



**Regular Session**

**RS**

**Milwaukie City Council**



**MILWAUKIE CITY COUNCIL  
REGULAR SESSION**

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

**AGENDA  
December 17, 2013**

2,164<sup>th</sup> Meeting

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

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

- A. Outstanding Student Achievement Award to Kaylee Anderson**
- B. Portland Milwaukie Light Rail Update** **2**  
**Staff: Light Rail Construction Manager Stacy Bluhm**

**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** **4**
  - 1. November 19, 2013, Work Session; and**
  - 2. November 19, 2013, Regular Session**
- B. Authorize a Lien in the Amount of City Costs for Abating the Nuisance at 5622 SE Willow St – Resolution** **17**

**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. **Vehicle Purchase – Vactor for Public Works – Resolution** **23**  
**Staff: Operations Director Gary Parkin**
- B. **Council Reports**

**7. INFORMATION**

*Official Presentation of the 2013 Ed Zumwalt Volunteer of the Year Award to  
Dion Shepard.  
Reception to follow.*

**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.



**Regular Session  
Agenda Item No.**

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



Agenda Item: RS 2. B.  
Meeting Date: 12/17/13

## **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 as well as provide a status update on the Kellogg Lake Pedestrian & Bike Bridge.

### **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 and anticipated traffic impacts. 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.



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# **Consent Agenda**

**MINUTES**  
**MILWAUKIE CITY COUNCIL WORK SESSION**  
**NOVEMBER 19, 2013**

**Mayor Ferguson** called the work session to order at 5:01 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, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, Community Development Director Steve Butler, Public Affairs Coordinator Grady Wheeler, Finance Director Casey Camors, Library Director Katie Newell, Engineering Director Jason Rice, and Engineering Project Manager Matt Palmer

**City Manager's Report**

**Mr. Monahan** briefly reviewed the evening's agenda. He noted the ballot measure update had been pulled and that Mr. Wheeler would speak with people individually.

He provided background information on the Habitat Development Agreement (HDA) with Wildlands Capital Partners, LLC. Wildlands sent a letter to the City seeking a 60 day extension of its feasibility period citing problems coordinating with the Oregon Department of Transportation (ODOT), the Union Pacific Railroad, and the Portland Harbor Trustee Council. Wildlands was scheduled to meet with the Trustees at the end of February and proposed an extension to April 29, 2014.

**Councilor Churchill** thought there should be some range of Discounted Service Acre-Year (DSAY) value by this time.

**Mr. Monahan** explained Wildlands needed to meet with the Trustee Council and ODOT to gather more information prior to moving forward. The ODOT attorney did say that no fatal flaws had been identified and the project was still stacking up well. The recent government shutdown had also resulted in some delays.

**Councilor Churchill** commented that initially Wildlands said the biggest risk was property ownership.

The group agreed it would be appropriate to extend the due diligence period.

**Mr. Monahan** would prepare an agenda item for the December 3, 2013, meeting extending Wildlands' feasibility period. He would ask Wildlands to attend the first City Council meeting in April after its meeting with the Trustee Council. He briefly reviewed audience participation responses and asked for input on scheduling City Council Goal Setting. It was agreed to discuss the 2014 Goals at the January study session.

**Portland Milwaukie Light Rail Project**

**Ms. Bluhm** provided information on the Kellogg Pedestrian and Bike Bridge. She referred to the November 6, 2013, memo from TriMet that addressed the decking material that fulfilled the parameter requirements. She reviewed the product specifications of the composite deck panels.

**Councilor Churchill** was concerned that this material had not been used in the Northwest.

**Ms. Bluhm** said the decking was 3.75 inches thick, and the panels were 12'3" wide by 9'9" long. The panels would be mounted before going into place. The only negative of this material over concrete was a potentially shorter life span. The railings would be made of ipe wood unless the City wanted TriMet to pursue other options.

**Councilor Churchill** spoke to the durability of ipe wood. He understood the decking material reduced the weight, but he was still concerned about durability even though the cells were closed. He asked the specifications for load of the skin over the composite core. He did not want the City to short itself in the long term from a maintenance perspective.

**Ms. Bluhm** would check with TriMet to find out if the decking had been used on other projects. She discussed the 30 year warranty and long term maintenance responsibilities. The decking came in panels that could be replaced if damaged.

**Mayor Ferguson** suggested she look into the material used on the Broadway Bridge and Streetcar extension. He discussed the 30-year warranty and long term maintenance responsibility.

#### Community Development Department Projects

**Mr. Butler** provided an update on Parks and Sustainability, neighborhood park completion, and status of Riverfront Park. The Planning Commission approved the veterinary clinic application at 10400 SE Main St, and the Transportation System Plan (TSP) would have its second reading and adoption at the regular session.

**Mr. Butler** briefly reviewed Moving Forward Milwaukie and informed the City Council that the project team would be presenting draft concepts for each opportunity site at Council's December 3 work session. Work was currently being done in the vicinity of 28<sup>th</sup> Av and Monroe St related to the Americans with Disabilities (ADA) ramp project.

**Mr. Rice** updated the City Council on the Adams St Connector and said staff was still researching the ability of the site to accommodate the Sunday Farmers' Market. Clackamas County was finalizing a contract with Green Thumb Landscaping and Maintenance for the ADA ramps. He reported on the curb repairs following the Street Surface Maintenance Program (SSMP) projects. In addition the tree planting information was well received, and people appreciated the broader list. The group discussed the Main St striping; **Councilor Churchill** was certain it had not been like that before.

#### Library Board Update

**Ms. Newell** introduced Melissa Perkins, Library Board Chair.

**Ms. Perkin** introduced members of the Library Board present and reviewed and discussed the Board work program for 2012/2013 and 2013/2014. She then reported on the status of memberships and the biggest accomplishments, including the Ledding Cultural Series. She reviewed the 2014 schedule of speakers and noted that for the new season it will be held at the Milwaukie High School Black Box Theater. The Board has also supported the Milwaukie Poetry Series and the Friends of the Ledding Library.

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**Ms. Newell** reported that the Friends of the Ledding Library donated many volunteer hours and \$30,000 in 2013 that among other things have purchased five Kindles. The Friends have indicated they will purchase more Kindles next year.

**Ms. Perkins** discussed the Library Expansion Task Force and funding for the expansion. With the resignation of Mark Docken, Ms. Perkins has taken his position on the Library District Advisory Committee (LDAC) and is actively monitoring the Oregon Library Association (OLA) standards in conjunction with the County.

**Ms. Newell** discussed the success of the Lucky Day Program, where best-selling books and games are available for walk-in check-out only.

**Ms. Perkins** and **Ms. Newell** provided an overview of the various library programs including story time, a Russian language story time, gaming nights, and Trivia Night with the Librarian. They also introduced the new library shirt that features an updated logo designed by Hannah Wells.

**Ms. Newell** noted that the Library is used heavily by the community and stressed that should not be forgotten. She and Ms. Perkins responded to Council discussion about library board governance in relation to reporting to the Clackamas County Commission. It was noted that Ms. Perkins serves as Milwaukie's representative on the library board.

### **Portland General Electric (PGE) Franchise**

**Mr. Monahan** introduced Annette Mattson, Government Affairs and Public Policy Specialist, Portland General Electric (PGE), and Barbara Haley, PGE Corporate Council. Mr. Monahan reported that every ten years the City negotiates a new franchise agreement, and for the past several months he has gone over the model franchise agreement with PGE. He reported that several members of the City's staff have looked at the draft franchise agreement as well as at other recently adopted local government franchises. Mr. Monahan presented for Council adoption on the Regular Session agenda the franchise agreement. He noted that the franchise includes language that addresses work in the public right-of-way recommended by the Engineering Department. He concluded that the City is comfortable with the changes to the franchise as presented.

**Ms. Haley** discussed the changes which included indexing for insurance rates for Tort claims, a section on attaching hanging flower baskets to poles, and language to address if PGE has a facility in a park they will have the right to keep facilities in current location. She confirmed that PGE does have facilities in Milwaukie parks.

**Ms. Mattson** pointed out that the new agreement has language that requires the City's cooperation in finding relocation sites if the City requires a PGE pole be moved.

**Councilor Gamba** asked if this relocation language means that the City and PGE will cooperate on moving poles in the case of a new sidewalk going in.

**Ms. Haley** and **Ms. Mattson** confirmed Councilor Gamba's question. **Ms. Haley** added that a statute passed in 2009 requires governments to work cooperatively with utilities. The statute is aimed at planning ahead and working together, and PGE now includes such language in all agreements. She added the statute did not require the City to increase costs but to work out a plan with PGE that minimized costs.

**Councilor Miller** asked about where the agreement discussed the legality of providing ADA access when poles are moved to the sidewalk as they were on Lake Road.

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**Ms. Haley** replied that the ADA had specific clearance requirements and discussed that the law may not require a large clearance.

**Councilor Churchill** and **Councilor Gamba** noted there are substandard ADA situations on Lake Road and Logus Road.

**Councilor Gamba** wanted to make sure that planning processes included all considerations that might not now be done because of the extra costs.

**Councilor Churchill** noted his concern about offering a franchise agreement while currently having conditions that did not meet ADA standards.

**Ms. Haley** stated that she understood that as part of the planning process ADA was considered when discussing pole location and sometimes there is discussion about actual required clearance.

**Councilor Churchill** commented that it seemed to him the pole location problems are the result of poor planning and coordination.

**Ms. Mattson** said that they did not have a service and design engineer present to speak to these issues, but they could speak with the City engineer to ensure legal compliance on specifically noted problems. She noted that she had never heard of these issues in the years she had worked with the City.

**Councilor Churchill** said he has had discussions in the past with PGE and City staff.

**Ms. Mattson** recalled these conversations in regard to the Light Rail project which are in compliance.

**Councilor Churchill** and **Councilor Miller** commented that there are points on Lake Road that are out of compliance where poles were moved.

**Mr. Monahan** noted that what is being discussed is an implementation issue as opposed to this agreement which requires the City to conform.

**Councilor Gamba** stated he wanted to make sure the City was not steered into bad designs because of costs.

**Councilor Churchill** thought this issue points to a lack of coordination and would like to have the situation cured by an investigation by Engineering.

**Mr. Monahan** noted that PGE requested a 20 year franchise agreement but the City asked for a 10 year because of expected technological advances in the next 10 years, which PGE accepted.

**Councilor Churchill** inquired about attaching a rider to the agreement to address the Lake Road and Logus Road concerns. He cited concern about leaving such problems to conversation without something in writing.

**Councilor Gamba** objected to the Lake Road issue, noting that it was not PGE or the City's fault for what happened, it was the Oregon Department of Transportation's (ODOT) process. He stated his aim was to avoid that situation again.

**Ms. Haley** noted that the City would be involved in all projects through the permit process that the City engineer has to approve. **Mr. Monahan** confirmed that process.

**Councilor Churchill** summarized and asked for confirmation that the City's Engineering is being blamed for the non-ADA compliant poles on Lake Road.

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**Mr. Rice** clarified that locations on Lake Road did meet ADA requirements as confirmed by the Oregon Department of Transportation (ODOT), although they are not ideal. He discussed the ODOT process and coordination with utilities which in this case was through OTAK who surveyed and placed the poles. He noted that the City did have concerns, and in the end OTAK said it did meet ADA standards. They could not go back and move them at a cost to PGE. Mr. Rice would not blame OTAK, he noted the City was not out there administering the contract; it really was an ODOT project.

**Councilor Churchill** commented that he was trying to figure out what to say to a person in a wheelchair going down Lake Road, and discussed the difficulty in appreciating what it takes to go through a pinch point in a wheel chair. He thought it was a sorry excuse for why there are power poles in the middle of the sidewalk.

**Mayor Ferguson** noted that Council needed to separate the Lake Road concerns from the franchise agreement.

**Mr. Rice** added that Lake Road is a special case and at this point he noted it was a learning experience that they need to pressure ODOT to care more and to make sure ADA compliance is being done. He noted that the process requires the City to trust the professional surveyor to put the stake in the right spot and that the contractor doing work for PGE will put it in the right spot.

**Councilor Gamba** commented that the solution might require a complete ban on poles in the sidewalk.

### **Follow-up on Bond Counsel**

**Ms. Camors** was given direction at last meeting to move forward with financial contractor and underwriter contracts and concerns raised with bond counsel. She reviewed responsibilities of the bond counsel and explained the expanded quotes she received which were contingent upon issuing bonds. Orrick, Herrington & Sutcliffe (Orrick) was a not to exceed cap; Mersereau Shannon has a lower fee but is not as well known here; Hawkins, Delafield and Wood (Hawkins) is a fixed fee. Ms. Camors reported that the staff recommended continuing to negotiate with Orrick who has a history of working with the City.

**Councilor Churchill** and **Ms. Camors** discussed the cost per hour per quote.

**Ms. Camors** noted that the more locally experienced bond counsel firms estimated 80 hours, and she felt there was less risk in going with the more experienced firms. She cited the short turn around to sell the bonds once the measure was approved by voters.

**Mayor Ferguson** and **Councilor Gamba** stated they were comfortable in supporting Ms. Camors' recommendation in going with Orrick and local experience.

**Councilor Churchill** would defer to saving the \$8,000 and going with the lower bid. He saw no risks in having to sue any firm for non-performance issues should they arise.

**Councilor Gamba** and **Councilor Churchill** discussed the potential cost of litigation in suing a bond counsel for non-performance.

**Councilor Hedges**, **Councilor Churchill** and **Ms. Camors** discussed the location of the quoted firms and the process Ms. Camors used to find and get a vetted sample of bond counsel firms in the local market.

**Councilor Churchill** wanted to understand the risk and was concerned about transparency in this situation.

**Councilor Gamba** noted this was the second week this was discussed and was concerned about a professional's judgment being called into question.

**Councilor Miller** asked if there is a specific reason why the low bid was not as good as the other two. He noted that its public money being spent on this specific project.

**Mr. Monahan** discussed that each firm was qualified to be bond counsel and that the City has authority to use this method to select a firm for this project. Probably all qualified but it might take more in staff time to build the relationships.

**Council President Hedges** said he was wondering why Shannon (Mersereau) was not more well known in our area, he would like to know more about this local firm.

**Mayor Ferguson** noted the tight timeline and asked Ms. Camors about the potential risk in doing more evaluation.

**Ms. Camors** replied that there was not a lot of risk but more staff time.

**Council President Hedges** would like each firm to supply a list of other cities they have worked for in Oregon, so staff could make a few phone calls.

**Mayor Ferguson** remarked that Council had started to give direction to Ms. Camors when it originally asked for information only. His opinion was that it is best to let Ms. Camors make the decision, noting it was \$8,000 on a \$4 million bond.

**Council President Hedges** and **Ms. Camors** discussed the process and Local Contract Review Board rules. Ms. Camors stated that this project is exempt from going through formal competitive process. She asked the Council to consider reevaluating the rules for going through a competitive process which would take more Finance Department staff time.

**Councilor Churchill** noted that the Council and Finance Department are always watching every nickel. When \$8,000 is on the table to be saved everybody in the City had better have a clear reason for the efficiencies in spending the additional funds. It was public money, and the City has a fiduciary responsibility to look for opportunities to save.

**Mr. Monahan** commented that all three firms are qualified and if we contact several other communities they will probably all say each firm did good work.

**Councilor Churchill** said that if all firms are equal he would hope we would go with the lowest quote.

**Mr. Monahan** stated the staff's recommendation of going with Orrick was based on experience working with them in the past.

**Mayor Ferguson** asked Council if Ms. Camors should do additional research.

**Council President Hedges** discussed the cost of continuing to ask staff to research lowest cost, noting that as Ms. Camors and Mr. Seals recommended a firm he would have no problem going with their recommendation.

**Councilor Churchill** discussed the sole source contracting process.

**Mayor Ferguson** and **Councilor Gamba** stated they were comfortable with Ms. Camors' recommendation a couple weeks ago.

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**Councilor Churchill** and **Councilor Miller** stated they were looking to save money.

**Council President Hedges** noted that the City had not done a bond since the 1990s for the Public Safety Building and might not do another one for 20 more years. Considering that he would be comfortable going with Ms. Camors' recommendation.

**Mayor Ferguson** summarized that Council was directing Ms. Camors to move forward with the Orrick contract.

### **Riverfront Park Design**

**Ms. Camors** reviewed adoption of the Local Contract Review Board (LCRB) rules and is putting forward to Council tonight an amendment that reverted to State statute which would allow, in certain situations, for the extension of certain contracts. She explained that certain rules would apply to what type of contracts could be extended, and the project manager would be required to create a memo explaining the qualifications of the contractor and any increased costs and would adhere to standard signing authority levels. Findings from legal indicate it would not be an unfair bidding process because the competitive process had been done already, and the City would likely reap more benefits for having consistency with the contractor.

**Council President Hedges** asked for confirmation that the City wanted to extend the contract but the current rules would not allow it without getting bids from other contractors. The amendment would allow the City to extend contracts without seeking bids.

**Mr. Palmer** discussed David Evans and Associates' (DEA) past history with the City. He explained a personal services contract was advertised in 2006 and a contract was awarded. He reviewed the work DEA had done to-date. The new request would have DEA continue to get Riverfront Park to 100% design not to exceed \$123,000.

**Council President Hedges** inquired if DEA had seen scope of work, and can they do it for \$123,000 or less.

**Mr. Palmer** replied that DEA has seen a very detailed scope of work and large amount of work was fixed fee. The firm is confident it can do the work for that amount.

**Mayor Ferguson** adjourned the work session at 7:13 p.m.

Respectfully submitted,

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Pat DuVal, Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
NOVEMBER 19, 2013**

**CALL TO ORDER**

**Mayor Ferguson** called the 2,162<sup>nd</sup> meeting of the Milwaukie City Council to order at 7:22 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 Tim Ramis, City Recorder Pat DuVal, Community Development Director Steve Butler, Light Rail Construction Manager Stacy Bluhm, Milwaukie Police Captain David Rash, Associate Planner Brett Kelter, Finance Director Casey Camors, Engineering Project Manager Matthew Palmer, Engineering Director Jason Rice

**PLEDGE OF ALLEGIANCE**

**Mayor Ferguson** announced the Ed Zumwalt Volunteer of the Year Award announcement was rescheduled for the December 3, 2014, City Council meeting.

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

**A. Outstanding Student Achievement Award to Stephenie Wright for November 2013**

**Mark Pinder**, Milwaukie High School Principal, and the Mayor and City Councilors recognized Stephenie Wright with the Outstanding Student Achievement Award for November 2013.

**C. Vibrant Futures Coalition**

Milwaukie Police Captain **David Rash** introduced Vibrant Futures Coalition Director **Tracy Hoffman**. She discussed the mission and purpose of the Coalition based out of the Northwest Family Services Building on Linwood Avenue. It served the purpose of educating the community about substance abuse, and she provided some data to help put the issues in perspective and outlined the resources that provided assistance to at-risk youth. The strongest way to create change was to provide help and encourage peer to peer relationships.

**D. Milwaukie Poetry Series**

**Tom Hogan**, Milwaukie Poetry Series Chair, expressed appreciation to the Council, Library Director and staff and the Ledding Library Board. He summarized the events of the Sixth Season and partnerships that had developed over the years. He ended his report with William Stafford's *Ask Me*.

**E. Portland Milwaukie Light Rail Update**

**Ms. Bluhm** showed a number of aerial photos taken along the Portland Milwaukie Light rail alignment. She reported on upcoming road closures that included Hwy 99E lane reductions with night work to install bridge girders and Mailwell Dr will be closed in

February 2014. She discussed the Kellogg Lake Pedestrian Bike Bridge and the material used for the decking and railing.

The group discussed the importance of a neighborhood parking permit program and concerns with Trolley Trail safety.

## **CONSENT AGENDA**

**It was moved by Councilor Gamba and seconded by Councilor Miller to approve the consent agenda as presented.**

### **A. City Council Meeting Minutes:**

- 1. October 1, 2013, Regular Session; and**
- 2. October 15, 2013, Work Session**

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

## **AUDIENCE PARTICIPATION**

**Mr. Monahan** reported on responses to comments or questions posed during November 5, 2013, audience participation from Jean Baker and Ed Parecki. Ms. Baker’s recommendations had been incorporated into the Transportation System Plan (TSP) for adoption. City Council had not directed staff to pursue the street tree ownership question.

**Councilor Churchill** thought it would be helpful to understand who purchased the downtown street trees in order to take precautionary measure in the future. Did purchase equal ownership?

**Mayor Ferguson** was not sure it mattered given the current code.

**Councilor Gamba** agreed and did not think it was a good use of staff time.

**Councilor Churchill** encouraged screening for historical information.

**Council President Hedges** asked if any permits were issued for planting the trees and suggested it would behoove the City to gather as much information as possible.

**Councilor Miller** at the time was in the group of volunteers who planted the trees, but he did not know who bought them. He felt the City owed it to the businesses to find out what could be done and to take some responsibility. There was too little knowledge right now.

The group agreed that Jim Bernard, who was President of the Milwaukie Downtown Development Association (MDDA) at the time, should be contacted for more information.

**Mayor Ferguson** addressed the issue of City Manager residency. In 2010 when the City Manager position was offered, none of the candidates lived in the City of Milwaukie but did live in close proximity as did Mr. Monahan. The City engaged with another firm, not Ramis, to prepare Mr. Monahan’s employment contract. Subsequent updates to the original agreement allowed Mr. Monahan to live outside the City though in close proximity.

**Ed Parecki**, Milwaukie property owner and business person, heard comments regarding his request that were disturbing. The Code may be clear, but who was responsible for the damage. The City authorized the tree planting. It seemed like it was alright to change the City Charter at whim. The idea behind the city manager’s moving

to the City was to get to know and interact with everyone, and he did not think Tigard was in close enough proximity to Milwaukie. The Charter was the law and needed to be fixed.

**Council President Hedges** commented neither Mr. Monahan nor the previous manager Mike Swanson lived in Milwaukie. The Charter cannot be amended by a vote of Council, and he suggested getting a second opinion on the Charter matter. He wanted to correct the mistake if the City Council had overstepped its bounds.

**Mayor Ferguson** said it was not the intent to violate the Charter, and the City Council at the time felt it did what was best for the City.

**Councilor Gamba** proposed that the City Manager be required to move to Milwaukie within 20 years.

**Councilor Churchill** agreed with Council President Hedges and would like confirmation of Mr. Ramis' interpretation.

**Councilor Miller** thought a Charter Review might be the way to resolve some of the issues. This would take time, but there would be an opportunity to determine what the citizens thought the City Council should be doing.

**Councilor Churchill** supported Councilor Miller's recommendation to examine the Charter. He could not support Councilor Gamba's suggestion that the City Manager move to Milwaukie in 20 years.

The group agreed to discuss the feasibility of a Charter amendment at the January Goal Setting Session.

## **PUBLIC HEARING**

None scheduled.

## **OTHER BUSINESS**

### **A. Second Reading and Adoption of the Proposed Transportation System Plan Amendments – Ordinance**

**Mr. Kelter** had no new information but would respond to City Council questions.

**It was moved by Council President Hedges and seconded by Councilor Churchill for the second reading and adoption of the Ordinance amending the Transportation System Plan, an ancillary document to the Comprehensive Plan, to maintain compliance with the State Transportation Planning Rule and Regional Transportation Plan (File # CPA-13-03). Motion passed with the following vote: Councilors Gamba, Miller, Churchill, and Hedges and Mayor Ferguson voting "aye". [5:0]**

**Mr. Monahan read the ordinance for the second time by title only.**

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

#### **ORDINANCE NO. 2073**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE TRANSPORTATION SYSTEM PLAN, AN ANCILLARY DOCUMENT OF THE COMPREHENSIVE PLAN, TO MAINTAIN COMPLIANCE WITH THE**

**STATE TRANSPORTATION PLANNING RULE AND REGIONAL  
TRANSPORTATION PLAN (FILE # CPA-13-03)**

**Mayor Ferguson** read the Land Use Board of Appeals (LUBA) appeal information.

**B. Adopting Amended Public Contracting Rules – Resolution**

**Ms. Camors** provided the staff report in which the City Council was requested to adopt a Resolution that amended the public contracting rules and adopt findings related to amendments of personal services contracts. She discussed State Statutes and exemptions to the competitive bidding/proposal requirements that better meet the needs of the City.

**It was moved by Councilor Miller and seconded by Councilor Gamba to adopt the Resolution amending public contracting rules and findings as to amendments of personal services contracts. Motion passed with the following vote: Councilors Gamba, Miller, Churchill, and Hedges and Mayor Ferguson voting “aye”. [5:0]**

**RESOLUTION NO. 82-2013:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, ADOPTING AMENDED PUBLIC CONTRACTING RULES AND FINDINGS AS TO AMENDMENTS OF PERSONAL SERVICES CONTRACTS.**

**C. Contract Award for the Final Design of Riverfront Park Phase II – Resolution**

**Mr. Palmer** provided the staff report in which the City Council was requested to authorize the City Manager to sign a contract awarding an Engineering Services Agreement to David Evans and Associates (DEA) for performance of the final design services related to Riverfront Park Phase II in the amount of \$123,000. He provided historical background on the contract with DEA and work done on the conceptual design. The local contracting rule just adopted by the City Council gave it the authority to award this contract to DEA.

**It was moved by Councilor Gamba and seconded by Council President Hedges to adopt the Resolution amending public contracting rules and findings as to amendments of personal services contracts. Motion passed with the following vote: Councilors Gamba, Miller, Churchill, and Hedges and Mayor Ferguson voting “aye”. [5:0]**

**RESOLUTION NO. 83-2013:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING THE AWARD OF A CONTRACT FOR ENGINEERING AND LANDSCAPING DESIGN SERVICES FOR PHASE II OF MILWAUKIE RIVERFRONT PARK.**

**D. Portland General Electric Franchise Agreement – Ordinance**

**Mr. Monahan** provided the staff report in which the City Council was requested to adopt an Ordinance granting a non-exclusive franchise agreement to Portland General Electric (PGE) through December 31, 2013. The last agreement was adopted in 2002 and would expire on December 31, 2013. He discussed PGE’s model franchise

agreement that had recently been utilized by several cities recently, including Lake Oswego and West Linn. The new model agreement better defined terms and was easier to follow. It also described PGE's responsibility to construct and maintain facilities in the public right of way. The City also requested a term of 10 years to recognize possible technological changes.

**It was moved by Council President Hedges and seconded by Councilor Miller for the first and second readings by title only and adoption of the Ordinance granting Portland General Electric Company a Non-Exclusive Franchise for ten years of erect, construct, maintain, repair, update, and operate an electric light and power system within the City of Milwaukie, setting the terms and conditions of the franchise and providing an effective date. Motion passed with the following vote: Councilors Gamba, Miller, Churchill, and Hedges and Mayor Ferguson voting "aye". [5:0]**

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

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

#### **ORDINANCE NO. 2074**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE GRANTING A NON-EXCLUSIVE FRANCHISE FOR TEN YEARS TO ERECT, CONSTRUCT, MAINTAIN, REPAIR, UPDATE, AND OPERATE AN ELECTRIC LIGHT AND POWER SYSTEM FOR THE CITY OF MILWAUKIE, SETTING THE TERMS AND CONDITIONS OF THE FRANCHISE AND PROVIDING AN EFFECTIVE DATE.**

#### **E. Council Reports**

**Councilor Gamba** attended the Metro Policy Advisory Committee meeting and the City of Portland's presentation on Healthy Cities. He participated on the Active Transportation Plan (ATP) focus group which would be a component of Metro's Regional Transportation Plan (RTP). He continued to provide input on the bond measure subcommittee.

**Council President Hedges** attended the Clackamas County Coordinating Committee (C4) subcommittee where the urban growth boundary was discussed. He also attended five Neighborhood District Association (NDA) meetings and the Moving Forward Milwaukie workshop.

**Mayor Ferguson** announced upcoming community events at the Milwaukie Center. He would be in Haiti for several weeks doing mobile medical clinics.

#### **ADJOURNMENT**

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

**Mayor Ferguson** adjourned the regular session at 9:17 p.m.

Respectfully submitted,

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Pat DuVal, Recorder



MILWAUKIE CITY COUNCIL  
STAFF REPORT

**To:** Mayor and City Council

**Through:** Bill Monahan, City Manager  
Steve Bartol, Police Captain

**Subject:** **Resolution Authorizing a Lien in the amount of City costs for abating the nuisance on the Real Property at 5622 SE Willow St**

**From:** Tim Salyers, Code Compliance Coordinator

**Date:** 12/5/2013

**ACTION REQUESTED**

Approve the proposed resolution, which assesses the costs of the nuisance abatement, including administrative overhead, pursuant to the Milwaukie Municipal Code Section 8.04.200.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

None

**BACKGROUND**

The Code Compliance Department received a request from a neighbor to inspect the premises located at 5622 SE Willow St. for tall grass and weeds. Code Compliance Coordinator Tim Salyers went to the property on May 29, 2013 and observed violations of Milwaukie Municipal Code Section 8.04.110A, specifically tall grass, weeds and blackberries. On June 14, 2013, Coordinator Salyers observed no change at the property. On June 17, 2013, Coordinator Salyers continued enforcement by issuing a citation.

After non-compliance, Coordinator 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. Coordinator 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 September 3, 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 requesting full payment of \$755 for the work performed at the property and additional administrative charges.

The municipal code provides an opportunity for objections to be filed. As of December 5, 2013 no objections have been filed and no payment has been made 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 other expenses shall constitute a lien upon the property at which the nuisance was abated.

## **CONCURRENCE**

The City Manager, Police Captain and City Recorder concur with the recommendation.

## **FISCAL IMPACTS**

### *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. Administrative costs represent the staff time devoted to this specific code enforcement process.

### *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. September 3, 2013 letter from City Recorder Pat DuVal to the property owner Sherri Stockam

# Attachment 1



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

## Resolution No.

**A resolution of the City Council of the City of Milwaukie, Oregon, a Resolution of the City Council of the City of Milwaukie, Oregon, Assessing the Costs of Abatement of the Nuisance Located at 5622 SE Willow St 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 5622 SE Willow St, 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 has maintained an accurate accounting of the costs of abatement, including administrative overhead; and

**WHEREAS**, on September 3, 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** 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 \$755.

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 \_\_\_\_\_.

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Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC

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Pat DuVal, City Recorder

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City Attorney



**MILWAUKIE**  
*Dogwood City of the West*

September 3, 2013

Sherri Stockam  
5622 SE Willow St  
Milwaukie, OR 97222

Certified Mail # 7011 3500 0000 1229 1794

**Abatement Costs of Nuisances on Your Property at**  
**5622 SE Willow St, 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 and Cutting of: Weeds, blackberries, and grass		\$300
<u>Administrative Staff Time</u>	<u>Hours</u>	<u>Cost</u>
Tim Salyers, Code Compliance Coordinator	7 X \$65.00	\$455
		<b><u>Total \$755</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



**Regular Session  
Agenda Item No.**

**6**

**Other Business**



MILWAUKIE CITY COUNCIL  
AGENDA ITEM SUMMARY

Agenda Item: **RS 6. A.**

Meeting Date: **12/17/13**

Title: **Vehicle Purchase – Vector for Public Works**

**Prepared By:** Ronelle Sears, Fleet Supervisor

**Department Approval:** Gary Parkin, Public Works Director

**City Manager Approval:** Bill Monahan

**Approval Date:** December 9, 2013

**ISSUES BEFORE COUNCIL**

Authorize the City Manager to approve the purchase of a replacement Vector used by the Public Works Department, a vehicle that is included in the current budget.

**STAFF RECOMMENDATION**

Replacement of the Vector is important as the current machine is not functioning reliably and the Vector is a very important, heavily used machine.

**KEY FACTS & INFORMATION SUMMARY**

The Vector is a vehicle used primarily to clean pipes and drywells for the stormwater and wastewater utilities and also performs hydro-excavating functions for the water utility and the street division. The current Vector was purchased in 2001 and has been in service continuously for the past 12 years. It is worn out to the point where maintenance costs are increasing dramatically. The replacement schedule for this vehicle is 7-10 years. The current Vector will be traded in as part of this purchase.

The budget includes funding for four vehicles including this Vector. The other three vehicles, service trucks for storm and street and a service van for water, are further along in the process with price agreements already reached. After accounting for the purchase of those three vehicles there is about \$350,000 of remaining budget. The purchase of the Vector is nearing conclusion and will not exceed \$350,000.

**OTHER ALTERNATIVES CONSIDERED**

Rebid this purchase to obtain better price. Not recommended, the Statewide Price Agreement provides for the most competitive pricing.

Postpone this purchase. Not recommended, funding for this vehicle has been set aside in a vehicle replacement reserve from the utility funds. The current Vector has aged to the point where it is increasingly under repair and a new Vector is needed to maintain work load levels.

**CITY COUNCIL GOALS**

None

**FISCAL NOTES**

The total price of the Vactor with credit for the trade in of the old Vactor and an unused sweeper will not exceed the budgeted amount of \$350,000 split between the stormwater, wastewater, and water funds held in the fleet reserves.

**ATTACHMENTS**

None



MILWAUKIE CITY COUNCIL  
STAFF REPORT

**To:** Mayor and City Council

**Through:** Bill Monahan, City Manager

**Subject:** **Vehicle Purchase – Vactor for Public Works**

**From:** Gary Parkin, Public Works Director

**Date:** December 9<sup>th</sup> for December 17, 2013 meeting

**ACTION REQUESTED**

Authorize the City Manager to approve the purchase of a replacement Vactor used by the Public Works Department, a vehicle that is included in the current budget.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

**June 5, 2012** City Council meeting where the biennial budget for 2012-14 is adopted, including funding to replace the Vactor.

**BACKGROUND**

The Vactor is a vehicle used primarily to clean pipes and drywells for the stormwater and wastewater utilities and also performs hydro-excavating functions for the water utility and the street division. The current Vactor was purchased in 2001 and has been in service continuously for the past 12 years. It is worn out to the point where maintenance costs are increasing dramatically. The replacement schedule for this vehicle is 7-10 years. The current Vactor will be traded in as part of this purchase.

The majority of the Vactor use is by the stormwater utility. The City's National Pollutant Discharge Elimination Systems (NPDES) permit requirements and the upcoming permit for drywells (the WPCF permit) requires increased cleaning. The Vactor is used by the storm crew to clean catch basins, sedimentation-manholes and main lines, removing debris from the system. The storm department also uses the equipment to remove standing water from drywells that are at capacity before possible flooding occurs.

The wastewater crew uses it as a backup for the VacCon, a similar machine that is used to empty wet wells when a lift station fails, clear sewer main breaks and sewer backups. The equipment allows them to remove black water from the system in large amounts without flooding or backing up sewer lines.

The equipment is used by the water utility for underground excavations or main breaks. The equipment allows them to excavate near high pressure gas mains or telephone lines without damage to other utilities. They also use the equipment when they have a main break to remove the sediment-laden water from the work site.

The stormwater supervisor has been working with the Statewide Price Agreement vendor to get the appropriate equipment on the vehicle and keep it under budget. The vendor has offered to

take our 2001 Vactor in trade as well as the old sweeper that has been stored at well #2. The City has tried to sell this vehicle multiple times in the past few years without success.

The budget includes funding for four vehicles including this Vactor. The other three vehicles, service trucks for storm and street and a service van for water, are further along in the process with price agreements already reached. After accounting for the purchase of those three vehicles there is about \$350,000 of remaining budget. The purchase of the Vactor is nearing conclusion and will not exceed \$350,000.

### **CONCURRENCE**

Fleet shop, Public Works

### **FISCAL IMPACTS**

The total price of the Vactor with credit for the trade in of the old vactor and an unused sweeper will not exceed the budgeted amount of \$350,000 split between the stormwater, wastewater, and water funds held in the fleet reserves.

### **WORK LOAD IMPACTS**

Since the Vactor replaces an existing similar Vactor there will be no major impacts to work load. The fleet shop will have some work outfitting the vehicle and then less of a maintenance work load caring for the newer vehicle.

### **ALTERNATIVES**

Rebid this purchase to obtain better price. Not recommended, the Statewide Price Agreement provides for the most competitive pricing.

Postpone this purchase. Not recommended, funding for this vehicle has been set aside in a vehicle replacement reserve from the utility funds. The current Vactor has aged to the point where it is increasingly under repair and a new Vactor is needed to maintain work load levels.

### **ATTACHMENTS**

1. Resolution

# Attachment 1



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

## Resolution No.

**A resolution of the City Council of the City of Milwaukie, Oregon, authorizing the City Manager to approve the purchase of a replacement Vactor used by the Public Works Department.**

**WHEREAS**, the Stormwater, Water and Wastewater Utilities have been using a Vactor to perform maintenance activities since 2001; and

**WHEREAS**, the Vactor performs those maintenance activities effectively and efficiently but has reached its end of life; and

**WHEREAS**, new State and Federal permit requirements that the stormwater system is maintained in an ecologically sensitive manner demand the use of a Vactor; and

**WHEREAS**, funding to replace the existing vactor is within the current adopted budget.

**Now, Therefore, be it Resolved** that City Council authorizes the City Manager to approve the purchase of a new Vactor to replace the current one used by the Public Works Department, at a cost not to exceed the budgeted amount of \$350,000.

Introduced and adopted by the City Council on December 17, 2013.

This resolution is effective on December 17, 2013.

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Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC

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Pat DuVal, City Recorder

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City Attorney