, Mayor  
City of Milwaukie

ATTEST:

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Pat DuVal, City Recorder



[ PEOPLE AND PLACES ]



Agenda Item: WS 2. E.  
Meeting Date: 10/1/13

## **COUNCIL AGENDA ITEM SUMMARY**

**Issue/Agenda Title:** Portland-Milwaukie Light Rail Transit Project Update

**Prepared By:** Stacy Bluhm, Light Rail Construction Manager

**City Manager Approval:** Bill Monahan

**Reviewed by City Manager:**

### **ISSUES BEFORE THE COUNCIL**

Staff will present an update to City Council on the latest Portland-Milwaukie Light Rail Transit project construction efforts and the anticipated street closures in Milwaukie.

### **STAFF RECOMMENDATION**

This item is informational; for discussion purposes only.

### **KEY FACTS & INFORMATION SUMMARY**

Milwaukie's Light Rail Construction Manager will provide an update on the most recent PMLRT construction efforts as well as discuss the upcoming closure of 21<sup>st</sup> Avenue & Adams Street (scheduled for Oct 21<sup>st</sup> through November 3<sup>rd</sup>). An update on the status of the Kellogg Lake Pedestrian & Bike Bridge will be presented as well.

### **OTHER ALTERNATIVES CONSIDERED**

Not applicable.

### **CITY COUNCIL GOALS**

Not applicable.

### **ATTACHMENT LIST**

None.

### **FISCAL NOTES**

No new fiscal issues.



Agenda Item: RS 2. F.  
Meeting Date: October 1, 2013

## **COUNCIL AGENDA ITEM SUMMARY**

**Issue/Agenda Title:** Street Surface Maintenance Program

**Prepared By:** Jason Rice, Engineering Director

**Dept. Head Approval:** Steve Butler, Community Development Director

**City Manager Approval:** Teri Bankhead Assistant to the City Manager for Bill Monahan

**Reviewed by City Manager:** September 18, 2013

### **ISSUE BEFORE THE COUNCIL**

Council requested that an extra presentation in addition to the required yearly update be made regarding the Street Surface Maintenance Program, with a specific focus on options for accelerating the program.

### **STAFF RECOMMENDATION**

Due to the following findings:

- The program is meeting its goals ahead of schedule
- Project material costs have yet alter the programs ability to meet its goals
- The program is currently sustaining the City's street network PCI goals
- Adding large amounts of funding to the program could cause an undue burden on the future of the program as well as other utilities

Staff recommends that the program continue at its current funding level.

If any of these factors were to change, Staff will reassess this recommendation, and present the findings at the next available SSMP Annual Report to Council.

### **KEY FACTS & INFORMATION SUMMARY**

The program is ahead of its goal of bringing major streets up to a Pavement Condition Index (PCI) rating of 75 by the year 2017.

Advanced financing of the Street Surface Maintenance Program was explored as a part of this report. Three options for financing the program, their benefits and drawbacks are described as a part of the "Financial" section of this report.

### **OTHER ALTERNATIVES CONSIDERED**

None.

### **CITY COUNCIL GOALS**

The goal of the City's SSMP is to bring all major streets to a point where the cost efficiencies of preventative maintenance are enjoyed and maintained at that level.

**ATTACHMENT LIST**

None

**FISCAL NOTES**

The program goals can be met at its current funding level. Additional funding would help bring the network PCI up to a “good” rating at a faster rate, however, at a certain point other utilities would not be able to keep up with the accelerated schedule and some streets would be paved over with inadequate water and sewer lines.



**To: Mayor and City Council**

**Through: Bill Monahan, City Manager**  
**Steve Butler, Community Development Director**

**From: Jason Rice, Engineering Director**

**Subject: Street Surface Maintenance Program**

**Date: October 1, 2013**

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#### **ACTION REQUESTED**

None.

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

**August 6, 2013:** Council made a request for Staff to return at a later date after researching advanced financing alternatives for the Street Surface Maintenance Program.

**March 5, 2013:** Staff presented the sixth annual SSMP report to Council

**February 7, 2012:** Staff presented the fifth annual SSMP report to Council

**February 1, 2011:** Staff presented the fourth annual SSMP report to Council

**February 2, 2010:** Staff presented the third annual SSMP report to Council

**December 16, 2008:** Staff presented the second annual SSMP report to Council

**December 18, 2007:** Staff presented the first annual SSMP report to Council

**January 2, 2007:** The City of Milwaukie’s Street Surface Maintenance Program was adopted by Ordinance No. 1966, effective on July 1, 2007.

## **BACKGROUND**

During the August 6<sup>th</sup>, 2013 Regular Session, Council made a request for additional information with regards to the potential of advanced financing the City’s Street Surface Maintenance Program. While researching financing options, Staff came to the following conclusions:

1. The Program is ahead of schedule for meeting its original PCI goals
2. A large surge in paving projects would likely cause conflicts with other utilities
3. Financing would likely cost the City more over time because inflationary rates have historically been lower than interest fees.

Detail for each of the three financing options available to the City, can be found in the “Alternatives” section of this report.

The City of Milwaukie’s Street Surface Maintenance Program (“SSMP” or “program” for the purposes of this report) was adopted by ordinance on January 2, 2007 and took effect on July 1, 2007. The ordinance provided the basis for determining a street maintenance fee, and instituted an electric utility privilege tax and local gas tax – the proceeds of which are to be used for improving the street surfaces (paving) on Milwaukie’s larger streets.

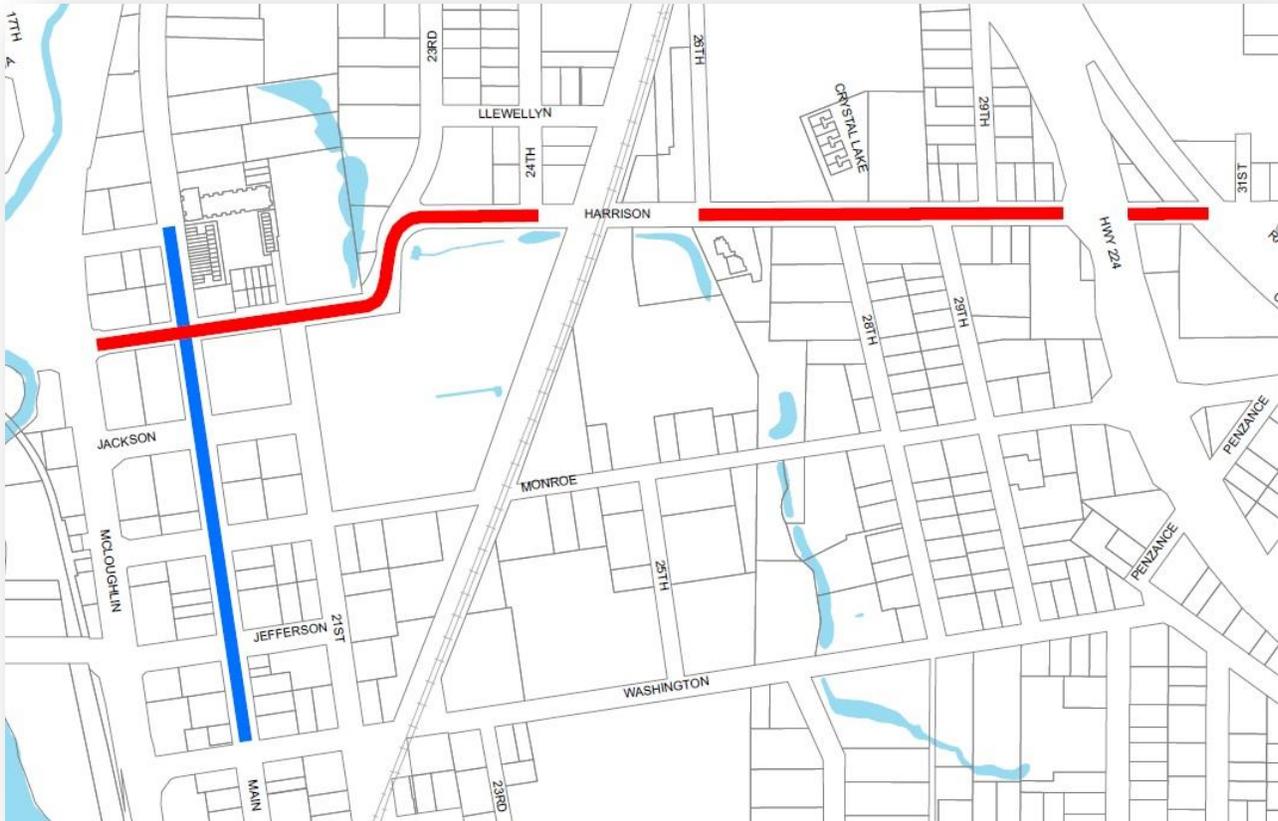
As a requirement of the program, the Public Works Director provides an annual report to the City Council regarding the state of the street network and the Program<sup>1</sup>. The next annual report is schedule to occur in February 2014.

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<sup>1</sup> MMC Section 3.25.020C, 3.25.040

## Currently Under Construction

The contract for Harrison Street Phase 2 (Highway 99E to Campbell Street) and Main Street (Scott Street to Washington Street) was approved by Council at its August 6, 2013 Regular Session. Estimated to cost approximately \$716,000, construction of this project was adjusted to ensure proper coordination with the light rail project. At the time this report is being written, paving of Main Street and Harrison Street (between McLoughlin Blvd. and 23<sup>rd</sup> Ave.) is complete.



## Past, Present and Future Projects

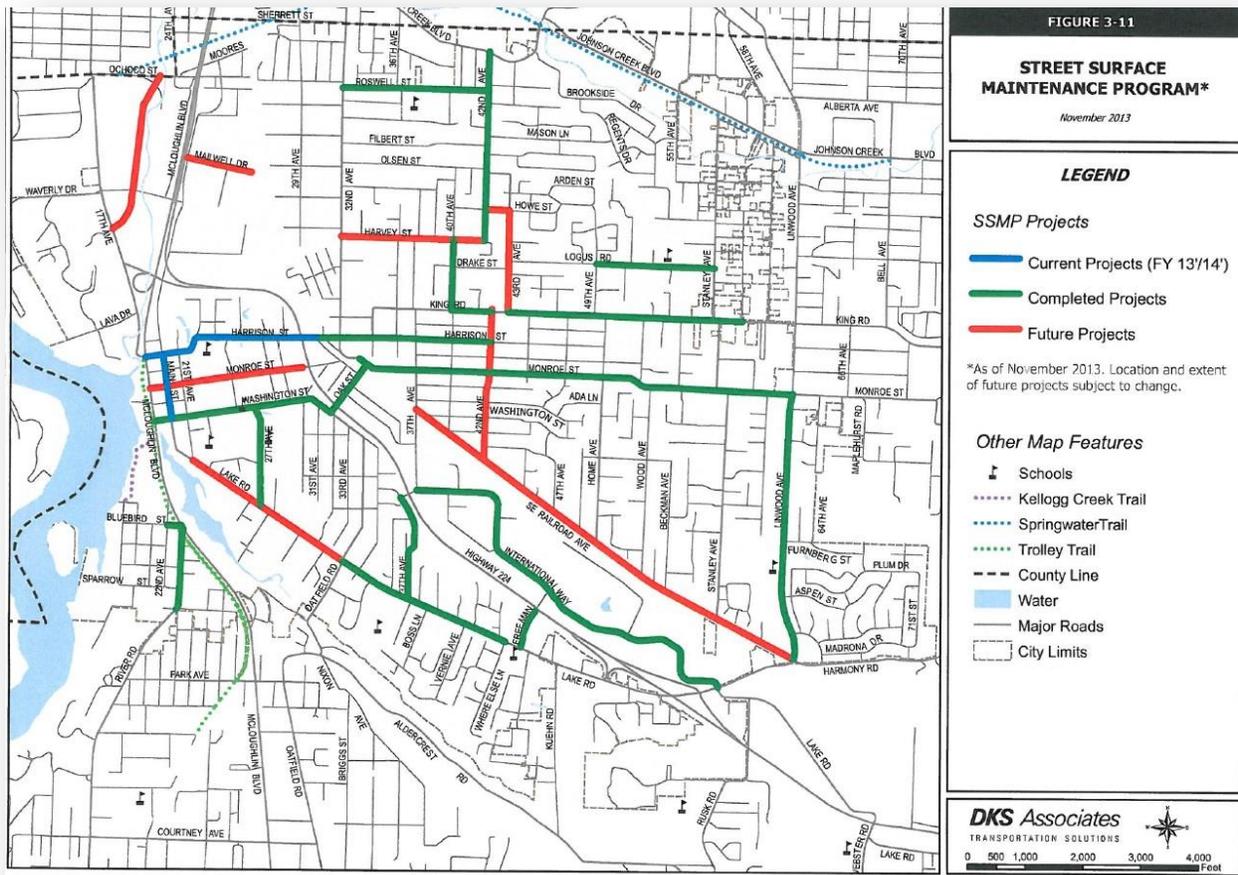


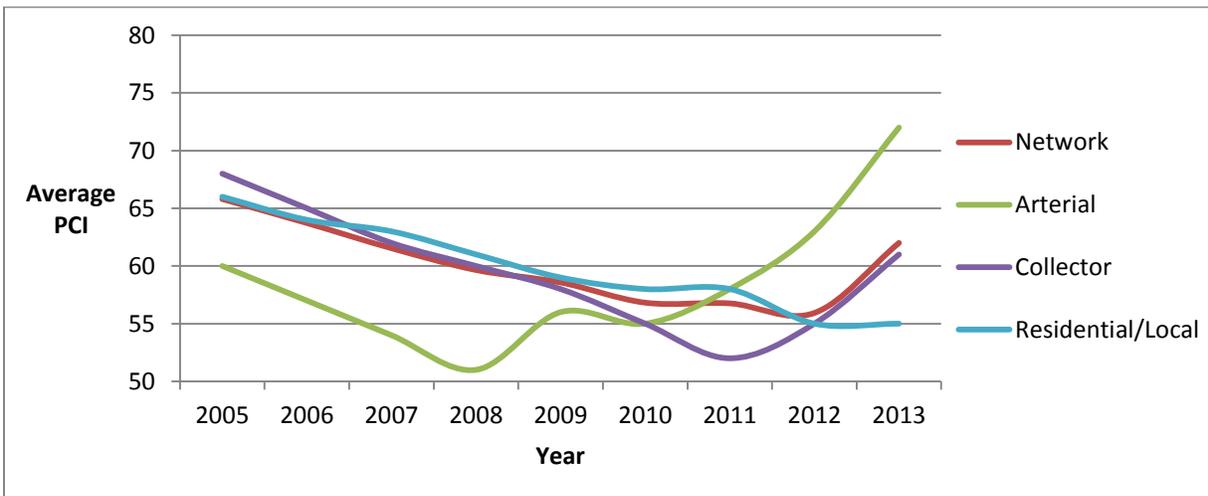
Figure 3-11 from the City's current Transportation System Plan (TSP) showing the progress of the SSMP

## Overall Condition of the Network

The Engineering Department maintains a Pavement Condition Index (PCI) database of the entire network. This database is updated every 3-5 years based on a visual inspection of the network, and every 10 or so years based on more extensive "deflection" testing. The SSMP includes funds to keep this data current, so to inform the project selection criteria. The assessment is typically done by consultants who travel along every street and rate the condition of the pavement and assign a PCI rating reflecting its condition. This data is then processed to provide information on the overall state of the street network so that a scheduled maintenance program can be generated to suit budgetary constraints. This data also allows Staff to coordinate with other scheduled capital projects and to take advantage of opportunities to leverage other funds.

The last comprehensive evaluation of the street network was completed in 2011. At that time, the average PCI for the entire network was rated at a 57 on a scale of 100 and has since risen to 62. In the 2 years since that assessment was conducted, assuming no improvement to the network at all, the network PCI would have dropped about 7 points to 50.

Please note that the average condition of the network includes Arterial, Collector, Neighborhood Routes and Local classified streets. The primary goal of the first ten years of the program is to obtain an average PCI value of 75 for its Arterial and Collector routes only. It appears as though we are going to meet that goal ahead of schedule.



When the program continues beyond its original 10-year plan, staff suggests modifying the method for which streets are selected for treatment, based on their overall benefit to the network PCI in the most cost effective way available. As an example, a street that can be treated with a grind and asphalt inlay today at a fraction of the cost of having to rebuild it in 5 years could make it a stronger candidate for treatment than a street in worse condition that needs to be rebuilt because it has already failed.

**CONCURRENCE**

This report was prepared by SSMP Staff, which includes employees from the Engineering, Community Development, Finance and Public Works Departments.

**FISCAL IMPACT**

The SSMP resides in the City’s Transportation Fund (fund 315), wherein revenues are collected specifically and exclusively for expenditures described in the Program. The three revenue sources are: (1) a street maintenance fee, (2) a local gas tax, and (3) an electric utility privilege tax.

### 1. **Street Maintenance Fee**

Revenue from the Street Maintenance Fee for fiscal year 2012-2013 was projected at \$606,000. The actual revenue collected was \$612,000, 1% higher than projected. Because the number and type of utility user accounts does not fluctuate much from year-to-year, this Fee is most easily predicted.

### 2. **Local Gas Tax**

Revenue from the Local Gas Tax for fiscal year 2012-2013, was projected at \$186,000. The actual revenue collected was \$220,000, 18% higher than projected, due to the collection of some back taxes. Staff still expects that revenue from gas taxes will be lower than what was originally project when the program was set up. Because the City's Local Gas Tax is a set amount per gallon purchased within City limits, it can be assumed that fewer gallons were purchased than projected in the budget.

### 3. **Electric Utility Privilege Tax**

Revenue from the Electric Utility Privilege for fiscal year 2012-2013 was projected at \$327,000. The actual revenue collected was \$315,000, 4% lower than projected. Because this fee is calculated at a percentage of power bills, usage has decreased, the cost per unit has gone down, or a combination of the two has occurred.

On average the program has collected \$1.11M per year, which appears to sustaining the program goal quite well.

## **WORK LOAD IMPACTS**

The workload to implement and manage SSMP projects is substantial for the Engineering Department. Design of all SSMP projects occurs in-house, and includes surveys, design, project management and inspection. Design typically begins in the winter months for projects slated to begin in late spring, with additional project design in the spring for summer projects. It can take up to 3 months to complete a bid-ready set of contract documents for each project.

Members of the Engineering, Community Development, and Public Works form a SSMP Project team, which coordinates the paving schedule with the Capital Improvement Plan, Public Improvement Projects, and other City projects. These project team meetings require staff time for preparation and plan review. These meetings also become more frequent as design periods approach. Although these meetings require additional workload for each department, they are necessary to ensure departmental consensus regarding design decisions for upcoming projects.

Furthermore, coordination within Engineering and the utilities (Storm, Water, and Sewer) is necessary to make decisions regarding timelines of upcoming projects prior to paving a particular street. The utilities can then construct their respective projects prior to a paving project.

## **ALTERNATIVES**

As stated previously, the Program consistently collects approximately \$1.1M across the three funding sources. To date, collection has been monitored and projects have been adjusted to meet available funding. Recently, Council suggested an accelerated funding strategy for the program, perhaps via a bond or loan.

Before explaining the benefits and drawbacks of each funding alternative, a few points should be kept in mind.

- Additional funding for the pavement maintenance could create a large disparity between utility funding, specifically with the water utility. Currently, the water fund is finding it difficult to replace the necessary lines to keep up with the SSMP paving schedule. To avoid this conflict, only streets with adequate underground utilities would be paved, rather than pavement condition triggering action.
- If bonds are issued for 20 years and all the work is done up front, in the latter years the benefit provided by the bonds could be forgotten by the citizens causing some frustration. The City could use a different payback period of 10 years which should help this issue.
- When thinking about accelerated funding options, Council should understand that if the Consumer Price Index (CPI) over the long run is higher than the interest rate, the City would have saved money; if CPI is lower than the interest rate, however, the City would have paid more than if doing the projects over time.
- Bonds cannot fund Staff positions, so all the proceeds would need to be put toward the capital improvements.
- The issuance of bonds, following Council authorization, would take 3 months at the very least but probably closer to 5-6 months.

### **1. Go to the Voters to issue GO Bonds:**

- **Benefits:**
  - This option would have the lowest interest rate – probably around 2.5-2.8% in the current market.
  - A GO Bond would produce a new revenue stream to fund the bonds and debt service would not need to be paid out of street fees or other City revenues.
- **Drawbacks:**
  - We would have to go to the voters for approval which may cause more competition with the light rail obligation measure and would take longer to accomplish.
  - Total amounts issued would be dependent on voter approval.

- Total GO Bond debt is limited to 3% of the City’s real market value, equating to a limit of \$60M.

**2. Issue Double Barrel Revenue Bonds (FFCO):**

- **Benefits:**

- These bonds would have the second lowest interest rate – probably around 3.5% in the current market.
- These bonds would be paid out of the street fee revenue but would be backed by the City’s General Fund.
- These bonds do not require a vote.
- There is no limit on the amount issued.

- **Drawbacks:**

- If these bonds are issued for 20 years and all the work is done up front, in the latter years the benefit provided by the bonds could be forgotten by the citizens causing frustration. We could use a different payback period though.
- These bonds would be paid out of the streets maintenance fees or another City revenue stream.

**3. Issue Revenue Bonds:**

- **Benefits:**

- These bonds do not require a vote like with the FFCO’s.
- There is no impact on the General Fund’s borrowing capacity.

- **Drawbacks:**

- These bonds would have the highest interest rate – probably around 5-6% in the current market.
- These bonds would be only backed by the street fee so ability to market is an even a bigger concern in issuance.
- A track record of debt management and the Fund’s capacity would likely be considered in issuance.
- There is no limit on the amount issued, except for what the Fund can afford.

Assuming a 10-year period, with an average revenue stream of \$1.1M/year, the following table summarizes the estimated costs for each of the alternatives.

|                                  | Interest Rate | Estimated Cost of Interest | 10-Year Program Funding | Total Cost    |
|----------------------------------|---------------|----------------------------|-------------------------|---------------|
| General Obligation Bond          | 2.80%         | \$ 3,234,000               | \$ 11,000,000           | \$ 14,234,000 |
| Full Faith and Credit Obligation | 3.50%         | \$ 4,042,500               | \$ 11,000,000           | \$ 15,042,500 |
| Revenue Bond                     | 5.25%         | \$ 6,063,750               | \$ 11,000,000           | \$ 17,063,750 |

**ATTACHMENTS**

None

3.

# CONSENT AGENDA

**MINUTES**  
**MILWAUKIE CITY COUNCIL WORK SESSION**  
**AUGUST 20, 2013**

**Mayor Ferguson** called the work session to order at 5:40 p.m. in the City Hall Conference Room.

Council Present: Council President Hedges and Councilors Scott Churchill, Mark Gamba, and Mike Miller.

Staff Present: City Manager Bill Monahan, City Attorney Damien Hall, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, Associate Planner Li Alligood, Public Works Director Gary Parkin, Parks and Sustainability Director JoAnn Herrigel, Public Affairs Coordinator Grady Wheeler, Community Development Director Steve Butler, Engineering Director Jason Rice, and Finance Director Casey Camors.

**Ballot Measure Discussion**

**Mr. Wheeler** reported on activities to date and reviewed the proposed Barney & Worth, Inc. scope of work. He discussed capital and neighborhood project costs.

**Council President Hedges** liked the suggested changes to the scope of work.

**Mr. Monahan** wanted to ensure that any costs that were given to the public were the full costs from beginning to conclusion and included project management.

**Council President Hedges** did not want to go out for a bond that was little more than a guesstimate.

The group discussed the Library Expansion Project, square footage, and possible phasing. **Councilor Miller** was concerned about costs if the expansion were put off, and **Councilor Churchill** said there would be about \$.5 million escalation annually to accommodate increases in material costs and inflation. He asked if \$6.5 million for Riverfront Park took into account construction related increases.

**Ms. Herrigel** said construction could not begin until 2015, and she would provide more specificity for the next meeting. She commented on the possible private sector response if a Riverfront Park measure were on the ballot.

**Mr. Monahan** recommended a retreat to discuss a strategy and said it would be difficult to come up with a service reduction plan at this point in time. It might, for example, be a percentage of the general fund.

**Councilor Churchill** commented on the feasibility of putting the projects on sequentially and identifying a relative range of dates.

**Councilor Miller** thought it was important for the survey to have a date range and that the City asked for what it needed.

**Councilor Gamba** understood some Councilors' reticence, but the primary goal was to meet the TriMet commitment.

**Mr. Monahan** discussed the timing issues related to the budget preparation.

**Mr. Wheeler** reported that based on the scope of work there would be a draft communication plan for the City initiatives and work will begin on the poll.

**City Council Work Session – August 20, 2013**

**Draft Minutes**

**Page 1**

## **Design and Landmarks Committee Update**

**Ms. Alligood** was joined by Committee members Becky Ives, Chantelle Gamba, Frank Hemer, Chair, Sherry Grau, and Val Ballestrem. She discussed the Committee's role, membership, and recent activities.

**Mr. Hemer** summarized the elements of the 2013 – 2014 work program. He discussed the feasibility of establishing Milwaukie as a Certified Local Government (CLG) as a key component of the currently inactive historic preservation ordinance update project and potential workload impacts. He commented on the importance of spreading information on the history of Milwaukie. He was particularly interested in preservation and was willing to take on any challenge.

**Ms. Ives** provided an overview of the Storefront Façade Improvement Program that enhanced the entire look of the downtown. The Committee conducted a Downtown Design Review for proposed renovations to the Clackamas Community Federal Credit Union building at 10400 SE Main Street and advised the Planning Commission.

**Ms. Alligood** added the Design and Landmarks Committee would be a good resource as the CCEP project moved forward. Committee members talked about their interests in the community and areas of expertise.

**Council President Hedges** appreciated the Committee's preservation efforts, and **Councilor Miller** supported moving forward on preservation efforts and suggested adding Heritage Trees to the group's list of interests.

**Councilor Gamba** asked what the Design and Landmarks Committee members thought of the Kellogg Bridge girders.

**Ms. Gamba** was happy with them, and **Mr. Hemer** said in 10 years after some weathering, they would be gorgeous.

**Councilor Gamba** challenged the Committee to work on sprucing up McLoughlin Boulevard as identified in the Fresh Look Milwaukie Project.

**Mayor Ferguson** suggested signage to entice people into the downtown area. He encouraged historic resources and suggested looking at the budget to determine if CLG designation were feasible. He found the work plan to be sound.

## **Landscape Contract Discussion**

**Ms. Herrigel** and **Mr. Parkin** reported on the current combination of landscape maintenance responsibilities between City Stormwater staff, contractors, and the intergovernmental agreement with North Clackamas Parks and Recreation District (NCPRD). Staff felt this would be a good time to move to a single contract for landscape maintenance and possibly a separate contract for lawn maintenance. Staff was working on a scope of work that addressed performance measures. Ms. Herrigel reported on research she had done on the City of Seaside and Willamette View landscape practices.

**Mr. Parkin** commented on the City of Seaside's level of service, and he estimated in terms of the budget that there would be about a 25% increase over the previous contract. He reviewed possible options that included contract management in the Public Works Department, possibly adding an FTE to the Stormwater Division, and not renewing the agreement with Clackamas County for correction crew work.

**Councilor Miller** volunteered to work with staff on this matter because of his horticultural background.

**City Council Work Session – August 20, 2013**

**Draft Minutes**

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**Council President Hedges** was concerned the correction crews had no supervision but did have questions about Railroad Avenue roadside maintenance. Some of the intersections were quite overgrown.

**Mr. Parkin** responded that the crews were supervised although the level of work could be higher. He recommended using the correction crews on an as needed basis but without a contract.

**Councilor Churchill** thought some of the performance based language in the maintenance section was a little loose. He also suggested a demonstration project at City Hall to determine a way to use an organic based solution.

**Councilor Gamba** thought performance based work was a good idea and agreed mowing and gardening should be considered as separate contracts. He supported having a central control point.

**Mr. Parkin** was concerned separate mowing and landscaping contracts might result in accountability issues.

**Mayor Ferguson** was supportive of the track.

### **Garbage Rate Proposal - 2013**

**Ms. Herrigel** was joined by **Rick Winterhalter**, Sr. Sustainability Analyst, Clackamas County. Staff reviewed financial information and recommended residential, commercial, and drop box rate increases effective October 1, 2013. The projected rate of return for the coming year for all service areas combined was expected to be 8.4%. During that year staff would increase public outreach to encourage waste reduction, conduct a waste characterization study, and develop a proposal for a yard debris exemption program.

**Ms. Herrigel** discussed possible rate structure options. Option 1 was that presented by staff; option 2 was a differential application with increases based on relative can size and pick up frequency; and option 3 placed increases only on 90 gallon containers.

**Councilor Gamba** thought option 2 began moving the City in the proper direction. Those creating the least waste paid lower rates.

**Councilor Churchill** thought option 3 was a red herring and was not realistic in representing what citizens wanted. He could support either option 1 or option 2.

**Council President Hedges** expressed concern that option 2 did not meet the rate of return. He supported option 1 with the direction for change in the coming year. He could also support option 2.

**Councilor Miller** supported either option 1 or option 2 but felt option 3 was unfair.

**Mayor Ferguson** liked option 2 if it achieved the rate of return and gave the public a sense of the City Council's direction.

**Mr. Monahan** would ask Mr. Wheeler to prepare a press release with this modification and notice that the solid waste rates would be considered on September 3, 2013.

**Ms. Herrigel** would also appreciate Council input on the community involvement element.

### **Road Home Program**

**Russ Isom**, Milwaukie Christian Church, **Angela Trimble**, MSW, Director of Homeless Intervention Services, Northwest Housing Alternatives (NHA), and **Martha McLennan**,  
**City Council Work Session – August 20, 2013**

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Director, NHA, discussed a proposal for a pilot project for a “Road Home” program. They asked the Milwaukie City Council for its support to begin a land use modification application for the Church located at 5197 SE King Road. The modification would allow the use of vehicles as a temporary dwelling and having sanitation facilities. The pilot project would be at one church location and limited to one vehicle. The application would go before the Planning Commission, and the City was asked to waive the processing fee.

The group discussed homeless issues in Clackamas County and the numbers of families living in their cars. The goal was to provide support to families to assist them in transitioning back into a home and back into the community. The Road Home Program would offer a safe place for the night with a responsible party inside the Church. While the application was being processed, Mr. Isom and others would talk with neighbors to discuss the details of the program.

**Ms. Trimble** offered background on NHA and availability of affordable housing. Those interested in the Program would sign an agreement to develop a plan with the help of NHA. If the family was not able to complete the agreed upon tasks, they may be asked to leave the program. Families will be moved to shelters as they became available.

**Councilor Miller** understood neither the Neighborhood District Association (NDA) nor the neighbors had been consulted. He requested a report from Chief Jordan on possible impacts of the Program including increased call loads.

**Mr. Isom** felt it was appropriate to speak with the City Council and get its direction prior to sharing the plan with the neighborhood. Further, he would be happy to speak with Chief Jordan.

**Mr. Butler** outlined the public involvement requirements for a Type 3 permit modification that included a hearing before the Planning Commission.

**Mayor Ferguson** said the intent of this discussion was to put the proposal before the City Council. He suggested partnering with NHA to allow a waiver of the application fees so the public involvement element and Planning Commission hearing could go forward.

**Councilor Gamba** observed homelessness was a critical situation facing the nation. He supported the process in baby steps and supported waiving the fee.

The group discussed affordable housing in the region and available programs.

**Councilor Churchill** thought the transition plan was a good idea and favored the idea of families sleeping in the church structures rather than their cars. He hoped churches would open their doors as he was concerned about encouraging people to live in their vehicles.

**Mr. Isom** found some people did not wish to leave their cars as that was all they had. This program was a step, although maybe not the best, in addressing the situation of homelessness.

**Councilor Churchill** understood one might have all the family’s worldly belongings in that car, but he would prefer to see the people brought inside and their cars parked in a secure place.

**Council President Hedges** thought it was unfortunate that people had gotten upset before having all the information and suggested going to the Lewelling NDA meeting.

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He supported the pilot program, waiving the fee, and scheduling the Planning Commission hearing.

**Councilor Miller** was not opposed to the program as long as it went through the process but was concerned about children living in a car.

The City Council supported the fee waiver, and **Mr. Monahan** recommended a motion at the regular session.

**Mr. Hall** cautioned against conflicts of interest as the application went through the land use process.

**Mayor Ferguson** adjourned the work session at 7:40 p.m.

Respectfully submitted,

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Pat DuVal, Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
AUGUST 20, 2013**

**CALL TO ORDER**

**Mayor Ferguson** called the 2156<sup>th</sup> meeting of the Milwaukie City Council to order at 7:48 p.m. in the City Hall Council Chambers.

Present: Council President Dave Hedges and Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff present: City Manager Bill Monahan, Assistant to the City Manager Teri Bankhead, City Attorney Damien Hall, City Recorder Pat DuVal, Community Development Director Steve Butler, Finance Director Casey Camors, Engineering Director Jason Rice, Associate Planner Li Alligood, and Civil Engineer Brad Albert

Press: Michael Bamesberger, *The Oregonian*

**PLEDGE OF ALLEGIANCE**

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

**A. Presentation of Vietnam War 50<sup>th</sup> Anniversary Commemorative Program Materials – American Legion Post 180**

**Ms. Bankhead, Post Judge Advocate Jerry Craig, and Chuck Leppert** addressed the City Council and explained the purpose of the program and its objectives. To recognize veterans of the Vietnam War, the City of Milwaukie became the first municipality in the Northwest along with its partner American Legion Post 180 to formally enter the United States Department of Defense's Vietnam War Commemorative Partner Program. The City received a partnership document from the Department of Defense, a commemorative proclamation from President Obama, and the Vietnam War 50th Anniversary commemorative flag. **Mr. Craig** introduced the Post 180 Honor Guard.

The Mayor and Councilors supported the program and the City's partnership with the Legion.

**B. Government Finance Officers Association Awards – Certificate of Achievement for Excellence in Financial Reporting and Award for Outstanding Achievement in Popular Annual Finance Reporting**

**Ms. Camors** reported that the City of Milwaukie received the Government Finance Officers Association (GFOA) awards for Excellence in Financial Reporting and for Outstanding Achievement in Popular Annual Finance Reporting for June 30, 2012, reports.

**CONSENT AGENDA**

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

**A. Resolution 67-2013: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving the Award of a Contract for the Construction of 37<sup>th</sup> Avenue and Oak Street Quiet Zone Improvements (CIP-12-004);**

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**B. Resolution 68-2013: A Resolution of the City Council of the City of Milwaukie, Oregon, Accepting a Portable Light Plant from the United States Department of Homeland Security's Urban Areas Security Initiative (UASI) Grant Program.**

**Motion passed with the following vote: Councilors Churchill, Hedges, Gamba, and Miller and Mayor Ferguson voting "aye." [5:0]**

**Mayor Ferguson** was pleased to approve the quiet zone contract.

## **AUDIENCE PARTICIPATION**

**Mr. Monahan** had no follow up from previous City Council meeting. There was no audience participation.

## **PUBLIC HEARING**

### **Adoption of the 2012 Stormwater Master Plan as an Ancillary Document to the Comprehensive Plan and Amend Portions of the Milwaukie Comprehensive Plan Related to Stormwater in Chapters 3 and 5, File #CPA 13-02 – Ordinance**

**Mayor Ferguson** called the public hearing on the legislative Comprehensive Plan Amendment initiated by the City of Milwaukie to order at 8:18 p.m.

He reviewed the purpose and procedures.

#### Conflicts of Interest

No member of the City Council declared a potential or actual conflict of interest as defined by ORS § 244. No member of the audience made any challenge to any Council member's ability to participate in the decision.

#### Correspondence

There was no additional correspondence on the matter other than that included in the packet.

#### Initial Staff Presentation

**Ms. Allgood** and **Mr. Albert** provided the initial staff report and gave a brief overview of the project. The City Council was requested to adopt the 2012 Stormwater Master Plan as an ancillary document to the Comprehensive Plan and establish policy and provision of urban services in the City of Milwaukie. The last Stormwater Master Plan was adopted in 2005, and regulations had changed. Consultants Jim Harper, with Brown and Caldwell, and John Ghilarducchi, with FCS Group, joined the staff.

**Mr. Albert** reviewed the goals and objectives of the project which were to update the existing storm model and geographic information (GIS) system, evaluate the City's underground injection controls (UIC) program in light of updated regulations, assess stormwater retrofit opportunities, and review and update the stormwater Capital Improvement Program (CIP). Additional goals were to evaluate current methods of tracking assets and maintenance needs, evaluate staffing levels, review and update utility rates to address staffing and capital needs, and develop an updated Master Plan to document findings and recommendations. He reviewed the project scope.

**Mr. Albert** summarized the evaluation and findings. Thirteen CIP projects were identified to alleviate existing or future pipe capacity deficiencies, and he noted 8 projects were in the 2004 Stormwater Master Plan. Individual projects were consolidated into 17 integrated CIP projects for cost estimating and ranking. CIP ranking criteria and final project prioritization were based on project concurrence and ability to address low hanging fruit projects in a timely manner. He reviewed Table 7-3,

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**Page 2 of 6**

CIP Priority Ranking. The staffing analysis indicated a 1.4 – 2.1 FTE for maintenance and 0.7 FTE in Engineering to support new regulatory requirements and proposed CIP projects. He reviewed the deliverables that included the updated Stormwater Master Plan and Comprehensive Plan amendments to Chapters 3 and 5.

**Mr. Ghilarducchi** showed a schematic of the financial analysis and determination of the full cost of service that was the total of capital costs, operating costs, and policy requirements such as reserves. The current rate was \$11.44 per equivalent service unit (ESU) which was equal to 2,076 square feet of impervious surface area, the average for a single family residence in Milwaukie. The current system development charge (SDC) was \$1,184 per ESU, and the recommendation was to lower that charge. He reviewed Table X, Funding Analysis Level of Service. The four levels were current, minimum, recommended, and proactive and if each were funded by cash only or debt funded. The scenarios were forecasted from the present to the end of the study period FY 2021 – 2022. He reviewed the proposed SDC based on the \$765 per ESU for the recommended level. He discussed the fee in lieu of construction (FILOC) which was a one-time fee paid at the time of development. The stormwater FILOC was applied only to impervious area requiring treatment in the right-of-way.

**Councilor Gamba** referred to the prioritized projects at the recommended level and asked of those projects below the line how many were a problem in 2004. He asked about the separation distance between water wells and UICs.

**Mr. Harper** replied Washington Street was the only one identified in 2004. He discussed UIC proximity of water wells and risk evaluation.

**Angela Wieland**, Brown and Caldwell, reported the Stanley Willow UIC has had maintenance issues in the past so was recommended for decommissioning. This was considered a proactive solution. The inventory of private wells has not been completed which identified a smaller separation distance. The Meek Street project was proposed in the 2005 Master Plan. One portion of the pipe had less slope, so there was still some flooding as the pipe did not convey water well.

**Mr. Harper** added it was only a small portion of the project, and flat pipe did not have the same capacity. This was a rerouting to help get the flow off the system and less flow to that pipe.

#### Conduct of Hearing

**Mayor Ferguson** reviewed the conduct of the hearing. There was no public testimony.

#### Staff Response

**Ms. Alligood** gave a brief overview of the public outreach efforts and reiterated the two actions requested of the City Council.

**Mr. Albert** discussed the recommended rate level and noted it had been discussed and unanimously approved by the Citizens Utility Advisory Board (CUAB). The Board also approved the priority list. He commented on water quality treatment measures and pipe upsizing to address flooding.

**Vince Alvarez**, CUAB Chair, reported at its March meeting the Board had discussed rates adjusted to individual households to push people toward reducing ESUs and using pavers rather than concrete.

**Mr. Albert** said staff supported the recommended level with no debt. Under that scenario, the rate would go up \$1.17 this year.

**Council President Hedges** asked why the cash rate and not debt rate was recommended.

**Mr. Ghilarducchi** responded there were good arguments on both sides. The CUAB discussed spreading projects being over a long period. The cash option was recommended so that projects were done, and the City could then take on additional capital projects.

**Councilor Churchill** discussed separation area from wells and urged caution when decommissioning injection areas. It was difficult to track migration of sources over time as geology changed or earth movement occurred. He recommended getting away from those injection points.

**Mayor Ferguson** asked when the SDC would be triggered if the Master Plan and rates were implemented at this meeting.

**Mr. Albert** replied SDCs were triggered by new development that added impervious area and would be effective from this time until the permit was pulled.

**Councilor Gamba** asked if any of this took into account private injection wells.

**Mr. Albert** believed private industry was permitted by the Department of Environmental Quality (DEQ), and the Master Plan focused on the City's stormwater infrastructure.

#### Closure of Public Hearing

**It was moved by Council President Hedges and seconded by Councilor Churchill to close the public testimony portion of the hearing. Motion passed with the following vote: Councilors Churchill, Hedges, Gamba, and Miller and Mayor Ferguson voting "aye." [5:0]**

**Mayor Ferguson** closed the public testimony portion of the hearing at 9:04 p.m.

#### Council Discussion

**Councilor Miller** asked about the timing of any Land Use Board of Appeal (LUBA) appeal.

**Mr. Hall** replied since the ordinance did not have an emergency clause, it would not be effective for 30 days. The fees were adopted by resolution and were not a land use decision that would be appealed to LUBA.

**Councilor Gamba** was concerned that there was little room to make improvements to the quality of water going into our rivers and streams and, therefore, suggested a discussion of implementing the proactive rate option.

**Councilor Churchill** supported the recommended rates.

**Council President Hedges** found the proactive rates tempting although the increases were more substantial. He liked the cash approach but was concerned about large increases over the 10 year period.

**Mayor Ferguson** called a recess at 9:09 p.m. and reconvened the meeting at 9:14 p.m.

**Mayor Ferguson** discussed the option of holding the rate resolution for adoption at a future date.

**Council President Hedges** supported the proactive rate cash option. Improving the system was important including the capability of draining the roads.

**Councilor Miller** had not formed an opinion at this time. There was a huge difference between the recommended and proactive rates after the first year or two.

**Councilor Gamba** understood the City had a program for low income families that was approximately 50% of the full rate. He added the storms were likely to be more intense in the coming years so felt being proactive was important.

**Councilor Churchill** was concerned about financial impacts but was willing to support the proactive rate in order to make needed system improvements.

**Mayor Ferguson** had seen issues related to stormwater system capacity and would support the proactive cash rate.

Decision by Council

**It was moved by Councilor Gamba and seconded by Councilor Miller for the first and second readings by title only and adoption of file #CPA-13-02 which adopts the 2012 Stormwater Master Plan as an ancillary document to the Milwaukie Comprehensive Plan, and amend portions of the Milwaukie Comprehensive Plan related to stormwater in Chapters 3 and 5. Motion passed with the following vote: Councilors Churchill, Hedges, Gamba, and Miller and Mayor Ferguson voting “aye.” [5:0]**

**Ms. DuVal polled the Council: Councilors Churchill, Hedges, Gamba, and Miller and Mayor Ferguson voting “aye.” [5:0]**

**Mr. Monahan** read the ordinance two times by title only

**ORDINANCE NO. 2072**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO ADOPT FILE #CPA-13-02 WHICH WILL ADOPT THE 2012 STORMWATER MASTER PLAN AS AN ANCILLARY DOCUMENT TO THE MILWAUKIE COMPREHENSIVE PLAN, AND AMEND PORTIONS OF THE MILWAUKIE COMPREHENSIVE PLAN RELATED TO STORMWATER IN CHAPTERS 3 AND 5.**

**It was moved by Council President Hedges and seconded by Councilor Gamba to adopt the resolution revising fees and charges and updating the Master Fee Schedule document of the City of Milwaukie in accordance with the proactive cash option for the stormwater utility fee and offering the residential customer Utility Assistance Program which was one half of the established base charge and volume charge for stormwater charges. Motion passed with the following vote: Councilors Churchill, Hedges, Gamba, and Miller and Mayor Ferguson voting “aye.” [5:0]**

**RESOLUTION NO. 69-2012:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REVISING FEES AND CHARGES AND UPDATING THE MASTER FEE SCHEDULE DOCUMENT OF THE CITY OF MILWAUKIE.**

**OTHER BUSINESS**

**A. Road Home Program**

**It was moved by Mayor Ferguson and seconded by Council President Hedges to authorize initiation of a type 3 land use application for a change of use for Milwaukie Christian Church and Northwest Housing Authority and to waive the application fee. Motion passed with the following vote: Councilors Hedges and**

**Gamba and Mayor Ferguson voting “aye”; no “nays”; Councilors Churchill and Miller abstaining. [3:0:2]**

**B. Council Reports**

**Councilor Churchill** commented on his work with the Ledding Library over the past couple of years and the presentation of the International Bent Stake Award.

**Council President Hedges** attended the RiverHealth Advisory Board meeting, the Coffee with TriMet, and the Hector Campbell Neighborhood picnic.

**Councilor Gamba** attended the Oak Lodge Sanitary District treatment plant tour with the Kellogg Good Neighbor Committee members and the Island Station NDA picnic. He urged people to report odors coming from the Kellogg Treatment Plant by calling the hotline number.

**Councilor Miller** attended the North Clackamas Urban Watersheds Council (NCUWC) meeting and the North Clackamas Parks and Recreation District (NCPRD) meeting and reported the Board continued to discuss the best use of its limited funds. He encouraged staff in its work with the American Legion on the Vietnam 50<sup>th</sup> Anniversary Program.

**Mayor Ferguson** expressed his appreciation to residents and businesses for their patience during recent TriMet light rail project phases and thanked Light Rail Design Coordinator Stacy Bluhm for her role. He announced the Scott Park noon concert and encouraged people to attend the City Hall Diamond Jubilee on September 6.

**ADJOURNMENT**

**It was moved by Councilor Gamba and seconded by Councilor Miller to adjourn the meeting. Motion passed with the following vote: Councilors Churchill, Hedges, Gamba, and Miller and Mayor Ferguson voting “aye.” [5:0]**

**Mayor Ferguson** adjourned the regular session at 9:45 p.m.

Respectfully submitted,

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Pat DuVal, Recorder

**MINUTES**  
**MILWAUKIE CITY COUNCIL STUDY SESSION**  
**AUGUST 22, 2013**

**Council President Hedges** called the study session to order at 5:05 p.m. in the City Hall Conference Room.

Council Present: Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff Present: City Manager Bill Monahan, City Recorder Pat DuVal, Community Development Director Steve Butler, Program Coordinator Beth Ragel, and Engineering Director Jason Rice

Excused: Mayor Jeremy Ferguson

**2013 Ed Zumwalt Volunteer of the Year Award**

The group discussed criteria for the Ed Zumwalt Volunteer of the Year Award and the nomination process. The Award was created in 2012 to honor a volunteer who had significantly contributed to the Community. Mr. Zumwalt was the first person to receive this Award which was named in his honor.

**Mr. Monahan** would draft the criteria and develop the timelines for the Award. The criteria would include longevity of service and performance of volunteer service within the City of Milwaukie.

**Explore Future Project with Pacific Northwest College of Art (PNCA) Master of Fine Arts (MFA) Program in Collaborative Design**

**Ms. Ragel** discussed the Arts Committee's goal of Milwaukie's being an incubator for art. This was an initial discussion with PNCA Collaborative Design Department Chair Peter Schoonmaker, and no action was requested at this time. That afternoon Ms. Ragel, Committee members Lisa Fossen and Val Hubbard, took a walking tour of downtown Milwaukie with Mr. Schoonmaker and several graduate students.

**Mr. Schoonmaker** provided background on the school and program.

**Shannon** asked what made up Milwaukie's pride and how the City Council wished surrounding communities to perceive the City.

**Councilor Miller** replied people valued the small town feel. It was a walkable community with businesses that supported those living nearby. Many people chose to live in Milwaukie because of the neighborhood cohesiveness that felt safe and comfortable regardless of one's socio-economic level.

**Councilor Churchill** was just an 8 year resident of Milwaukie. He moved here because he was attracted by the scale of the downtown and the City's location on one of the most the attractive areas on the Willamette River. With the possible exception of Sellwood, he did not wish to live in Portland.

**Council President Hedges** observed the community on the other side of Hwy 224 was different, and many felt the Milwaukie Marketplace gave the City its feel. All residents agreed they liked the small, hometown feel and thought the City was well-run.

**Councilor Churchill** added the City had pride in being a small town, and residents pushed back on the notion of density. He commented on the urban growth boundary and availability of housing.

**Jake** asked about the desire of residents to change once light rail was open.

**Councilor Gamba** believed the small town feel could be maintained and continue to be a place where people know each other. It would still be attractive when more people live here.

**Councilor Churchill** added Gresham density was not welcomed in Milwaukie. A majority of residents were over the age of 55. The Historic Milwaukie Neighborhood was probably more open to change than those on the other side of Hwy 224.

**Council President Hedges** observed a City was like a business -- if you stagnate then you die. He discussed the Metro 2040 Plan and survival of a small town. He felt the City could expand while retaining the small town feel people valued. It was important to find a way to bridge Hwy 224 and make one City and not two. The majority of conservatives lived on the east side.

**Crystal** said it sounded like there were two Milwaukie's and asked if there were unifying events.

**Councilor Miller** discussed the First Friday Art Walk events organized by citizens and helped with services by the City. Downtown lacked a grocery store and pharmacy, so people went to the Marketplace for their services.

**Councilor Churchill** added there was not much vacant land in Milwaukie, so when the City talks about expansion it must consider how to increase the opportunity for additional residences. Some of the solutions were accessory dwelling units and cottage clusters which, in his opinion, were more harmonious with keeping the small town feel than transit oriented development units.

**Council President Hedges** thought stores needed people to sustain them and would argue that downtown should be the source of entertainment to fill the unmet need of drawing people in.

**Councilor Gamba** said there was potential to create the downtown as a place to be.

**Councilor Churchill** spoke of his experience in Larkspur, CA, which had a Main Street and mall not too far apart and both were thriving. People go downtown for the nightlife. He believed there was still room for something downtown and suggested a unique business like the Green Zebra specialty grocery. Main Street could embellish the MarketPlace because of its connectivity.

**Crystal** was surprised to find out that Milwaukie was Dark Horse Comics' headquarters and asked how the community and business interacted.

**Councilor Gamba** had a concept for an expanded Dark Horse Comics building with a Museum on the main floor and production in the upper floors.

**Neil Hankerson**, Dark Horse Comics Executive Vice President, said the company was looking at options with Clackamas County for a museum. Dark Horse Comics had looked in the Cash Spot area, but it was not economically feasible. Interacting with the public was difficult because it interrupted the workflow. Having some kind of remote space with original works and a gift shop would make a lot of sense.

**Shannon** asked if the City Council would be interested in a way-finding system.

**Councilor Churchill** was interested in identifying the downtown retail area which was only a block from McLoughlin Boulevard.

**Ms. Ragel** said in terms of next steps, she would connect with Mr. Schoonmaker about what the group was thinking and come back at a future work session with a preliminary idea.

## **Discussion of Street Trees and Sidewalk.**

**Mr. Rice** discussed the recent increase of code compliance cases in the downtown core related to tripping hazards caused by uneven or broken sidewalk panels. The intent of his report was to review current policies regarding street tree removal and discuss long term alternatives. He made the decision on root trimming or removal on a case-by-case basis, and if the property owner disagreed, then he or she could hire an arborist. It was often in the best interest of the property owner to remove the tree and replant.

**Councilor Churchill** would use caution in taking action based on an arborist's report.

**Councilor Gamba** suggested that the City retain an arborist to give an honest opinion.

**Councilor Churchill** suggested well guards that might help prevent reoccurrence of problems after the roots were trimmed.

**Mr. Rice** briefly discussed the Public Works Standards and alternatives including concrete and pavers which were more expensive and required more maintenance. He hoped to discuss options and find consensus among the City Council members.

**Council President Hedges** was concerned about costs to the property owner if remedial work were done.

**Councilor Churchill** said root barriers had been required in many communities for over 25 years. He was also shocked by variations of color sidewalk color and suggested adding colorant to the concrete when replacing sections of sidewalk.

**Councilor Gamba** asked if it would be possible to come up with a plan so that 30 years from now the downtown would have a mature tree canopy and plan to keep it when utilities come in.

**Councilor Churchill** said there was a methodology for working around tree roots, but it took extra effort and was 10% - 15% more costly.

**Councilor Miller** was concerned that the trees were constantly being blamed for the sidewalk condition, while criteria for the sidewalk were never discussed. He would not support removal of any tree in the downtown as he felt denuding the City was the wrong way to go.

**Councilor Churchill** recommended tree well preparation practices that would encourage the roots to migrate downward.

**Dr. Dan Platter**, resident and tree enthusiast, stated the trees that were planted were fast growing with roots close to the surface. He provided a list of recommended street trees from the City of Portland Parks and Recreation Bureau.

**Councilor Miller** added when the Milwaukie Downtown Development Association (MDDA) planted the trees the City Council approved them based on the standards of the day. It was important to find a solution so the trees would be a beautiful asset in the future.

**Council President Hedges** understood it was important to have standards in place when planting trees and to do a proper job in the first place. The current practices did not seem fair and cost the property owner a lot of money. He felt there needed to be further discussion involving downtown property owners. The solution might have implications for the entire City.

**Councilor Churchill** recommended looking at how historic trees have been preserved elsewhere. It might be a matter of amending the soil and not just trimming the roots. He suggested tree guards.

**Councilor Gamba** felt the problem was tree selection and then surrounding them with sidewalk. He commented on dealing with the problems of today and attaining the goals of large trees and safe sidewalks.

**Mr. Hankerson** reported he was in the middle of a \$21,000 sidewalk repair project and noted the one across the street was already failing with roots popping up after a short period of time.

**Mr. Rice** understood a lot of downtown property owners were waiting for answers.

**Dr. Platter** noticed some of the biggest trees were red maples, and their roots were right on the surface. He recommended medium-sized, drought tolerant species such like Blue Oaks or Oregon Oaks.

**Council President Hedges** did not see any alternatives to removal where roots were like that. He commented on doing research to determine the most appropriate species for replacing those removed and best location in the sidewalk.

**Councilor Gamba** recommended forming a small committee to identify best practices including appropriate species and sidewalk styles.

**Councilor Churchill** saw an immediate need for an arborist's expertise who understood the challenges of street trees and available alternatives.

**Councilor Miller** suggested the arborist who prepared the Kronberg Park Oak.

**David Aschenbrenner**, resident, expressed some concerns with the trees TriMet was planting on Monroe Street.

**Mr. Rice** would look through the TriMet plan set to determine if root barriers would be installed.

**Councilor Churchill** discussed creating a root well that would drive roots further down and then growing horizontally. There were specimen growers, but they would charge more.

**Mr. Rice** commented on the City's creating its own nursery on City owned property.

**Council President Hedges** asked if the timeline on citations could be held in abeyance.

**Mr. Monahan** believed the citation process could be slowed. The property owners were given notice, and some of them may have notified their mortgage holders. Some may wish to abate sooner than later. He discussed standards and how some cities dealt with these types of responsibilities. Property owners may wish to form a local improvement district (LID) or economic improvement district. He added that Milwaukie was consistent with most communities' practices.

The group agreed to make a temporary fix of the sidewalks like an asphalt patch and discussed liability issues.

**Councilor Churchill** recommended contracting with an arborist to assess the situation to guide a 15 year solution.

**Mr. Hankerson** discussed tree height near buildings and overhead lines.

The committee to develop a temporary solution would be made up of Councilor Gamba, Mr. Hankerson, Dr. Platter, Mr. Rice, and an arborist. The NDAs would also be notified.

**Council President Hedges** adjourned the study session at 7:42 p.m.

Respectfully submitted,

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Pat DuVal, Recorder



Agenda Item: RS 3. B.  
Meeting Date: October 1, 2013

## COUNCIL AGENDA ITEM SUMMARY

**Issue/Agenda Title:** Portland General Electric (PGE) Clean Wind Green Tag Purchase Agreement

**Prepared By:** Teri Bankhead, Asst. to City Manager

**Dept. Head Approval:** Bill Monahan, City Manager

**City Manager Approval:** September 18, 2013

**Reviewed by City Manager:** September 18, 2013

### Issue Before the Council

Renewal of Clean Wind Green Tag Purchase

### Staff Recommendation

Renew the agreement for another year at Bronze level and consider again in September 2014 when the next renewal would be due.

### Key Facts & Information Summary

The City partnered with Portland General Electric (PGE) in their Green Power Challenge over a two month period from September 18, 2012 to November 20, 2012. Through resolution the Council proclaimed September 18, 2012 as the "Green Power Challenge Kickoff" and encouraged residents and businesses to join in the challenge by agreeing to purchase renewable energy. There were 216 customers that signed up during the challenge. Dave's Killer Bread is one of the biggest renewable power customers at the Platinum level. The City of Milwaukie agreed to purchase clean wind green tags and participate for a year in the program at a Bronze level, purchasing 20,833 kWh of clean wind per month, from PGE at a rate of \$0.0066. There was a one-time cost of \$1,650.00 to the City.

The agreement is up for renewal October 2013. The rate has decreased to \$0.003 per kWh this year. The City's total usage is currently 4,771,697 million kWh per year. At 10% purchase, 477,170 kWh, the annual premium for 2013-2014 is \$1,431.51, a reduction from last year. See the attached proposal from PGE.

The benefits of purchasing PGE Clean Wind at a Bronze level are attached. Benefits increase as the level of purchase increases. The City Council may wish to purchase a higher percentage of its usage at a Silver, Gold or Platinum level, thereby increasing its visibility and receiving more recognition and capitalizing on the lower per kWh cost.

By purchasing at least 10% of the City's power through a renewable source, the City also became an Environmental Protection Agency Green Power [Partner](#). This status affords the City recognition, including a community profile listing <http://www.epa.gov/greenpower/communities/communities/milwaukieorcommunity.htm>. In addition, EPA has developed various tools and resources available on the Partnership website to aid in meeting Partnership goals and leveraging the benefits of the green power purchase.

### **Other Alternatives Considered**

1. Do not renew the agreement at \$1,431.51 and retain the standard utility provision without purchasing renewable energy.
2. Increase the level of purchase to Silver, Gold or Platinum. See attached proposal for annual premiums.
3. Renew at a lower rate than 10% of the annual kWh. This would reduce the annual rate but would also cause the City to lose its Environmental Power Agency "Green Power Partner" status.

### **City Council Goals**

Contributes to the health and sustainability of the community and environment but not directly tied to a 2013 Council goal.

### **Attachment List**

1. PGE Clean Wind Proposal
2. Clean Wind Green Tag Purchase Agreement
3. Resolution authorizing the City Manager to sign the Purchase Agreement
4. PGE Managed Benefits
5. EPA Green Power Partner Certificate

### **Fiscal Notes**

Staying at the Bronze level purchase would be an annual premium of \$1,431.51. Not renewing would save the City this amount.

# Clean Wind<sup>SM</sup> Proposal

## City of Milwaukie

September 19, 2013

### Basic Service

|                         |           |
|-------------------------|-----------|
| 12 Months Billing:      | 4,771,697 |
| Averaged Monthly Usage: | 397,641   |

### Clean Wind Award Levels

|                     | Annual Premium | Monthly Premium | kWh Purchased Year | kWh Purchased Month | % of Annual kWh |
|---------------------|----------------|-----------------|--------------------|---------------------|-----------------|
| <b>PLATINUM*</b>    | \$14,315.09    | \$1,192.92      | 4,771,697          | 397,641             | 100.00%         |
| <b>GOLD</b>         | \$3,750.00     | \$312.50        | 1,250,000          | 104,167             | 26.20%          |
| <b>SILVER</b>       | \$2,250.00     | \$187.50        | 750,000            | 62,500              | 15.72%          |
| <b>BRONZE (10%)</b> | \$1,431.51     | \$119.29        | 477,170            | 39,764              | 10.00%          |

\*Platinum requires 100% purchase



You have the **power** to make a difference.



Find more information online:

[PortlandGeneral.com/CleanWind](http://PortlandGeneral.com/CleanWind)

Or call 503-464-7883

You do not need to purchase this product to continue to receive safe, reliable power from PGE. You may buy similar products and services from other providers.

# Attachment 2

## Agreement to Purchase Clean Wind<sup>SM</sup> Green Tags

This Agreement to Purchase ("Agreement") is made and effective on this \_\_\_\_\_ day of **October, 2013** ("Effective Date") between Portland General Electric Company ("PGE") with a business address of 121 SW Salmon, Portland, OR 97204 and **City of Milwaukie** ("Customer") with a business address of **10722 SE Main Street, Milwaukie, OR 97222**.

This Agreement is subject to the terms and conditions of PGE's tariff on file with the Oregon Public Utility Commission ("OPUC"), Rate Schedule 54, Large Nonresidential Tradable Renewable Credits Rider, as it may be amended from time to time. A copy of Schedule 54 in effect on the Effective Date is attached to this Agreement as Exhibit A.

Customer agrees to purchase Clean Wind Green Tags ("Clean Wind") commencing on the next effective billing cycle following the Effective Date. Customer shall pay PGE for Clean Wind in accordance with PGE's Schedule 54. Customer remains subject to all rates and conditions of its regular rate schedule and Schedule 54. Customer agrees to a revolving yearly contract unless otherwise stated by the customer. Customer may terminate this Agreement at any time upon thirty days written notice to PGE.

### Purchase Information

Beginning with the next effective billing cycle/date, Customer agrees to purchase at **BRONZE** level a total of:

- **39,764** kWh of Clean Wind from PGE per month
- at a rate of **\$0.003** per kWh
- for a monthly cost of **\$119.29/ month**
- 

A copy of the most recent proposal with the corresponding Award Level benefits is attached to this Agreement as Exhibit B.

### Account Information

Clean Wind that will be added to Customer's monthly (electric bill as a separate line item for service at the following address:

Service address: **10722 SE Main Street**  
 City, State, Zip: **Milwaukie, OR 97222**  
 Account no.: **258077-646605**  
 Special Instructions: **Invoiced once a year for \$1,431.51**

Customer's purchase of Clean Wind will result in an equivalent amount of generation from qualified renewable resources within the Western Electricity Coordinating Council (WECC) area. Customer understands that it will not directly receive electricity from a specific generation facility. In addition, a portion of the Clean Wind charges will be used to support the construction of additional new renewable generation sources in the Western United States.

Other than modifications to Schedule 54 that result from changes approved by the OPUC, no modification of this Agreement shall be valid unless made in writing and signed by PGE and Customer.

No waiver of any provision of this Agreement shall be valid unless made in writing by the waiving party, and no such waiver shall be deemed a waiver of compliance with any other provisions or conditions of this Agreement.

Customer does not have to buy Clean Wind to continue to receive its current electricity service from PGE.

By signing below, Customer agrees that PGE may use the name of Customer in promotional material, including but not limited to print advertising, for PGE's Renewable Energy program.

For the Customer:

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

For PGE:

Signature: \_\_\_\_\_

Lauren Shapton

Manager, Customer Mass Programs

Date: \_\_\_\_\_

**SCHEDULE 54  
LARGE NONRESIDENTIAL TRADABLE RENEWABLE CREDITS RIDER**

**PURPOSE**

This rider is an optional supplemental service that supports the development of New Renewable Energy Resources as defined in ORS 757.600. Under this Schedule a Large Nonresidential Consumer may purchase Tradable Renewable Credits (TRCs) based on a percentage of the Consumer's load, subject to a minimum purchase. The purchase guarantees an equivalent amount of generation from qualified renewable resources will be transmitted within the Western Electricity Coordinating Council (WECC).

**AVAILABLE**

In all territory served by the Company.

**APPLICABLE**

To all Consumers on Schedules 38, 49, 83, 91, 92, 93, 97, 549, 583, 591 or 592 .

**RATE**

A consumer may purchase TRCs at:

1.7 cents/kWh

A minimum TRC purchase of 1000 kWh times 1.7 cents, or \$17.00, per month is required. For larger purchases, volume discounts may be available, subject to negotiation, pursuant to the execution of a written contract.

**TRADABLE RENEWABLE CREDITS (TRCs)**

TRCs consist of the non-power attributes resulting from the generation of energy by a New Renewable Energy Resource. Such attributes may be fuel, emissions, or other environmental characteristics deemed of value by a TRC purchaser.

For purposes of this option, renewable resources include wind generation, solar, biomass, low impact hydro (as certified by the Low Impact Hydro Institute) and geothermal energy sources used to produce electric power.

Non-power attributes include, but are not limited to, any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and any other pollutant that is now or may in the future be regulated under the pollution control laws of the United States; and further include any avoided emissions of carbon dioxide (CO<sub>2</sub>) and any other greenhouse gas (GHG) that contributes to the actual or potential threat of altering the Earth's climate.

Non-power attributes do not include any energy, reliability, scheduling, shaping or other power attributes.

### **SPECIAL CONDITIONS**

1. The Consumer may enroll to purchase TRCs on a month to month basis or sign an annual contract to pay annually or monthly. Service will become effective upon execution of a signed agreement.
2. The Company will not accept enrollments from accounts with poor credit history.
3. The Company makes no representations as to the impact on the development of renewable resources from Consumer participation.
4. The Company is not required to own renewables or to acquire energy from renewable resources simultaneously with Consumer usage.
5. A TRC purchase by the Company sufficient to meet the total of all Consumer purchases of TRCs will occur, at least, on an annual basis.

---

**Advice No. 02-12**  
**Issued July 15, 2002**  
**Pamela Grace Lesh, Vice President**

**Effective for service**  
**on and after August 21, 2002**

Exhibit A

**Portland General Electric Company**  
**P.U.C. Oregon No. E-17**

**Original Sheet No. 54-3**

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**RULES AND REGULATIONS**

Service and rates under this schedule are subject to all applicable General Rules and Regulations contained in the Tariff of which this schedule is a part.

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**Advice No. 02-12**  
**Issued June 21, 2002**  
**Pamela Grace Lesh, Vice President**

**Effective for service**  
**on and after August 21, 2002**

# Attachment 3



RESOLUTION No. \_\_\_\_\_

## **A RESOLUTION APPROVING THE CITY MANAGER TO ENTER INTO AGREEMENT WITH PORTLAND GENERAL ELECTRIC FOR PURCHASE OF CLEAN WIND RENEWABLE POWER**

**WHEREAS**, The City of Milwaukie is committed to sustainability throughout the community and in its own operations its responsibility to:

- Support a stable, diverse and equitable economy;
- Protect the quality of the air, water, land and other natural resources; and

**WHEREAS**, Using electricity derived from clean energy sources like wind, solar, geothermal, and biogas is a key strategy in advancing sustainability in Milwaukie, supporting local job creation, energy security, and reduction carbon emissions, the primary cause of global climate change; and

**WHEREAS**, Milwaukie partnered with Portland General Electric and encouraged citywide participation in the Green Power Challenge between September 18, 2012 and November 20, 2012 to help make a difference in the reduction of air pollution and the emissions of greenhouse gasses; and

**WHEREAS**, 216 total residential and business customers signed up during the challenge, providing a total of 12,160,664 kWh of renewable power in the taxable city boundary, representing 4% of the total cities usage; and

**WHEREAS**, Milwaukie participated in the program by purchasing clean wind power as a Bronze level member for the year of October 2012-2013; and

**WHEREAS**, The agreement is now up for renewal and Milwaukie City Council wishes to continue its participation in the renewable energy program through the purchase of clean wind; and

**WHEREAS**, Council desires to renew the agreement at the Bronze level for an annual premium of \$1431.51, 10% of the annual kWh usage, which will allow the City to continue its status as an Environmental Protection Agency (EPA) Green Power Partner.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON** that the City Manager or his designee is authorized to enter into an agreement with Portland General Electric to continue the purchase of clean wind renewable power through 2014.

Introduced and adopted by the City Council on **October 1, 2013**.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC

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

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

## Commercial & Industrial Customer Benefits

PGE Clean Wind<sup>SM</sup> Renewable Power

Complimentary Publicity and Recognition

| Awards  | Platinum | Gold | Silver | Bronze |
|---|----------|------|--------|--------|
| <b>Personalized Ad in Oregonian or Portland Business Journal</b><br><i>Ad will appear within three months of your enrollment</i>  | ■        |      |        |        |
| <b>Press release</b><br><i>Timing to be coordinated with your PR goals; usually release is sent within one month of your enrollment.</i>  | ■        |      |        |        |
| <b>Exclusive 100% renewable window decal</b>  | ■        |      |        |        |
| <b>Eligible for profile in PGE Renewable Report newsletter with coupon potential</b>  | ■        | ■    |        |        |
| <b>Profile on GreenPowerOregon.com</b><br><i>PGE's green community website. Profile will be posted within three months of your enrollment.</i>  | ■        |      |        |        |
| <b>Recognition at customized employee event</b><br><i>PGE provides a customized event to educate your employees on your commitment to buy green power</i>   | ■        | ■    |        |        |
| <b>Inclusion in page dominant Oregonian and Business Journal ads</b><br><i>Platinum level receives premium recognition, Gold receive secondary recognition, Silver get tertiary mention. Limit 25 characters maximum. See the back of this page for more details.</i> | ■        | ■    | ■      |        |
| <b>Engraved recognition plaque – Presented at annual customer recognition event</b>   | ■        | ■    | ■      |        |
| <b>Invitation to annual customer recognition event</b><br><i>Previous VIP presenters of awards include State Senators, Leading CEOs</i>   | ■        | ■    | ■      | ■      |
| <b>One-time listing in “welcome new customers” ad in newspaper</b>  |          |      |        | ■      |
| <b>Listing in Renewable Report newsletter – Circulation more than 85,000 customers</b><br><i>Listing also appears on PortlandGeneral.com and GreenPowerOregon.com</i>   | ■        | ■    | ■      | ■      |
| <b>Marketing toolkit: Online photos, Web graphics and marketing messages</b>  | ■        | ■    | ■      | ■      |
| <b>Eligible for inclusion in PGE’s Green Community coupon book/mobile coupons</b>   | ■        | ■    | ■      | ■      |
| <b>Annual CO<sub>2</sub> offset certificate – Delivered annually in 1st Quarter</b>   | ■        | ■    | ■      | ■      |

## Commercial & Industrial Award Levels

PGE Clean Wind<sup>SM</sup> Renewable Power

|  | Platinum* | Gold   | Silver | Bronze |
|--|-----------|--------|--------|--------|
| <b>Points Needed to Achieve Levels</b> | 25,000*   | 12,500 | 7,500  | 2,500  |

For every 1,000 kWh/A purchased, you earn 10 points.

\*To reach the highest Platinum level, you must earn 25,000 points AND purchase 100% of your Rate Schedules 83, 85 and 89 energy use with Clean Wind<sup>SM</sup> power.

### Oregonian/Business Journal Ad:

- This ad runs six times a year in the Oregonian and/or Portland Business Journal.
- Platinum level customers receive premium recognition, with Gold level customers receiving secondary recognition and Silver level customers receiving tertiary mention.
- There is a 25-character limit to each organization name listed
- We will aggregate multiple divisions or locations of a company or organization to arrive at the highest possible level listing, but if you choose you can have a maximum number of three individual listings instead.



Portland General Electric



# Certificate of Partnership

presented to

## City of Milwaukie, Oregon

By the U.S. Environmental Protection Agency's Green Power Partnership  
in recognition of efforts to reduce the risk of climate change  
through the use of green power.

A handwritten signature in black ink that reads "Elizabeth Craig".

---

Elizabeth Craig, Acting Director  
Climate Protection Partnerships Division, EPA

RS 44



RS 3. C.

To: Mayor and City Council

Through: Bill Monahan, City Manager  
Bob Jordan, Chief of Police  
Dave Rash, Police Captain

From: Tim Salyers, Code Compliance Coordinator

Subject: Resolution Authorizing a Lien in the amount of City costs for abating the nuisance on the Real Property at 12191 SE Grove Lp.

Date: September 20, 2013

Action Requested

Approve a resolution of the city council of the City of Milwaukie, Oregon, assessing the costs of abatement of the nuisance located at 12191 SE Grove Lp and entering the same on the docket of city liens pursuant to Milwaukie Municipal Code Section 8.04.200(d).

History of Prior Actions and Discussions

None

Background

The Code Compliance Department received a request from a neighbor to inspect the premises located at 12191 SE Grove Lp. for tall grass and weeds. Code Compliance Coordinator Tim Salyers went to the property on June 19, 2013 and observed violations of Milwaukie Municipal Code Section 8.04.110A, specifically tall grass and weeds. In order to address this issue, the Code Compliance Department went forth with a notice of violation. The occupant failed to comply with the notice provided, so Officer Salyers continued enforcement by issuing a citation.

After non-compliance Officer Salyers moved to the abatement process. The Milwaukie Municipal Code Sections 8.04.170-8.04.190 establishes the procedures for abatement. All steps were followed and documented. Officer Salyers posted the premises advising of the existence of the nuisance, in compliance with MMC 8.04.170B. and sent a copy of the notice to the property owner certified mail, postage prepaid. Since the nuisance was not abated by the property owner, in accordance with MMC 8.04.190, the nuisance was abated by the City.

On August 20, 2013, in compliance with MMC 8.04.200 A. an abatement summary was sent certified mail, postage prepaid, to the property owner of the address.

The municipal code provides an opportunity for objections to be filed. There has been no objection and no payment as of today as required by Milwaukie Municipal Code Section 8.04.200.

MMC 8.04.200 provides that if the costs of abatement are not paid within thirty days from the date of notice, an assessment of the costs as determined by the City Council shall be made by resolution and entered in the docket of city liens. Upon such entry being made, the administrative costs and the other expenses shall constitute a lien upon the property at which the nuisance was abated.

#### Concurrence

The City Manager and City Recorder concur with the recommendation.

#### Fiscal Impact

##### *If Action Not Taken*

If the recommended action is not taken as it relates to the non-administrative costs, the City will lose the costs that it has incurred to abate the nuisance.

If the recommended action is not taken as it relates to the administrative costs, the City will not be reimbursed for those costs, which have been budgeted.

##### *If Action Taken*

If the recommended action is taken as it relates to the non-administrative and administrative costs, the City will enter a lien against the property, which would be satisfied in the future upon the sale of the property. Interest will accrue on the lien at the rate allowed by ORS 82.010(2) from the date of entry of the lien on the lien docket pursuant to Milwaukie Municipal Code Section 8.04.200(D).

#### Work Load Impacts

Code Compliance Coordinator will track the status of the property and potential collection of the lien assessment.

#### Alternatives

Deny the resolution

#### Attachments

1. Resolution
2. August 20, 2013 letter from City Recorder Pat DuVal to Sophia Martinez

Attachment 1

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ASSESSING THE COSTS OF ABATEMENT OF THE NUISANCE LOCATED AT 12191 SE GROVE LOOP AND ENTERING THE SAME ON THE DOCKET OF CITY LIENS PURSUANT TO MILWAUKIE MUNICIPAL CODE SECTION 8.04.200(D).**

**WHEREAS**, on July 31, 2013 notice of a nuisance was issued and posted on the property located at 12191 SE Grove Loop, Milwaukie, Oregon; and

**WHEREAS**, the property owner or person in charge of the property did not abate the property or file a protest to the notice of a nuisance within ten (10) days of the posting; and

**WHEREAS**, the City abated the nuisance after first obtaining a judicial warrant authorizing entry to the property to abate the nuisance; and

**WHEREAS**, the City has maintained an accurate accounting of the costs of abatement, including administrative overhead; and

**WHEREAS**, on August 20, 2013, the City forwarded to the owner, or person in charge, by registered or certified mail, postage prepaid, a notice of the abatement costs in compliance with Milwaukie Municipal Code Section 8.04.200(A) et seq; and

**WHEREAS**, there has been no objection filed to the abatement costs within ten (10) days after the notice nor have the costs of the abatement been paid within thirty (30) days from the date of the notice; and

**WHEREAS**, Milwaukie Municipal Code Section 8.04.200(C) provides that if the costs of abatement are not paid within thirty days from the date of notice, an assessment of the costs as determined by the City Council shall be made by resolution and shall thereupon be entered in the dockets of city liens, and upon such entry being made shall constitute a lien upon the property from which the nuisance was abated.

**NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL, CITY OF MILWAUKIE, STATE OF OREGON, THAT, PURSUANT TO MILWAUKIE MUNICIPAL CODE SECTION 8.04.200(C):**

Section 1. The assessment of the costs for the abatement of the said nuisance, including administrative overhead, is in the amount of \$510.00.

Section 2. The above assessment of costs shall be entered in the docket of city liens.

Section 3. This resolution is effective immediately upon adoption.

**IT IS FURTHER RESOLVED THAT** the City may also record the lien as a lien in the County lien records.

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

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

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC

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

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



August 20, 2013

Sophia Martinez  
12191 SE Grove Lp  
Milwaukie, OR 97222

Certified Mail # 7011 3500 0000 1229 1787

**Abatement Costs of Nuisances on Your Property at**  
**12191 SE Grove Lp, Milwaukie OR 97222**

To Whom It May Concern:

An abatement of code violations has occurred on your property. The City of Milwaukie has done the following work on your property, which will now be entered onto the City's lien docket:

| <u>Work Completed</u>   |              | <u>Cost</u>               |
|---|--------------|---------------------------|
| • Clackamas County Corrections Crew- Trimming, Cutting, and Removal of:<br>Weeds, blackberries, yard debris and grass |              | \$100                     |
| • Dumping Fee of Debris at McFarlane's Bark   |              | \$ 10                     |
| • ½ HR Dump Truck Use   |              | \$ 10                     |
| <br>  |              |                           |
| <u>Administrative Staff Time</u>  | <u>Hours</u> | <u>Cost</u>               |
| Tim Salyers, Code Compliance Coordinator  | 6 X \$65.00  | \$390                     |
|   |              | <b><u>Total \$510</u></b> |

The cost as indicated will be assessed to and become a lien against the property unless paid within **thirty (30) days** from the date of this notice.

If the owner or person in charge of the property objects to the cost of the abatement as indicated, he or she may file a notice of objection with the city recorder not more than **ten (10) days** from the date of this notice.

Sincerely,

Pat DuVal  
City Recorder  
503-786-7502

CC: First Class Mail