

REGULAR SESSION

REVISED 12/17/12

AGENDA

MILWAUKIE CITY COUNCIL REGULAR SESSION

DECEMBER 18, 2012

MILWAUKIE CITY HALL
10722 SE Main Street

2140TH MEETING

REGULAR SESSION – 5:30 p.m.

- | | Page
No. |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 1. CALL TO ORDER
Pledge of Allegiance | |
| 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS | |
| A. Recognize Greg Chaimov and Joe Loomis for Service to the
 Community on the Milwaukie City Council | |
| B. Recognize Milwaukie High School Student of the Month for December
 Henry Morris | |
| C. Present the 2012 Volunteer of the Year Award | 2 |
| 3. CONSENT AGENDA <i>(These items are considered to be routine, and therefore, will not
be allotted Council discussion time on the agenda. The items may be passed by the
Council in one blanket motion. Any Council member may remove an item from the
“Consent” portion of the agenda for discussion or questions by requesting such action
prior to consideration of that portion of the agenda.)</i> | |
| A. City Council Minutes of November 20, 2012 Regular Session | 4 |
| B. Certify the Election Results for the November 6, 2012, General Election
 – Resolution | 7 |
| C. Appoint Library Expansion Task Force Members – Resolution | 13 |
| D. Authorize Library Funding Intergovernmental Agreement with
 Clackamas County | 17 |
| E. OLCC Application for Toraly, 10614 SE Main St – change of ownership | 26 |
| F. City Council Goals Update | 27 |
| G. Appoint Gabe Storm to the Milwaukie Planning Commission –
 Resolution | 32 |
| H. Appoint Pascal Sauton as Alternate to the Milwaukie Planning
 Commission – Resolution | 33 |
| I. Nominate Lisa Ferguson as the City of Milwaukie Representative to the
 Center/Community Advisory Board – Resolution | 34 |
| 4. AUDIENCE PARTICIPATION <i>(The Presiding Officer will call for statements from
citizens regarding issues relating to the City. Pursuant to Section 2.04.140, Milwaukie
Municipal Code, only issues that are “not on the agenda” may be raised. In addition,
issues that await a Council decision and for which the record is closed may not be
discussed. Persons wishing to address the Council shall first complete a comment card
and return it to the City Recorder. Pursuant to Section 2.04.360, Milwaukie Municipal
Code, “all remarks shall be directed to the whole Council, and the Presiding Officer may
limit comments or refuse recognition if the remarks become irrelevant, repetitious,</i> | |

personal, impertinent, or slanderous.” The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.)

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

A. 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. Establish Wastewater Rates – Resolution 33

Staff: Finance Director Casey Camors & Operations Director Gary Parkin

B. Public Area Requirements Developers Agreement – Resolution 66

Staff: Planning Director Steve Butler and Senior Planner Ryan Marquardt

C. Street Light Conversion to LED – Resolution 74

Staff: Public Works Operations Director Gary Parkin

~~D. Habitat Development Agreement for Kellogg for Coho – Resolution~~

~~Staff: Community Development Director Kenny Asher~~

E. Council Reports

7. INFORMATION

8. ADJOURNMENT

Public Information

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

2.

PROCLAMATIONS,
COMMENDATIONS,
SPECIAL REPORTS,
AND AWARDS

PROCLAMATION

**Proclaiming Ed Zumwalt as the 2012 Volunteer of the Year
and Naming the Annual Volunteer of the Year Award in His Honor**

WHEREAS, Ed Zumwalt, is a long time resident of the City of Milwaukie, and throughout the years has been a dedicated neighborhood and community activist for the City of Milwaukie; and

WHEREAS, Ed Zumwalt, a member of the non-profit organization Celebrate Milwaukie, Inc., has contributed to the vibrancy and economic vitality of the City through his tireless devotion and a multitude of volunteer hours to the community events Milwaukie Daze and First Friday art walks; and

WHEREAS, Ed Zumwalt has served his community by volunteering on the Milwaukie Library Board since 1998, participating in the Historic Milwaukie Neighborhood Association and assisting with coordinating a Christmas gift donations program for families at Milwaukie Elementary School, sponsored by the the Historic Milwaukie NDA, and coordinating the long-standing and popular Scott Park Concert series; and

WHEREAS, the City desires to establish an annual award to the volunteer of the year and name the award in honor of its first recipient; and

WHEREAS, Ed Zumwalt has demonstrated that he is deserving of being the first recipient of the volunteer of the year award; and

WHEREAS, the City Council wishes to recognize Ed Zumwalt for his many contributions, which have made a profound and lasting impact on the Community and the citizens of Milwaukie.

I, Jeremy Ferguson, Mayor of the City of Milwaukie, declare Ed Zumwalt the Volunteer of the Year for 2012, and hereby name the annual award The Ed Zumwalt Volunteer of the Year Award.

IN WITNESS WHEREOF, I hereunto set my hand this

18th Day of December, 2012

Jeremy Ferguson, Mayor

3.

CONSENT AGENDA

**CITY OF MILWAUKIE
CITY COUNCIL REGULAR SESSION
NOVEMBER 20, 2012**

CALL TO ORDER

Mayor Ferguson called the 2138th meeting of the Milwaukie City Council to order at 7:10 p.m. in the City Hall Council Chambers.

Present: Council President Chaimov and Councilors Dave Hedges, and Mike Miller

Excused: Councilor Joe Loomis

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis, Police Captain Dave Rash, City Recorder Pat DuVal

PLEDGE OF ALLEGIANCE**PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS****Milwaukie High School Student of the Month for November 2012 Alexis Noren**

The Mayor and Councilors recognized Alexis Noren as the November 2012 Student of the Month.

Emergency Management Annual Report 2011 / 2012

Capt. Rash provided background on the Emergency Operations Plan (EOP) and Emergency Operations Center (EOC) upgrades. In 2012 two EOC exercises were conducted that included integrating new employees and testing the Community Emergency Response Team (CERT) phone tree. This allowed testing of the operation and equipment systems as well as the Code Red Emergency notification system which can send up to 1,000 calls per minute. About 100% of the Police Department and 90% of staff in other departments have completed all required National Incident System (NIMS) training. The number of Community Emergency Response Team (CERT) members had doubled in 2011 / 2012, and currently two organizations were participating in the community shelter program. Another avenue for citizen education was the Mayor's Forum series that had attracted almost 250 citizens to date. Emergency preparedness communication included a new webpage created in 2011, information published in the City newsletter, and information sent to the Neighborhood District Associations. The City has partnered with Clackamas County, Clackamas Fire District #1, North Clackamas School District, Providence Milwaukie Hospital, CERT, Red Cross, and local shelter sites. Planned activities for 2013 were continuing to develop partnerships, continuing training efforts, developing communication methods and outreach, and developing additional shelter sites and volunteer intake processes. He recognized Linda Hedges and Karin Gardner for their work in developing a successful emergency management program for Milwaukie residents.

CONSENT AGENDA

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

A. City Minutes of:

1. **October 30, 2012 Study Session; and**
2. **October 6, 2012 Regular Session**

B. Resolution 58-2012: A Resolution of the City Council of the City of Milwaukie, Oregon, Providing Notice of Changes to the First January 2013 Meeting Date.

CITY COUNCIL REGULAR SESSION – NOVEMBER 20, 2012

DRAFT MINUTES

Page 1 of 3

Motion passed with the following vote: Councilors Hedges, Miller and Chaimov and Mayor Ferguson voting “aye.” [4:0]

AUDIENCE PARTICIPATION

Mr. Monahan reported on previous meeting’s audience participation comments. He had spoken with Bob and Sue Richardson regarding their concerns about residents and visitors to Northridge parking in the cul-de-sac. The cul-de-sac was found to be a public street, and it was determined the Richardson’s should speak with their Representative Carolyn Tomei about the statute. Only thing the City could do was create a parking restriction for their particular cul-de-sac.

Ed Parecki had requested his money be refunded for a public records request and to find out how it was that a number of downtown businesses did not have certificates of occupancy. Mr. Monahan did not recommend the funds be returned and outlined the reasons why the records may not have been produced.

Les Poole, Clackamas County, said today Clackamas County decided to not exercise the option purchase the Milwaukie Elks Lodge, and he urged people to visit the site and consider membership. He discussed what was left of the Trolley Trail and briefly described his recent appeal to the Land Use Board of Appeals (LUBA). TriMet said it was private property while it was actually public property and cut trees without permits. The Code Enforcement Coordinator reported that the Planning Department had taken on the project, and it was out of his hands. Mr. Poole thought this was a hatchet job to get light rail to Oak Grove.

Ed Parecki, Milwaukie business owner, found a lot of inaccuracies in the response from the Building Official. He was required to pay the records request fee before he could see the list and still felt he should get his money back. He had to pay development charges before getting an occupancy permit. He understood that in some cases a new certificate of occupancy was not required if the use had not changed but what about the other 17 businesses?

Mr. Monahan said Mr. Larsen had been on vacation. Public records can be viewed but he understood Mr. Parecki wanted staff to look through the files, so the City required a deposit. Mr. Parecki may look at records at no additional charge unless he wanted copies.

It was moved by Councilor Hedges and seconded by Councilor Miller to refund the fee to Mr. Parecki. Motion passed with the following vote: Councilors Hedges and Miller and Mayor Ferguson voting “aye” and Councilor Chaimov voting “no.” [3:1]

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. Council Reports

The Mayor and Councilors sent their condolences to Ed Zumwalt and his family on the passing of his wife Pat.

Mayor Ferguson reported on the recent City Hall visit by students from the New Urban High School and commented he had been very impressed.

ADJOURNMENT

It was moved by Mayor Ferguson and seconded by Councilor Hedges to adjourn the meeting. Motion passed with the following vote: Councilors Hedges, Miller, and Chaimov and Mayor Ferguson voting “aye.” [4:0]

Mayor Ferguson adjourned the regular session at 8:01 p.m.

Respectfully submitted,

Pat DuVal, Recorder

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CERTIFYING ELECTION RESULTS FOR THE NOVEMBER 6, 2012 GENERAL ELECTION.

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

WHEREAS, the election results from the November 6, 2012 General Election have been certified by the office of the Clackamas County Clerk and Multnomah County Elections;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, THAT:

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

Section 2: This resolution is effective immediately upon adoption.

Introduced and adopted by the City Council on December 18, 2012.

ATTEST:

Jeremy Ferguson, Mayor
APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



CLACKAMAS COUNTY

Office of County Clerk

SHERRY HALL
CLERK

2051 KAEN ROAD, 2ND FLOOR
OREGON CITY, OR 97045
503.650.5686
FAX 503.650.5687

VIA USPS AND BY FAX

City of Milwaukie
Attn: Pat DuVal, City Recorder
10722 SE Main Street
Milwaukie, OR 97222

FAX 503.652.4433

Dear Pat:

Attached please find the elections abstract for the November, 2012 General Election. This includes that part of Milwaukie which is in Multnomah County.

Dated: November 27, 2012

SHERRY HALL
COUNTY CLERK

By: Steve Kindred

Steve Kindred
Elections Manager

Board Of Property Tax Appeals
2051 Kaen Road, 2nd Floor
Oregon City, OR 97045
503.655.8662
FAX 503.650.5687

Elections Division
1710 Red Soils Court, Suite 100
Oregon City, OR 97045
503.655.8510
FAX 503.655.8461

Recording Division
2051 Kaen Road, 2nd Floor
Oregon City, OR 97045
503.655.8551
FAX 503.650.5688

Records Management Division
270 Beavercreek Road, Suite 200
Oregon City, OR 97045
503.655.8323
FAX 503.655.8195

**Canvass Report — Total Voters — Official
Clackamas County, Oregon — General Election — November 06, 2012
Page 80 of 174**

11/20/2012 10:40 AM
Precincts Reporting 118 of 118 = 100.00%

Total Number of Voters: 191,126 of 229,236 = 83.38%

City of Milwaukie, Councilor Position 3

Precinct	Blank Ballots Cast	Over Votes	Under Votes	Total Ballots Cast	Registered Voters	Percent Turnout	Scott N Barbur	Mark Gamba	Write-Ins	Totals
051	0	1	617	2,175	2,663	81.67%	654	893	10	1,557
052	1	0	635	2,182	2,669	81.75%	677	858	12	1,547
053	1	0	533	1,764	2,229	79.14%	595	625	11	1,231
054	0	0	551	1,892	2,248	84.16%	592	743	6	1,341
055	0	0	607	2,087	2,568	81.27%	798	673	9	1,480
Total	2	1	2,943	10,100	12,377		3,316	3,792	48	7,156

CERTIFIED COPY OF THE ORIGINAL
CHERRY HALL, COUNTY CLERK

Sherry Hall

NUMBERED KEY CANVASS

Multnomah County, Oregon
General Election
November 6, 2012

RUN DATE:11/26/12 01:07 PM

REPORT-EL52 PAGE 0077

		VOTES	PERCENT			VOTES	PERCENT
City Councilor Position 3 CITY OF MILWAUKIE (JT)							
Vote For 1							
01 = Scott N Barbur		0					
02 = Mark Gamba		0		03 = WRITE-IN		0	

	01	02	03				

4102	0	0	0				

Certificate

I certify that the votes recorded on this abstract correctly summarize the tally of votes cast at the election indicated.



Tim Scott, Director of Elections
Multnomah County, Oregon

**Canvass Report — Total Voters — Official
Clackamas County, Oregon — General Election — November 06, 2012**

11/20/2012 10:40 AM

Total Number of Voters: 191,126 of 229,236 = 83.38%

Precincts Reporting 118 of 118 = 100.00%

City of Milwaukie, Councilor Position 1

Precinct	Blank Ballots Cast	Over Votes	Under Votes	Total Ballots Cast	Registered Voters	Percent Turnout	Mandy Zeilinka	Richard S Cayo	Scott Churchill	Write-Ins	Totals
051	0	2	611	2,175	2,663	81.67%	323	210	1,017	12	1,562
052	1	0	585	2,182	2,669	81.75%	335	246	1,003	13	1,597
053	1	0	502	1,764	2,229	79.14%	272	165	818	7	1,262
054	0	0	538	1,892	2,248	84.16%	229	144	969	12	1,354
055	0	1	582	2,087	2,568	81.27%	291	210	992	11	1,504
Totals:	2	3	2,818	10,100	12,377		1,450	975	4,799	55	7,279

CERTIFIED COPY OF THE ORIGINAL
CLACKAMAS COUNTY CLERK

BY: *Sherry Hall*

NUMBERED KEY CANVASS
RUN DATE:11/26/12 01:07 PM

Multnomah County, Oregon
General Election
November 6, 2012

REPORT-EL52 PAGE 0076

	VOTES PERCENT				VOTES PERCENT	
City Councilor Position 1 CITY OF MILWAUKIE (JT)						
Vote For 1						
01 = Mandy Zelinka Anderson			0		03 = Scott Churchill	0
02 = Richard S Cayo			0		04 = WRITE-IN	0

	01	02	03	04		

4102	0	0	0	0		

Certificate

I certify that the votes recorded on this abstract correctly summarize the tally of votes cast at the election indicated.



Tim Scott, Director of Elections
Multnomah County, Oregon



Agenda Item: HÖÈ
Meeting Date: 12/18/12

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Library Expansion Task Force Membership

Prepared By: Teri Bankhead, Asst. to City Manager

Reviewed by City Manager: 12/6/12

ISSUES BEFORE THE COUNCIL

Shall the City Council revise the Library Expansion Task Force and Appoint Current Members into NDA Position A and the City Council position?

STAFF RECOMMENDATION

Staff recommends that the City Council revise the membership of the Task Force, appointing Greg Chaimov to the NDA Position A and Scott Churchill to City Council position.

KEY FACTS & INFORMATION SUMMARY

ACTION REQUESTED

The Library Expansion Task Force was created in March, 2011 and continues to carry out its functions. The Task Force was comprised of representatives from the citizens at large, the neighborhood district associations (NDAs), the Library Board, the Council, the Planning Commission, the Budget Committee and the local business community. The members of the NDAs and the citizens at large are to represent areas on either side of Highway 224 as follows – position A. the Lake Road, Historic Milwaukie and Island Station NDAs, and position B. Hector Campbell, Ardenwald, Linwood, and Lewelling NDAs.

On January 1, 2013, Greg Chaimov will no longer be a city councilor and therefore will be ineligible to serve as the Council representative on the Task Force. He does, however, reside in the Island Station NDA and is eligible to fill Position A on the Task Force. Scott Churchill has been serving as the NDA representative for Position A as he resides in the Historic Milwaukie NDA. He was elected to serve on the City Council effective on January 2, 2013. In order to provide continuity to the efforts of the Task Force, staff recommends allowing both individuals to continue as members, however, they would change positions. Greg Chaimov would become the Position A NDA representative and Scott Churchill the Council representative.

Beth Ragel, Program Coordinator for the NDAs, met with the leadership group on November 28, 2012 and vetted this idea. The leadership group concurred that for the sake of continuity, and because both individuals have been participating from the start of the Task Force, it would be beneficial to have them continue, representing different positions.

CONCURRENCE

The City Library Director and the NDA Leadership group concur.

OTHER ALTERNATIVES CONSIDERED

CITY COUNCIL GOALS

Develop a plan for consideration of Ledding Library expansion options.

ATTACHMENT LIST

Attachment 1 - Resolution

FISCAL NOTES

None.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
REVISING MEMBERSHIP TO THE LIBRARY EXPANSION TASK FORCE.**

WHEREAS, the Library Expansion Task Force was established by Resolution 35-2011 to assist the Board and Council to assist in evaluation and development of alternatives; and

WHEREAS, the Task Force is comprised of representatives from the citizens at large, the neighborhood district associations (NDAs), the Library Board, the Council, the Planning Commission, the Budget Committee and the local business community, with the assistance of the Library Director and staff from the Planning and Finance department as ex officio members; and

WHEREAS, Council stipulated that the citizen at large members and the NDA representatives should be appointed to represent the areas on either side of Highway 224, as follows - position A. the Lake Road, Historic Milwaukie and Island Station NDAs and position B. Hector Campbell, Ardenwald, Linwood, and Lewelling NDAs; and

WHEREAS, on May 3, 2011 the City Council passed Resolution 50-2011 appointing members to the task force; and

WHEREAS, Greg Chaimov, who currently represents the Task Force City Council position, will no longer be eligible to fill this role due to his departure from Council December 31, 2012, but is a resident of the Island Station NDA; and

WHEREAS, Scott Churchill has been serving as the NDA Position A but was elected to take office on City Council January 2, 2013 and is eligible to serve as the Council representative on the Task Force; and

WHEREAS, Council desires that both individuals remain on the Task Force to provide for continuity of progress towards expansion of the library and proposes to switch these member positions; and

WHEREAS, on November 28, 2012, the NDA leadership group concurred with this change in the Council and NDA Position A representatives.

NOW, THEREFORE, BE IT RESOLVED that the City Council revises the following Task Force positions effective January 1, 2013:

- a. City Council – Scott Churchill
- b. NDA Position A – Greg Chaimov

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



3.D.

To: Mayor and City Council
Through: Bill Monahan, City Manager
From: Katie Newell, Library Director
Subject: Capital Contribution IGA
Date: December 18, 2012

ACTION REQUESTED

Signing of Cooperative IGA between Clackamas County and the City of Milwaukie for County Capital Contribution.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Library District established with the IGA signed October 2009.

BACKGROUND

As part of the creation of the Library District of Clackamas County, the City of Milwaukie is scheduled to receive \$1 million from the County in January 2013 to be used for library-related capital purposes. To receive the \$1 million, the City must sign the Capital Contribution IGA with Clackamas County.

CONCURRENCE

Library Director recommends the City sign the Capital Contribution IGA.

FISCAL IMPACTS

This would provide the Library with the funds needed to proceed with expansion plans if this is the recommendation of the Library Expansion Task Force without impacting the City.

WORK LOAD IMPACTS

If the LETF recommends an expansion of the Ledding Library, the Library Director will be involved with the project.

ALTERNATIVES

There is no alternative.

ATTACHMENT

1. Cooperative Intergovernmental Agreement between Clackamas County and the City of Milwaukie for County Capital Contribution.

Attachment 1

COOPERATIVE INTERGOVERNMENTAL AGREEMENT BETWEEN CLACKAMAS COUNTY AND THE CITY OF MILWAUKIE

THIS COOPERATIVE INTERGOVERNMENTAL AGREEMENT (this “Agreement”), is entered into this 18th day of December, 2012, by and between the Clackamas County (the “County”) a political subdivision of the State of Oregon, and the City of Milwaukie, a municipal corporation (the “City”).

WHEREAS, the County has formed the Library District of Clackamas County (the “District”), a county service district dedicated to supporting the provision of library services within its boundaries; and

WHEREAS, as part of the preparatory process for the formation of the District, the Board of County Commissioners proposed a one-time contribution from the County general fund to each city providing library services in the District for the sole purpose of capital improvements to the libraries therein (the “Capital Contribution”); and

WHEREAS, the City and other cities within the District have entered into a separate intergovernmental agreement dated October 9, 2009 with the District for the distribution of District funds for the purposes of operating, maintaining and enhancing services at the libraries within the District (the “District IGA”); and

WHEREAS, the County is entering into similar intergovernmental agreements with city library service providers (“Library Cities”) for their respective Capital Contributions; and

WHEREAS, the parties desire to enter into this Agreement to reflect the terms of the Capital Contribution by the County;

NOW, THEREFORE, the County and City each covenant and agree to the following:

Section 1 Obligations of the County

- 1.1 County Capital Contribution. The County shall provide a one-time capital contribution of One Million and No/100 Dollars (\$1,000,000.00) to the City for the purposes set forth in Section 2.2 (the “Capital Contribution”), which will be distributed in one or more distributions pursuant to Section 1.3 hereof. The goal of distributing such capital funds is to assist libraries in meeting the Service Standards as defined in the District IGA.

- 1.2 Library Capital Trust Fund. The County shall allocate a guaranteed amount per fiscal year to a County-managed dedicated library capital trust fund (the “Capital Fund”) as scheduled and set forth in Exhibit A (the “Disbursement Schedule”).
- 1.3 Capital Fund Distribution. The County shall disburse the Capital Contribution from the Capital Fund to the City and other Library Cities based on the Disbursement Schedule. The County shall make distributions up to the maximum available amount for that fiscal year. Such distribution will be made by the County no earlier than January of such fiscal year and no later than 60 days after the City submits to the County a capital plan identifying how the City will use the Capital Contribution. If requests for distributions in a given fiscal year are for a total amount less than the total amount in the Capital Fund, the County shall carry forward such balance to the next fiscal year for distribution as requested.
- 1.4 Changes In Capital Fund Disbursement Schedule. To the extent the City desires a change in the schedule of disbursement, the City shall meet with representatives of the other Library Cities as constituted by the Library District Advisory Committee or otherwise and arrive at a mutually agreeable reordering of the Disbursement Schedule, which shall then be presented to the County Board for its approval. The City hereby consents to an alteration of the Disbursement Schedule without requiring the adoption of a specific amendment upon presentation of a resolution agreed to by a majority of the representatives of the Library Cities consenting to such change and upon approval of the requested change by the Board of County Commissioners.
- 1.5 Library Network. The County currently funds and operates the Library Network of Clackamas County (the “Network”) to support the provision of services by the libraries in Clackamas County. The County shall fund the Network to provide the following services at an overall service level at least equal to that being provided by Network in fiscal year 2008/2009:
 - 1.5.1 Automated library system and related telecommunications and technical support;
 - 1.5.2 Courier services;
 - 1.5.3 Administration;
 - 1.5.4 Database management services including creating/acquiring MARC format bibliographic records;
 - 1.5.5 Inter-library loan services;
 - 1.5.6 Inter and intra-regional cooperative library planning;
 - 1.5.7 Shared online databases for public use; and
 - 1.5.8 Internet Service Provider for member libraries.

The County shall not be financially or otherwise responsible for the provision of new services requested or added to Network at the request of the City. To the extent the City or Library Cities generally request new or additional services, such requesting provider(s) will be billed back on separate contracts initiated as services are added. Such agreements shall not modify or restrict the covenants and agreements of the parties hereto.

Section 2 **Obligations of the City**

- 2.1 Capital Fund Disbursement. The City shall receive its Capital Contribution pursuant to Sections 1.3 and 1.4 hereof.
- 2.2 Use of Funds. The City shall expend the Capital Contribution solely for library purposes such as library construction, remodel, expansion, building and site improvements, library construction bonded debt service, and/or collection development.
- 2.3 Proof of Use. After distribution, the County may monitor the use of the Capital Contribution to ensure that these County general funds are used for purposes permitted by Section 2.2. Upon request of the County, the City shall provide a certification that the Capital Contribution has been so used to the head of the Business and Community Services Department of Clackamas County or his or her designee.
- 2.4 Library Board Representation. The City shall provide for fair representation of served library patrons on the City's library board, including patrons from unincorporated Clackamas County.

Section 3 **Term and Termination**

- 3.1 Term. This Agreement shall commence on January 1, 2013 and automatically renew annually each July 1st thereafter, unless otherwise terminated as set forth herein.
- 3.2 Termination. This Agreement shall terminate upon the agreement of both parties, or upon one hundred eighty (180) days prior written notice from one party to the other.
- 3.3 Amendment. This Agreement may be amended at any time upon the agreement of both parties.
- 3.4 Failure of the City to use Capital Contribution for Library purpose. If the City at any time uses the Capital Contribution other than for purposes permitted in Section 2.2., the City will be in material breach of this Agreement and shall promptly repay to the County that portion of the Capital Contribution not so

used plus accrued interest on such sum calculated from the date of disbursement to the date of repayment at a rate of 6% per annum.

Section 4 General Provisions

- 4.1 Indemnification. Each party shall release, defend, indemnify and/or hold harmless the other, its officers, commissioners, councilors, elected officials, employees, and agents, from and against all damages, claims, injuries, costs, or judgments that may in any manner arise as a result of the party's performance under this contract, subject to Oregon Tort claims limitations.
- 4.2 Governing Law. This Agreement shall be construed and governed in all respects in accordance with laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- 4.3 Savings. Should any portion of this Agreement or amendment there to be adjudged by a Court of appropriate final jurisdiction to be in violation of any local, state or federal law, then such portion or portions shall become null and void, and the balance of the Agreement shall remain in effect. Both parties shall immediately renegotiate any part of this Agreement found to be in such violation by the Court and to bring it into compliance with said laws.
- 4.4 Reasonable Attorney's Fees. In the event any action is brought to enforce, modify or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys fees and costs incurred in connection with such action or on appeal or review; said amount to be set by the court before which the matter is heard.
- 4.5 Notices. Formal notices, demands and communications between the Parties shall be deemed given three (3) business days after being sent by registered or certified mail, postage prepaid, return receipt requested to the principal offices of the Agency and the City as designated herein. Such written notices, demands and communication may be sent in the same manner to such other addresses and to such other persons and entities as either party may from time to time designate by mail as provided in this section. Notices shall be sent to the addresses shown below and to the attention of the person indicated.

The principal offices and mailing address of the Parties are:

Clackamas County
Attn: Board of County Commissioners
2051 Kaen Road
Oregon City, Oregon 97045

City of Milwaukie
Attn: Bill Monahan
City Manager
10722 SE Main Street
Milwaukie, OR 97222

- 4.6 No Personal Liability. No member, official, agent, or employee of the County or any City shall be personally liable to the other or any successor-in-interest thereto in the event of any default or breach by such entity.
- 4.7 No Agency. Neither anything in this Agreement nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between any of the parties to this Agreement. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- 4.8 Entire Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties or the predecessors in interest with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the party granting such waiver.
- 4.9 Further Action. The parties hereto shall, without additional consideration, acknowledge, execute, and deliver from time to time such further instruments as a requesting party may reasonably require to accomplish the purposes of this Agreement.
- 4.10 Non-Waiver of Rights. The failure of a party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach of any provision of this Agreement shall not constitute a waiver of any provision of this Agreement or limit the party's right thereafter to enforce any provision or exercise any right.
- 4.11 Time is of the Essence. A material consideration of the parties entering into this Agreement is that the parties will perform all obligations under this Agreement in a timely manner. Time is of the essence as to each and every provision of this Agreement.
- 4.12 Restricted Assignment. No party hereto may assign its rights, responsibilities or obligations hereunder to another party, by operation of law or otherwise, without (i) seeking and receiving an amendment of this Agreement and (ii) having said party join this Agreement on the terms, conditions and covenants herewith.

- 4.13 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.
- 4.14 Library Authority. Clackamas County operates public libraries pursuant to a board order creating public libraries for all Clackamas County residents dated July 9, 1938, as amended and updated pursuant to Board Order 85-1221 dated October 31, 1985. The Library Cities operate or in future plan to operate public libraries under state law within their boundaries. Under the District IGA, the Library Cities have agreed to provide public library services in unincorporated areas of the County as well as within City boundaries. Clackamas County nonexclusively delegates the authority to operate public libraries for the benefit of incorporated and unincorporated residents of Clackamas County to the City.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

THE CITY OF MILWAUKIE	CLACKAMAS COUNTY
By: _____	By: _____
Title: _____	Title: Chair _____
ATTEST: _____	ATTEST: _____

Exhibit A

Disbursement Schedule

	Year 1 2009/10	Year 2 2010/11	Year 3 2011/12	Year 4 2012/13	Year 5 2013/14	TOTAL
Annual Distribution	3,500,000	3,000,000	2,500,000	2,000,000	1,250,000	12,250,000
Prior Year Carryover	--	1,350,000	350,000	850,000	--	
Total Funds Available	3,500,000	4,350,000	2,850,000	2,850,000	1,250,000	
Library Cities:						
<i>Canby</i>				1,000,000		1,000,000
<i>Estacada</i>	1,000,000					1,000,000
<i>Gladstone</i>		1,000,000				1,000,000
<i>Happy Valley</i>		2,000,000				2,000,000
<i>Lake Oswego</i>			1,000,000			1,000,000
<i>Milwaukie</i>				1,000,000		1,000,000
<i>Molalla</i>	150,000			850,000		1,000,000
<i>Oregon City</i>		1,000,000				1,000,000
<i>Sandy</i>			1,000,000		250,000	1,250,000
<i>West Linn</i>	1,000,000					1,000,000
<i>Wilsonville</i>					1,000,000	1,000,000
Total						12,250,000
Carryover:	1,350,000	350,000	850,000	--	--	



3.E.



To: Mayor Ferguson and Milwaukie City Council
Through: Bill Monahan, City Manager
From: Bob Jordan, Chief of Police *BJ*
Date: November 29, 2012
Subject: O.L.C.C. Application – Toraly – 10614 SE Main Street

Action Requested:

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from Toraly - 10614 SE Main Street.

Background:

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



Agenda Item: 3.F.
Meeting Date: 12/18/2012

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Council Goals Update

Prepared By: Teri Bankhead, Asst. to City Manager
Dept. Head Approval: Bill Monahan, City Manager
City Manager Approval: December 7, 2012
Reviewed by City Manager: December 7, 2012

Issue Before the Council

Update of progress toward 2012 City Council Goals

Staff Recommendation

Informational only

Key Facts & Information Summary

Council sets and adopts goals annually to provide direction for the City. Staff then develops work plans and tasks to work toward achieving these goals. The City Manager's office tracks progress on this work and presents it to Council two times a year. The last review and update was in April 2012, at which time Council revised the 2011 nine (9) priority goals and three unprioritized goals. The attached spreadsheet lists progress on these goals from April 2012 to November 2012.

Other Alternatives Considered

City Council Goals

Council will discuss goal setting in early 2013

Attachment List

2011-2012 Council Goals Spreadsheet

Fiscal Notes

2011-2012 Council Goals

Goal #	Dept/Staff	Goal	Activities/Accomplishments Since Last Goal Setting (April 2012)
1	Bill	Identify where the \$5 million for light rail comes from	Within the resolution passed by Council, the City committed to payment terms with TriMet and to discuss seeking voter approval in May 2013 of alternative funding with the obligation.
2	Kenny	Pursue economic development initiatives	
		a. promote small business investment and development that capitalize on making Milwaukie a unique destination	Closed out the façade improvement program, which steered \$50k to 9 businesses to improve storefront and building appearances. Initiated council's code amendment project to ease PAR requirements and ground floor use restrictions on Main Street.
		b. promote development of neighborhood-centered commercial centers, including 20-minute walking neighborhoods	Completed the Neighborhood Main Streets project, creating a vision and goals for the development of commercial Main Streets in the 32nd/42nd areas. Submitted an ODOT STIP grant for King Road pedestrian improvements. Began designing a citywide sidewalk program. Completed the remaining Walk Safely Milwaukie Projects in Lewelling and Island Station.
		c. promote downtown as a special place	Secured funding for the Kellogg Lake bike/ped bridge and a private partner for the Kellogg-For-Coho Initiative, helped nurture a development arrangement in the South Downtown, and moved the Adams Street Connector to 100 percent design -- all to realize the vision of the South Downtown Plan.
		d. identify facilities in the City to attract destination events and activities	Studied the possibility of a minor league ballpark as a destination and multiuse facility .
		e. continue to explore the opportunity to bring minor league baseball and secure the ODOT property	Completed the minor league baseball feasibility study.
3	Bill	Complete a fair wastewater agreement with Clackamas County Service District #1 and make the Kellogg Plant a good neighbor	The agreement is on the December 4 City Council agenda and the December 6 Board of County Commission agenda for adoption. The agreement has provisions addressing making the Kellogg Plant a good neighbor.
4	JoAnn	Parks District Master Plan	

2011-2012 Council Goals

		a. Continue development of Riverfront Park	Submitted follow up information to Corps of Engineers for permit review. Issued RFP for Klein Point contractor, awarded bid and completed construction of Klein Point and held opening event on Dec 1. Held two meetings with ODOT and WES staff to discuss McLoughlin access to Riverfront Park and completed gap analysis of proposed access. Developed critical path schedule for project to inform Council discussions with County Commissioners regarding park access.
		b. Bring forward cost and scope information to complete Master Plans for Kronberg and Balfour Parks and complete the plan for Kronberg Park by the time light rail opens	Developed summary of scope of work to complete Kronberg land use process and presented to the District Advisory Board. Kronberg Park master plan is to be included in the scope of work for Wildlands as part of the Kellogg dam project.
		c. Complete Kellogg for Coho Project by Jan. 1, 2016	Led the establishment of a Habitat Development Agreement, completed an Initial Sediment Characterization study, and attracted \$200k in ODOT funding toward the KFCI.
		d. Determine if funding of City parks and open spaces can be part of a NCPD levy	Park Board members and City staff have participated in 4 public meetings related to the Park District Master plan review and update. Comments have been submitted by the City encouraging the completion of the remaining undeveloped neighborhood parks in Milwaukie. No public discussion of a District levy has been announced to date.
5	Katie	Develop a plan for consideration of Ledding Library expansion	RFQ for a consultant to complete a needs assessment/programming proposal went out November 2012; present recommendations to Council by Spring 2013.
6	Kenny	Develop the station building with the Light rail line so the building is in place when the Light Rail line opens in Milwaukie	Completed the prospectus for the Downtown Station Building and began the process of recruiting a development team for that project.

2011-2012 Council Goals

7	Teri/Bill	Review the City's boundaries - negotiate with Happy Valley in establishing Milwaukie's eastern border	Milwaukie staff met with Happy Valley and Clackamas County staff multiple times throughout 2012. Milwaukie Council agreed it would not consider an overlapping area within its UGMA and HV was informed of this decision. In October, Happy Valley informed us that they would withdraw their interest in an overlapping area west of I-205, mainly the Clackamas Town Center. They requested a letter of support from Milwaukie stating such, and it was presented to them. We are currently working on revising our UGMA agreement and boundary map to pull back from the east side of I-205. We are also working towards revising the IGA's with the urban service providers in the UGMA area.
8	Kenny	Establish a Quiet Zone	UP Mainline: Construction completed on Harrison Street safety measures and sidewalks. Design underway on Oak and 37th avenue, with construction planned for next year. Tillamook Branch: TriMet plans approved for safety measures at all crossings; crossing orders filed; construction as part of light rail planned for 2013-2014.
9	Kenny	Allocate resources within the Capital Improvement Plan to:	
		Improve livability in the neighborhoods	Current year CIP being executed to include \$815k in neighborhood stormwater improvements, \$1.7m in neighborhood transportation improvements, \$1.4m in neighborhood street surface maintenance projects, \$1.8m in neighborhood wastewater improvements, and \$485k in water system improvements.
		Conduct an analysis of a possible sidewalk maintenance/improvement fee program – considering sidewalk walkability in neighborhoods and designation of safety corridors in school zones	Analysis is underway. Council has provided inputs at two points thus far.

2011-2012 Council Goals

Unprioritized Goals	Activities/Accomplishments Since Last Goal Setting (April 2012)
Gather more information on Tree City USA designation, assess current greening efforts, and decide how the City will care for City parks, open space, median strips and other public area that are the responsibility of the City	New Parks and Sustainability Director plans to review Tree City USA designation and Heritage Tree programs and review with council in 2013. Assessment of storm swales, open space and median maintenance will also be included in sustainability efforts discussed with council in 2013.
Develop an intra-city transportation system to coordinate with Light Rail	
Review Public Facilities Study and provide direction for implementation	

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING GABE STORM TO THE MILWAUKIE PLANNING COMMISSION.

WHEREAS, a vacancy exists on the Milwaukie Planning Commission; and

WHEREAS, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

WHEREAS, the term for position 5 of the Planning Commission is set to terminate 3/31/13, Council desires to realign this date to 3/31/15 to meet the intent of rotating positions; and

WHEREAS, Gabe Storm possesses the necessary qualifications to serve on the Milwaukie Planning Commission.

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

SECTION 1: That Gabe Storm is appointed to the Milwaukie Planning Commission.

SECTION 2: That his term of appointment shall commence January 1, 2013 and shall expire on March 31, 2015.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on December 18, 2012.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING PASCAL SAUTON AS AN ALTERNATE TO THE MILWAUKIE PLANNING COMMISSION.

WHEREAS, Council has established an alternate program for City Boards, Commission and Committees; and

WHEREAS, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

WHEREAS, Pascal Sauton possesses the necessary qualifications to serve as an alternate on the Milwaukie Planning Commission.

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

SECTION 1: That Pascal Sauton is appointed as an alternate to the Milwaukie Planning Commission.

SECTION 2: That his term of appointment shall commence January 1, 2013 and shall expire on December 31, 2013.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on December 18, 2012.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, NOMINATING LISA FERGUSON AS THE CITY OF MILWAUKIE REPRESENTATIVE TO THE CENTER/COMMUNITY ADVISORY BOARD.

WHEREAS, Milwaukie Municipal Code Section 2.20.020(B) states that one of the twelve members of the Board shall be nominated by the Milwaukie City Council; and

WHEREAS, a vacancy exists on the Center/Community Advisory Board (C/CAB) for one member representing the City of Milwaukie; and

WHEREAS, the Code further states that the nominee shall be recommended by the C/CAB and the North Clackamas Parks and Recreation Board to the Board of County Commissioners; and

WHEREAS, the Center/Community Advisory Board interviewed Ms. Ferguson and voted unanimously at its December 14, 2012, Board meeting to recommend that the City of Milwaukie nominate her to the vacant City of Milwaukie representative position on the Board; and

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

SECTION 1: That Lisa Ferguson is nominated by the Milwaukie City Council for appointment by the Clackamas County Board of Commissioners as the City of Milwaukie representative to Center/Community Advisory Board.

SECTION 2: That her term of appointment shall commence immediately and shall extend through October 2014.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on December 18, 2012.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

6.
OTHER BUSINESS



Agenda Item: 6.A.
Meeting Date: 12/18/2012

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Wastewater Rate Study – Adoption of Rate
Prepared By: Gary Parkin, Public Works Operations Director
Dept. Head Approval: Casey Camors, Finance Director
City Manager Approval: Bill Monahan, City Manager
Reviewed by City Manager: November 30, 2012

ISSUES BEFORE THE COUNCIL

Review the progress of the wastewater rate study and the recommendation of the Citizen's Utility Advisory Board (CUAB) on a rate to adopt.

STAFF RECOMMENDATION

Adopt a rate for the wastewater utility as recommended by the CUAB.

KEY FACTS & INFORMATION SUMMARY

On December 4, City Council heard from representatives of the CUAB and received a presentation by MWH of the Wastewater Rate Study Findings. Council delayed taking action on the rates and requested staff bring this item back to the December 18 meeting to allow for further public comment.

At their June 19, 2012 Council work session, Council received information about wastewater rate options that could be incorporated into a rate structure. Council asked staff to move forward with an expert rate consultant using the CUAB in an advisory role to design a rate structure that continues to include a variable component and look at adding a high-strength component.

Staff reported back at the November 20, 2012 Council work session on the study findings, focusing on issues with splitting the commercial class into multiple classes for purposes of assigning strength of sewage and the issue with continuing a rate that is mostly variable in light of the increasingly fixed nature of expenses with the new treatment agreement.

The CUAB recommendation from their November 29th meeting is attached, and the revised Resolution based on their recommendation.

After looking at different options differing primarily in the number of customer class divisions, the CUAB chose to remain with a rate structure that is similar to the current structure, one with Residential and Commercial classes. The rate continues to engage a usage-based component but is largely fixed reflecting the treatment cost.

OTHER ALTERNATIVES CONSIDERED

None

CITY COUNCIL GOALS

Related to goal 3 - Complete a fair wastewater agreement with Clackamas County Service District #1 and make the Kellogg Plant a good neighbor.

FISCAL NOTES

Adoption of the recommended rate provides funding to ensure a fiscally balanced wastewater utility that can support the appropriate operation and maintenance of the wastewater system.

ATTACHMENT LIST

1. Staff Report
2. CUAB Rate Recommendation
3. Resolution
4. MWH Wastewater Rate Study Findings PowerPoint



To: Mayor and City Council

Through: Bill Monahan, City Manager

**From: Casey Camors, Finance Director and
Gary Parkin, Public Works Operations Director**

Subject: Wastewater Rate Study – Rate Adoption

Date: December 18, 2012

ACTION REQUESTED

Adopt a wastewater rate based on the recently completed wastewater rate study.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

December 4, 2012 City Council heard from representatives of the CUAB and received a presentation by MWH of the Wastewater Rate Study Findings. Council delayed taking action on the rates and requested staff bring this item back to the December 18 meeting to allow for further public comment.

November 20, 2012 City Council was updated on the wastewater rate setting process.

June 19, 2012 City Council met with the Citizens Utility Advisory Board (CUAB) in a work session discussion of the wastewater rate.

June 5, 2012 City Council adopts an interim rate increase of 30% on the volume charge to match the increased treatment charge.

May 15, 2012 City Council adopts Memorandum of Understanding endorsing a wastewater treatment agreement with Clackamas County Service District #1 (CCSD#1) that includes a 44% increase in treatment charges to the City.

September 4, 2001 A wastewater rate study was adopted by Council changing from a fixed to volume based wastewater rate.

BACKGROUND

In response to an increase in treatment charges to the City, Council acted in June of 2012 to increase wastewater rates on an interim basis until a rate study could be

completed. The study would determine a rate that was fair and equitable and sufficient to cover the complete cost of providing wastewater service.

Staff has been working with the rate consulting firm of Stepwise Utility Advisors and the CUAB to design a rate structure that recovers the full cost of the City's wastewater service while fairly and equitably assigning the wastewater treatment charges assessed by CCSD #1. The rate structure will also separate the City's cost to operate and maintain the collection portion of the system from the CCSD#1 charge for treatment. Customers will be able to see the cost allocation on their bill.

The current rate structure includes two parts; a fixed charge and a volume charge. The charges are assessed based on two customer classes; residential and commercial. Residential customers pay a fixed rate per Equivalent Dwelling Unit (EDU) which is defined as the amount of sewage contributed by a single family dwelling unit and a volume rate that is variable based on their measured average monthly winter use of water. Commercial customers pay similarly with a rate that includes an identical fixed charge and a volume rate that is 30% higher than the residential rate and assessed per actual monthly water use.

The current rate is designed to collect about 80% from the volume charge or variable portion of the rate. This gives customers some control of their wastewater bill by their usage. In contrast, on the expense side more than 80% of the costs incurred by the City are fixed. This can lead to budgeting issues as revenue varies and the cost to provide service is mostly fixed. To address this issue in light of the directive for full cost recovery, the study will design a rate that is mostly fixed to better match expenses.

To address the fair and equitable directive, the process looked at distinguishing the sewage characteristics of customers. Flow volume equity is achieved with a rate that accounts for volume of flow. The makeup or strength of the sewage flow is another important factor in the cost to treat it. Several parameters are used to identify sewage strength according to how difficult it is to treat. The value of the parameters for a certain class may be determined by testing or by looking at previously collected, statistically valid, reference information.

The rate-setting process looked at dividing the commercial class into several classes with different amounts of sewage strength characteristics. This allows for charging customers a rate that more closely approximates their use of the system. Depending on how many classes are used, dividing the commercial class can dramatically shift the cost assignment. For example, the normal commercial class (which includes offices) has a sewage strength similar to residential while the restaurant class has a strength profile close to heavy industrial. Segregating the commercial classes lowers the rate for the normal commercial class and raises it for restaurants.

At their November 29, 2012 meeting the CUAB considered certain rate design scenarios that provide varying measures of full cost recovery along with fairness and equity. In all scenarios the same rates for the infrastructure charge which funds for the

collection system and the billing charge to account for administrative costs. The CUAB considered four options for a treatment rate that will fund the CCSD#1 treatment charges:

1. Allocate more costs to high strength surcharge (HSS) customers.
2. Allocate specifically to customer class.
3. Allocate specifically to Residential and Commercial.
4. Allocate evenly across the City.

The CUAB recommendation is for option 3 and was stated as follows:

The CUAB at their meeting of November 29, 2012, after having reviewed the Wastewater rate study in the capacity of the Advisory Committee beginning with the kickoff meeting on September 20, 2012, makes the following recommendation; The rate structure continues with two classes; Residential (including low-income) and Commercial. The components of the rate are:

A fixed monthly rate of \$26.10 per EDU for treatment costs for residential customers and \$56.75 for commercial customers*

A fixed monthly rate of \$7.65 per EDU for administrative costs for both classes*

A volume based monthly rate of \$2.46 per ccf for infrastructure operation and maintenance costs for both classes

**The low-income discount for residential customers is expected to continue as provided for in the current code*

Findings:

The CUAB finds the recommended rate structure to be:

1. *Equitable between classes*
2. *Least impactful change to customers*
3. *Most administratively feasible*
4. *The structure that brings us most closely in line with CCSD#1 rate structure*

Note: the CUAB's recommendation is for the rate structure. The exact rate figures may change as they are reviewed by our consultant.

CONCURRENCE

The CUAB worked throughout the rate setting process and given the circumstance of the treatment cost, concurs with the rate structure. Finance and Operations were also

involved in the process and concur with the findings. The rate provides capital improvement/maintenance funding at the level recommended by Engineering in the Wastewater Master Plan.

FISCAL IMPACTS

Adoption of the recommended rate provides funding to ensure a fiscally balanced wastewater utility that can support the appropriate operation and maintenance of the wastewater system.

WORK LOAD IMPACT

The study itself has required finance, engineering and operational support. The rate to be adopted will provide for the continued maintenance of the system and support system replacement.

ALTERNATIVES

If the current rate continues unchanged, reserves will be depleted by 2015. Further study may be done to redesign the rate but the need to raise rates is based on teamnet charges that are outside of City control.

ATTACHMENTS

1. CUAB Rate Recommendation
2. Resolution for the adoption of a new wastewater rate
3. MWH Wastewater Rate Study Findings PowerPoint

Attachment 1

The CUAB at their meeting of November 29, 2012, after having reviewed the Wastewater rate study in the capacity of the Advisory Committee beginning with the kickoff meeting on September 20, 2012, makes the following recommendation;

The rate structure continues with two classes; Residential (including low-income) and Commercial. The components of the rate are:

A fixed monthly rate of \$26.10* per EDU for treatment costs for residential customers and \$56.75 for commercial customers

A fixed monthly rate of \$7.65* per EDU for administrative costs for both classes

A volume based monthly rate of \$2.46 per ccf for infrastructure operation and maintenance costs for both classes

*The low-income discount for residential customers is expected to continue as provided for in the current code

Findings:

The CUAB finds the recommended rate structure to be:

1. Equitable between classes
2. Least impactful change to customers
3. Most administratively feasible
4. The structure that brings us most closely in line with CCSD#1 rate structure

Note: the CUAB's recommendation is for the rate structure. The exact rate figures may change as they are reviewed by our consultant.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
ADOPTING A WASTEWATER RATE TO SUPPORT WASTEWATER
OPERATION AND TREATMENT SERVICE**

WHEREAS, the City of Milwaukie has been a wholesale customer of Clackamas County Service District #1 (CCSD #1) for the provision of wastewater treatment at the Kellogg Treatment Plant since construction took place in the 1970's; and

WHEREAS, the City and CCSD #1 have developed a Wastewater Service Agreement specifying that the District shall provide wastewater treatment services to the City and the City shall pay the District for such services consistent with the terms and conditions of the Wastewater Service Agreement; and

WHEREAS, the treatment rate outlined in the Wastewater Service Agreement is \$30.21 per equivalent dwelling unit (EDU) per month equating to a treatment charge to the City of approximately \$4 million per year, a service charge the City has not fully budgeted for; and

WHEREAS, the City of Milwaukie must maintain revenue in the Wastewater Fund sufficient for necessary capital improvement, maintenance projects, minimum working capital, debt service, debt service coverage requirements, and inflation factors; and

WHEREAS, Milwaukie Municipal Code Section 13.12.070(A) authorizes the City Council to establish sewer service charges by resolution;

NOW, THEREFORE, BE IT RESOLVED by the City Council that wastewater rates established by Resolution 36-2012 by amended as follows:

A wastewater residential volume rate of \$2.46 per ccf based on water use and a fixed rate of \$ 7.65 per customer and a fixed rate of \$26.10 per EDU for treatment cost.

A low income volume rate of \$1.23 per ccf and a fixed rate of \$3.83 per EDU and a fixed rate of \$13.05 per EDU for treatment cost for residential low-income utility customers eligible for reduced rates under MMC section 13.2.010.

A commercial volume rate of \$2.46 per ccf based on monthly billed water use and a fixed rate of \$ 7.65 per customer and a fixed rate of \$56.75 per EDU for treatment cost. An EDU for commercial customers is defined as 10 ccf of monthly billed water. EDUs for commercial customer will be charged in increments of 1/10th of an EDU.

These rates will remain in effect until July 1, 2014 and a new rate is adopted. Average household water use shall be the most up-to-date

winter average water use as measured for each household over four winter season billing cycles (four months). (A typical household uses 5 ccf of water per month. This amounts to an increase of \$4.67 per month for a typical residential customer in Milwaukie).

Introduced and adopted by the City Council on December 18, 2012.

This resolution is effective on January 1, 2013.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



Wastewater Rate Study Findings for The City of Milwaukie



City Council Meeting
December 4, 2012

Introduction to StepWise Utility Advisors (MWH Global)

- Fletcher Davis
 - Utility Financial Planning & Rate Structure Expert

Specializing in:

- Utility financial planning
- Cost-of-Service analysis
- Economic analysis
- Bond issuance support
- Development & Impact fee analysis and calculation

Goals of the Wastewater Study

- Recover the full costs the City incurs to provide wastewater service to all of its customers
- Produce a fair and equitable assignment of the costs of wastewater treatment charges assessed by CCSD #1
- Allow the City to separate the City's costs from the CCSD#1 costs on customers' bills

Rate Study Process

Step 1 (Finance Plan)

How much does City need to fund its wastewater service?



Step 2 (Cost of Service)

What is the total cost-of-service to provide wastewater service to each customer classification?



Step 3 (Rate Design)

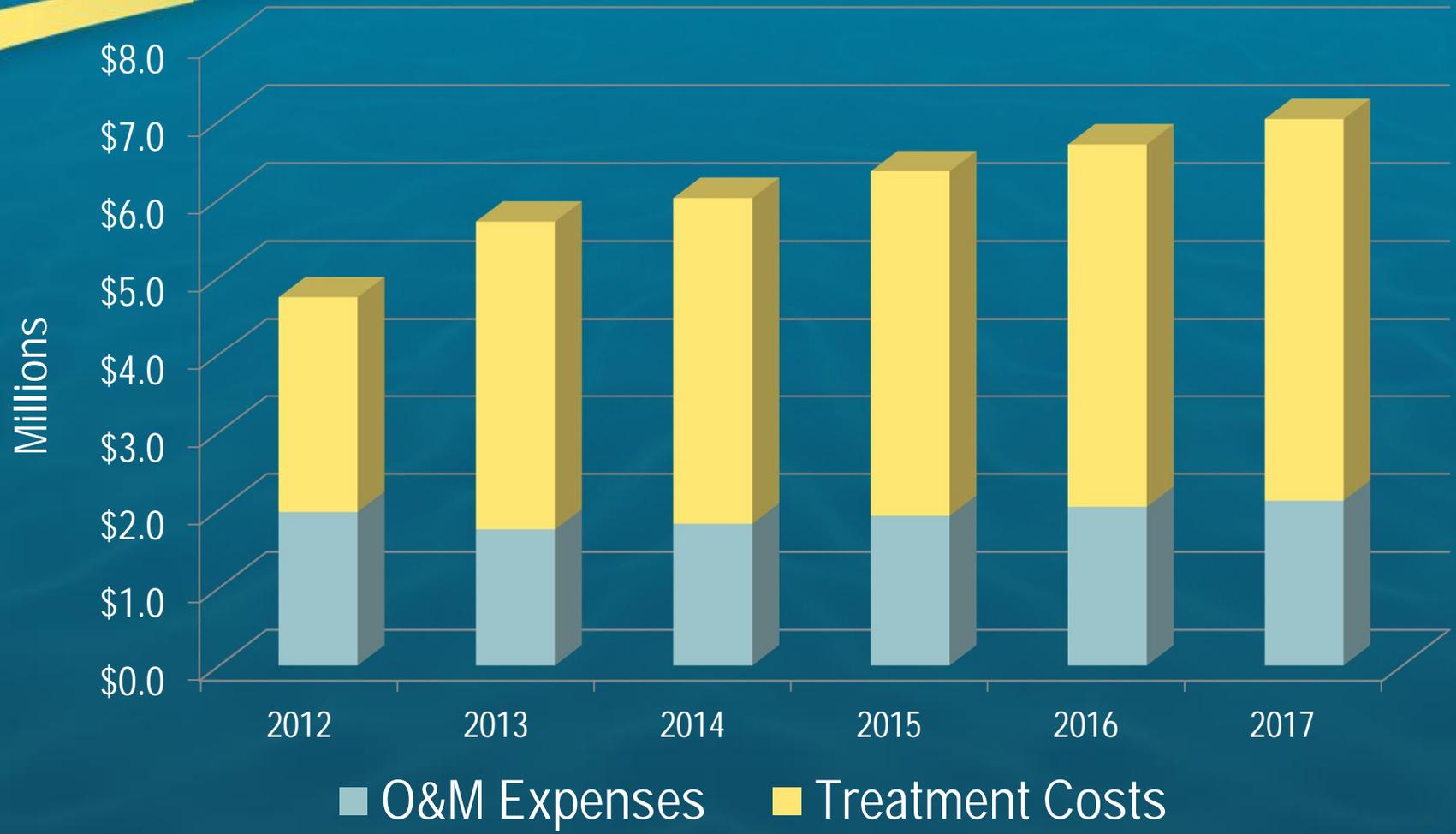
What rate should each customer classification pay to cover its cost of service?

Rate Study Findings

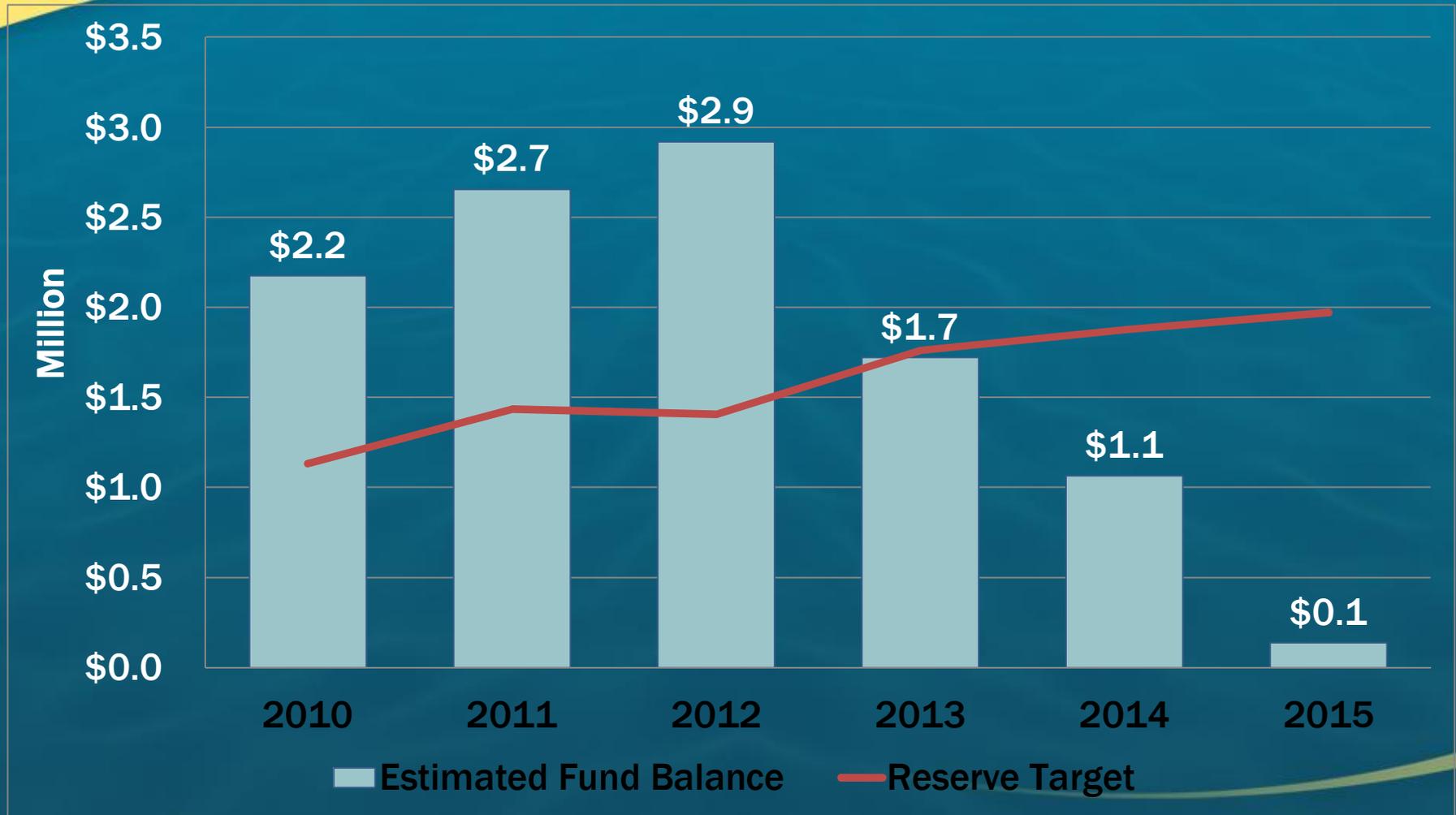
Step 1 – Finance Plan

How much does the City need to fund its wastewater service?

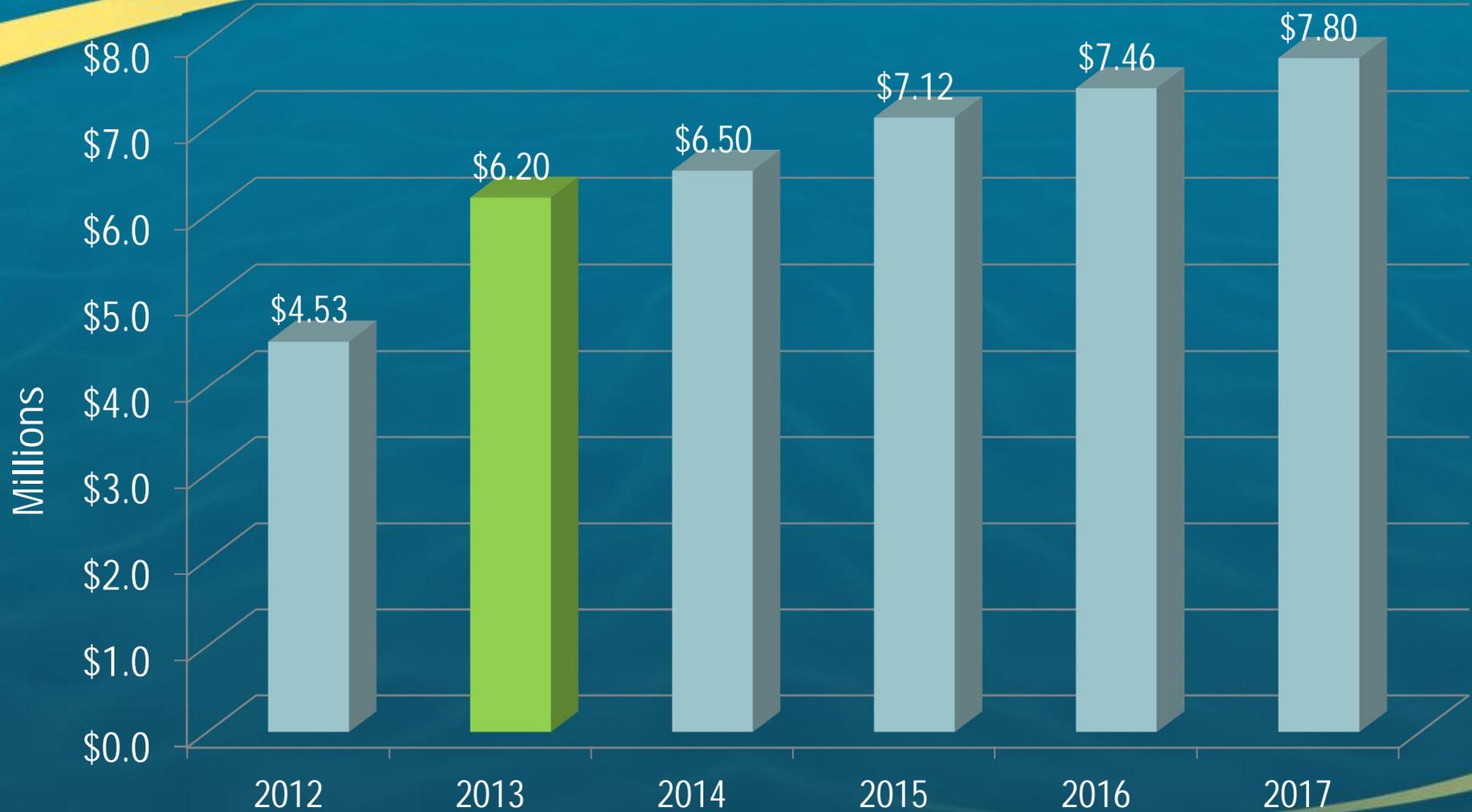
Projected Growth in Wastewater O&M Costs 2012 - 2017



Cash Reserves – No New Rate Increases



Projected Growth in City's Wastewater Revenue Requirements 2012 - 2017



Rate Study Findings

Step 2 – Cost of Service

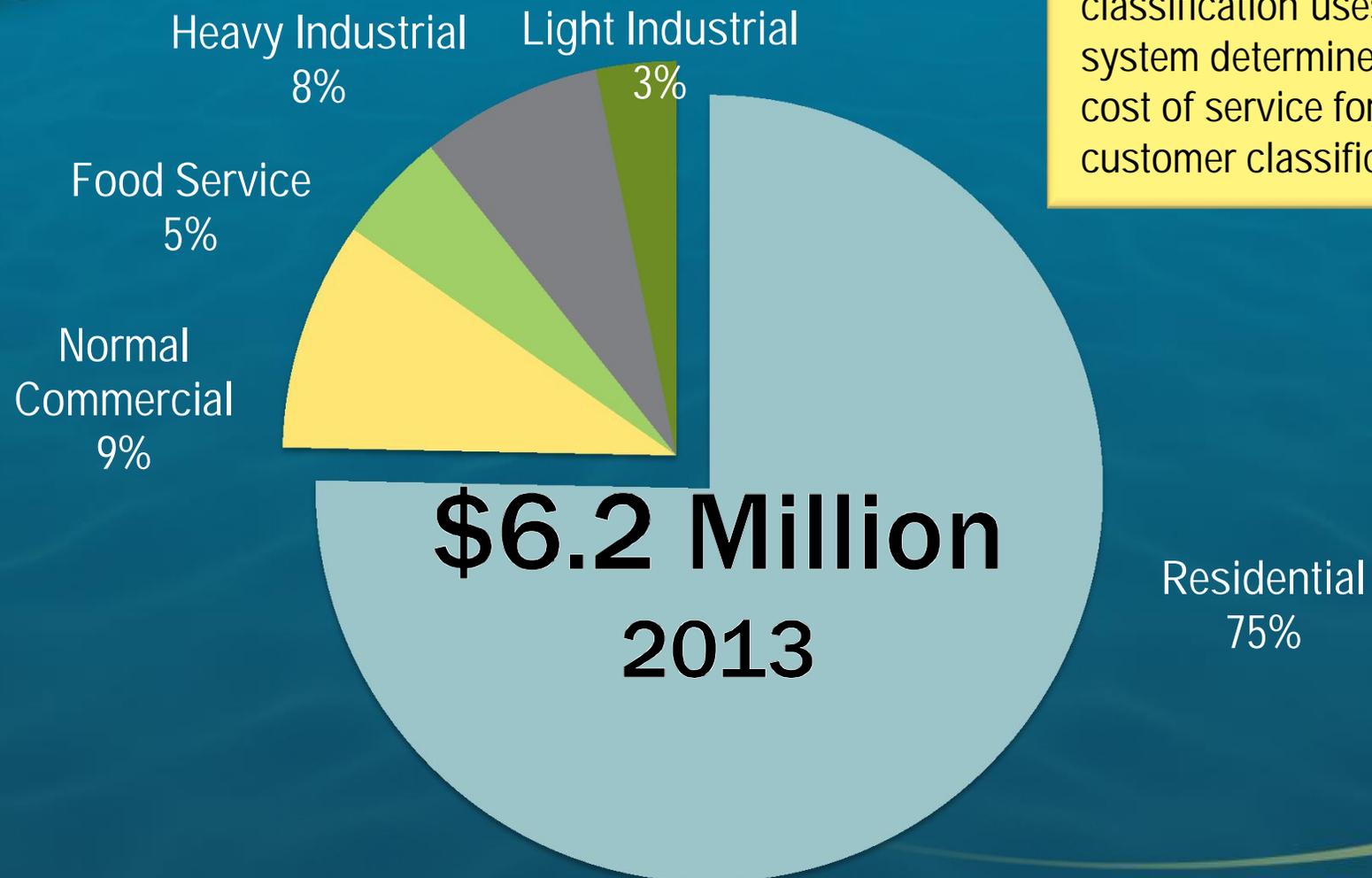
What is the total cost to deliver wastewater service to each customer classification?

What Determines Wastewater System Cost-of-Service for Each Customer Classification?

- Wastewater Flows
- Strength of Flows (mg/L)
 - Bio Oxygen Demand
 - Suspended Solids
- Number of Customers

The way each customer classification uses the system determines the cost of service for that customer classification.

Assigning Costs to Each Wastewater Customer Classification



The way each customer classification uses the system determines the cost of service for that customer classification.

Rate Study Findings

Step 3 – Rate Design

What is the rate that each customer classification should pay to cover its cost-of-service for wastewater?

Existing Wastewater Rate Structure

Wastewater Volume Charge:

- Residential = \$5.89 per 100 cubic feet (CCF)
- Commercial = \$7.63 per CCF

Fixed Charge:

- \$11.93 per customer per month

Low Income :

- 50% of Residential Charges

Proposed Rates Will Have Three Components

14

- Clackamas County Service District #1 Charge
 - To recover all treatment charges from CCSD#1
- Billing and Administrative Charge
 - To recover all administrative costs associated with managing the sewer utility
- Infrastructure Charge
 - To recover all costs associated with maintaining the sewer collection system

CUAB Recommendations

15

The Citizens Utility Advisory Board recommends the proposed rate structure to be:

- Equitable between classes
- Least impactful to customers
- Most administratively feasible
- The most closely in line with the CCSD#1 rate structure

CCSD#1 Charge Alternatives

16

- Needs to recover \$4 Million.
- CUAB Reviewed 4 Alternatives:
 - Allocate more costs to high strength surcharge (HSS) customers
 - Allocate specifically to new customer classifications
 - Allocate specifically to Residential and Commercial
 - Allocate evenly across the City

Proposed CCSD#1 Charge

17

- Residential Customers
 - \$26.10 per EDU per Month
 - Low Income is \$13.05 per EDU per Month
- Commercial Customers
 - \$56.75 per EDU per Month
 - Commercial EDUs are based on monthly billed water
 - 1 EDU equals 10 CCF

Billing and Administration Charge

18

- Needs to recover \$610,000
- Based on the number of customers
- There's only one Alternative:
 - \$7.65 per month per customer
 - \$3.83 for low income customers

Infrastructure Charge

19

- Needs to recover \$1.85 million.
- Can be based on volume or EDU
- Volume Based Charge
 - \$2.46 per CCF per Month
- EDU Based Charge
 - \$12.48 per RESIDENTIAL EDU per Month
 - \$24.81 per COMMERCIAL EDU per Month



Proposed Wastewater Rate Structure

CCSD #1 Treatment Charge :

- \$26.10 per Residential EDU per month
- \$56.75 per Commercial EDU per month

Billing and Administration Charge:

- \$7.65 per customer per month

Infrastructure Charge:

- \$2.46 per CCF per Month

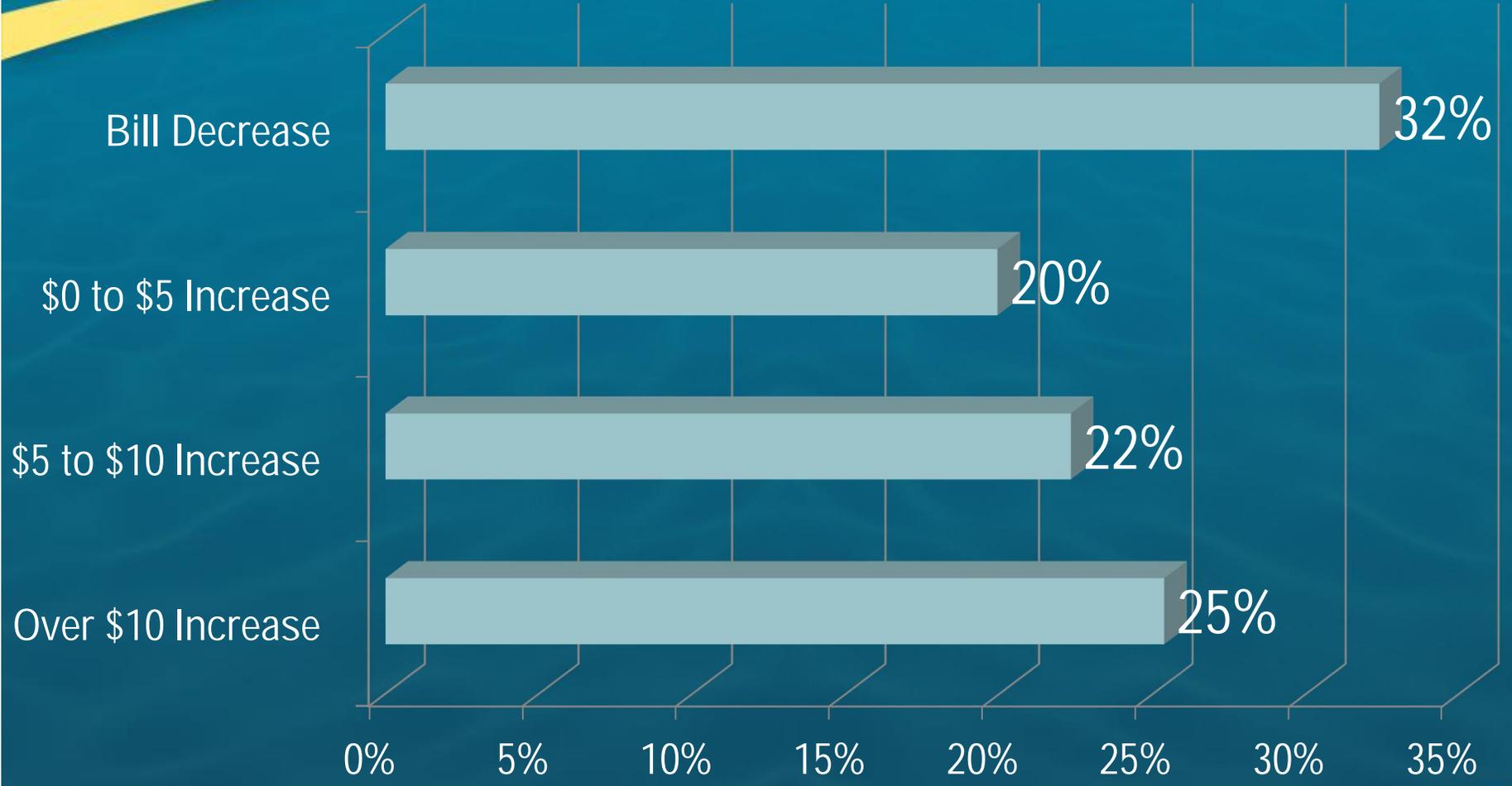
Average Bill Impacts by Customer Class

Customer Class	Average Volume	Interim Rate	Proposed Rate	Increase / (Decrease)
Single Family Residential	5 CCF	\$41.38	\$46.05	\$4.67
Normal Commercial	25 CCF	\$202.68	\$211.03	\$8.35
Food Service	45 CCF	\$355.28	\$373.73	\$18.45
Heavy Industrial	200 CCF	\$1,537.93	\$1,634.65	\$96.72
Light Industrial	65 CCF	\$469.73	\$495.75	\$26.02

Detailed Residential Bill Impact

CCF	Interim Rate	Proposed Rate	Increase / (Decrease)
0	\$11.93	\$33.75	\$21.82
1	\$17.82	\$36.21	\$18.39
2	\$23.71	\$38.67	\$14.96
3	\$29.60	\$41.13	\$11.53
4	\$35.49	\$43.59	\$8.10
5	\$41.38	\$46.05	\$4.67
6	\$47.27	\$48.51	\$1.24
7	\$53.16	\$50.97	(\$2.19)
8	\$59.05	\$53.43	(\$5.62)
9	\$64.94	\$55.89	(\$9.05)
10	\$70.83	\$58.35	(\$12.48)

Proposed 2013 Monthly Residential Wastewater Bill Impacts





Thank you for your time



Questions?
Comments?



Agenda Item: 6.B.
Meeting Date: 12/18/12

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Public Area Requirements – Alternative Payment Process

Prepared By: Ryan Marquardt
Dept. Head Approval: Steve Butler
City Manager Approval: Bill Monahan
Reviewed by City Manager: 12/6/12

ISSUE BEFORE THE COUNCIL

Resolution to establish an alternative payment process for fees in lieu of construction (FILOC) of public area requirements for downtown development. The alternative payment process would be a short-term measure that would end upon Council's action on Land Use File #ZA-12-02.

STAFF RECOMMENDATION

Approve the resolution.

KEY FACTS & INFORMATION SUMMARY

The resolution would allow downtown development that requires a fee in lieu of construction to obtain building occupancy approval by signing a promissory note. The note requires payment when Council takes action on File #ZA-12-02, and the applicable fee would be based on the code that is enacted under that land use file.

OTHER ALTERNATIVES CONSIDERED

Council may decide not to adopt this program.

CITY COUNCIL GOALS

2. Pursue economic development initiatives: a. promote small business investment and development that capitalize on making Milwaukie a unique destination; and c. promote downtown as a special place

ATTACHMENT LIST

- 1) Resolution
Exhibit A: Promissory Note

FISCAL NOTES

None anticipated, city is not expecting to retain FILOC payments for small projects after 8/1/2012 due to FILOC reimbursement program that is part of ZA-12-02 amendments.



To: Mayor and City Council

Through: Bill Monahan, City Manager

From: Kenny Asher, Community Development & Public Works Director
Steve Butler, Planning Director
Ryan Marquardt, Senior Planner

Subject: Public Area Requirements (PARs) – Alternative Payment Process

Date: December 12, 2012, for December 18, 2012 Regular Session

ACTION REQUESTED

Approve resolution establishing an alternative payment process for fees in lieu of construction of public area requirements for downtown development.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

November 2012: City Council granted the Planning Commission more time (beyond December, 2012) to continue reviewing and getting public comment on PARs and downtown-related zoning amendments, while directing staff to prepare a resolution addressing the application of PARs during this interim period.

October 2012: City Council approved Resolution #R53-2012 directing staff to initiate zoning amendments for specific issues with the downtown zones.

August 2012: Council held a study session to discuss PARs and indicated that staff should prepare amendments for rapid adoption.

June 2012: Council held a worksession on quick fixes to problematic provisions in the downtown zoning and PARs.

April 2011: Council held a study session to discuss what types of development trigger PARs.

BACKGROUND

At City Council's November 20, 2012 worksession, Planning Commission Chair Batey and Commissioners Churchill and Gamba discussed the downtown code amendments (File #ZA-12-02) with Council. Council had directed staff to proceed quickly with adopting amendments to the downtown code, including a provision exempting certain types of development from frontage improvements.

The Planning Commission held an initial hearing on the amendments on November 13, 2012, and had concerns about the pace of the adoption schedule for the amendments. Public testimony from that hearing echoed the concern. The Planning Commissioners present at the worksession expressed their concern to Council about this and other downtown zoning related issues. Council concurred that the Planning Commission should take the appropriate time to consider the proposed amendments.

There was a desire that the city take measures to ensure that the additional time spent considering the amendments does not deter businesses that may wish to locate in downtown in the near future. The alternative payment process that would be established by the attached resolution addresses this concern. The key parts of the process are:

- After adoption of the resolution, a developer may sign a promissory note rather than paying a fee in lieu of construction for frontage improvements.
- The promissory note would defer payment of a fee in lieu of construction until City Council takes action on the amendments in File #ZA-12-02. The fee in lieu of payment would be determined by the code adopted by Council for File #ZA-12-02, and not by the current code that requires many types of downtown development to provide frontage improvements.
- After signing the promissory note, the city would issue the occupancy approval needed for the development to begin operation.
- It is anticipated that the code amendments in File #ZA-12-02 will exempt changes in use and minor additions from the requirement to provide frontage improvements, or a fee in lieu of construction for such improvements. As a result, the City expects that there will not be payment due on promissory notes for changes in uses and minor additions.

CONCURRENCE

The City Attorney's office has drafted the resolution and promissory note and concurs with their contents. The Development Review Engineering also concurs with the resolution.

FISCAL IMPACT

The resolution does not commit the city to expend fiscal resources. This resolution does not affect fiscal policy related to the responsibility for construction of downtown frontage improvements. That decision will be part of Council's decision on the amendments in File #ZA-12-02. Additional exemptions for downtown frontage improvements may increase the city's costs for future capital projects for downtown.

WORK LOAD IMPACTS

There are no workload impacts of any significance associated with this action.

ALTERNATIVES

Council may decide not to adopt the resolution establishing an alternative payment process for PARs. This would result in the city continuing to collect PAR FILOC payments for downtown changes in use when the new use results in an increased number of trips.

There is a provision in the proposed amendments for File #ZA-12-02 to establish a FILOC reimbursement program. If Council decided not to adopt the alternative payment process, projects that are changes in use or small additions would be reimbursed for FILOC payments made between August 1, 2012 and the effective date of the zoning amendments in File #ZA-12-02.

ATTACHMENTS

1. Resolution
Exhibit A: Promissory Note

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ESTABLISHING AN ALTERNATIVE PAYMENT PROCESS FOR FEES IN LIEU OF CONSTRUCTION OF PUBLIC AREA IMPROVEMENTS IN THE DOWNTOWN AREA.

WHEREAS, the City of Milwaukie requires under Subsection 19.304.5 and Subsection 19.703.3 of the Milwaukie Municipal Code that those who develop or redevelop property in the Milwaukie Downtown make certain public area requirement improvements within the public right-of-way; and

WHEREAS, the public area requirements were adopted to ensure the development of a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment with a unified urban design; and

WHEREAS, the redevelopment of the Milwaukie Downtown continues to be a high priority of the City; and

WHEREAS, during the last few years economic conditions have caused redevelopment to slow and some buildings in the Milwaukie Downtown are at less than full occupancy; and

WHEREAS, the imposition of public area requirements on certain development such as tenant improvements has been identified by some downtown property owners as an impediment to redevelopment efforts and the attraction of new businesses or the expansion of existing businesses; and

WHEREAS, amendment of the downtown zones has been initiated in the form of Land Use File # ZA 12-02, which is currently pending before the Planning Commission; and

WHEREAS, Council wishes to encourage redevelopment in downtown prior to the completion of the public process for review and decisions of planning matter ZA 12-02, by immediately providing an alternative means of satisfying the public area requirements.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milwaukie, Oregon, that:

Section 1. Any approved development in the Downtown Zones for which the City accepts a fee in lieu of construction of required transportation facility improvements pursuant to Subsection 19.706.2 of the Milwaukie Municipal Code, is eligible to enter into a written promissory note agreement with the City, to defer payment of the fee in lieu of construction for public improvements.

Section 2. The form of Promissory Note attached as Exhibit A to this Resolution shall be used for all such agreement authorized under this Resolution.

Section 3. The calculation of the required fee in lieu of construction pursuant to Subsection 19.706.2 of the Milwaukie Municipal Code may be amended by the City Council's action on the Planning Commission recommendation for Land Use File #ZA 12-02. Any amendments made by Land Use File #ZA 12-02 are to supersede the calculation of the fee in lieu of construction for which an applicant enters into a promissory note.

Section 4. The final decision of Land Use File #ZA 12-02 shall constitute the date upon which deferred payment of the fee in lieu of construction comes due.

Section 5. An applicant's execution of a promissory note agreement authorized by this Resolution shall constitute payment to the City of the fee in lieu of construction, so as to allow issuance of development permits pursuant to Subsection 19.706.3 of the Milwaukie Municipal Code.

Section 6. This resolution is effective immediately.

Introduced and adopted by the City Council on December 18, 2012.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Exhibit A

\$ _____

Date: _____

PROMISSORY NOTE

1. Applicant’s Promise to Pay

FOR VALUE RECEIVED, I/we, _____, (“Applicant”) promise to pay to the order of the City of Milwaukie (“City”), the amount of US \$ _____, owed to the City as a fee in lieu of construction of public area improvements, pursuant to Milwaukie City Code (“Code”) Subsections 19.304.5 and 19.706. No interest is charged on the unpaid principal amount from the date of this Promissory Note (“Note”) until payment in full.

Applicant’s promise to pay is subject to the terms of potential amendment to the Code provisions that establish public area requirements for the Downtown zones. As noted in Section 2 of this Note, the City Council anticipates holding a hearing to consider code amendments to the Downtown zones. The nature and terms of these potential amendments are not yet known, and there is no guarantee that the City Council will even amend the Code.

However, should the Code be amended by action of the City Council which triggers the Applicant’s obligation to pay pursuant to Section 2 of this Note, the amended terms supersede the current obligation, and are to be applied in order to calculate the applicable fee in lieu that is owed by the Applicant.

2. Payments

Payment will be due in full on the day that the City Council’s written decision on ZA 12-02 becomes final.

3. Applicant’s Failure to Pay as Required

A. Default and Late Payment Charge

If Applicant does not pay the full amount on or before ten (10) days after the date payment is due, Applicant will be in default. If in default, a late payment charge of five percent (5%) of the payment amount or Fifteen Dollars and No/100 (\$15.00) whichever is greater, will be imposed for each month after the date payment is due. In addition, City may, at its option and without notifying Applicant, declare the unpaid principal amount of the Note due and immediately payable, and Applicant shall immediately pay the principal amount of the Note, time being of the essence of this Note.

B. No Waiver by City or Holder

Even if, at a time when Applicant is in default, City does not require immediate payment in full as described in Section 3A, City will still have the right to make Applicant pay immediately in full if Applicant is in default at a later time.

C. Payment of City’s Costs

If City has required Applicant to pay immediately in full as described in this Section 3 or must collect this Note by law, City or holder will have the right to make Applicant pay all the costs and expenses necessary to collect this Note or enforce this Note, including reasonable attorney fees.

4. **Obligations of Persons Under this Note**

If more than one person signs this Note, each person is jointly and severally liable for all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety, or endorser of this Note is also jointly and severally liable to pay the full amount owed. Any person who takes over these obligations, including the obligations of a guarantor, surety, or endorser of this Note, is also jointly and severally liable to keep all the promises made in this Note. City or holder may enforce its rights under this Note against each person as an individual or against Applicant as agreed. This means that any Applicant may be required to pay any and all amounts owed under this Note.

5. **Waivers**

Applicant, and any other person who has any obligations under this Note, hereby waive and renounce any and all exemption rights that any Applicant may have under or by virtue of the Constitution or laws of the State of Oregon, or any other State, or the United States of America, as against this debt or any renewal thereof.

Applicant, and any other person who has any obligations under this Note, also waive demand, protest, and notice of demand, protest, and non-payment.

6. **Applicable Law**

This Note and contract are to be construed in all respects by and according to the laws of the State of Oregon.

7. **Secured and Unsecured Notes**

Notes greater than ten thousand Dollars (\$10,000) will be secured by a Deed of Trust, which must be executed the same date this Note is executed.

Name of Applicant 1

Name of Applicant 2



COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Street Light Conversion to LED
Prepared By: Gary Parkin, Public Works Operations Director
Dept. Head Approval:
City Manager Approval: Bill Monahan, City Manager
Reviewed by City Manager: December 10, 2012

ISSUES BEFORE THE COUNCIL

Provide approval by resolution for PGE to begin the conversion of City street lights to LED fixtures.

STAFF RECOMMENDATION

Move forward with the LED conversion of the City's eligible street lighting fixtures including all Option "A" and "B" (PGE and City owned) light fixtures. Retain the City's Option "B" light poles as Option "B" (City owned) to continue the lower (than Option "A") monthly rates.

KEY FACTS & INFORMATION SUMMARY

PGE provides street lighting services to the City according to three options. Under Option "A" PGE owns the street lighting asset (light fixture and/or pole). With Option "B" the customer (City) owns the street lighting asset (light fixture and/or pole). Under both Options, PGE maintains the assets (fixtures and poles) and energizes the lights. The third option, Option "C" is for assets (fixtures and poles) that are owned and maintained by the customer with PGE only energizing the lights.

The City's street light inventory includes 1874 Option "A" fixtures, 267 Option "B" fixtures, 151 Option "B" poles and 16 Option "C" street lights (maintained by ODOT along Highway 224).

PGE plans to convert 1799 of the Option "A" City streetlights that meet their current eligibility as cobra head fixtures under 300W to LED streetlights. PGE will change out the fixtures at no cost to the City. 174 Option "B" streetlight fixtures are eligible for conversion. These fixtures are owned by the City and must be changed to Option "A" fixtures in order for PGE to convert them to LED at no cost to the City.

If the City chooses, the 151 Option "B" poles will be changed to Option "A" poles by PGE and a credit of \$55,855 given to the City. The credit would be paid back to PGE over 5 years under the higher Option "A" rate.

The 16 Option "C" street lights are not eligible for LED conversion at this time.

OTHER ALTERNATIVES CONSIDERED

None

CITY COUNCIL GOALS

Supports general sustainability goals

FISCAL NOTES

Implementation saves \$66,635 annually in street lighting costs. Street lighting costs are charged against the Street Fund (Gas Tax).

ATTACHMENT LIST

1. Staff Report



To: Mayor and City Council

Through: Bill Monahan, City Manager

From: Gary Parkin, Public Works Operations Director

Subject: Street Light conversion to LED

Date: December 7, 2012 for December 18, 2012 Regular Session

ACTION REQUESTED

Authorize by resolution (attachment 1) the City Manager to enter into an agreement with Portland General Electric to convert the City's eligible street lights to LED lighting. Converting the City's existing Option "B" fixtures (City owned) to Option "A" (PGE owned) and retaining the City's Option "B" poles as City owned.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

November 27, 2012 City Council briefed at Study Session on the City's ability to update street lights to LED. Council requested staff to return with a recommendation on the streetlight conversion.

BACKGROUND

Approximately a year ago, representatives from Portland General Electric (PGE) met with City staff to discuss plans that they had to convert existing street lighting to light-emitting diode (LED) lights. PGE identified at that meeting that several trial locations in the Portland area had verified the ability of the LED lights to provide good lighting of streets with a light that was preferred by most people over the currently used high-pressure sodium (HPS) light.

PGE noted that LEDs are more energy-efficient, the projected lamp life is more than four times longer than current streetlight lamps, LED light components contain no mercury and the LED fixtures that PGE will use are dark-sky friendly.

At the time of the meeting PGE was working to determine a tariff or charge for the LED fixture. A tariff is a rate schedule that PGE develops based on the cost to provide electricity, maintain and depreciate street lighting assets. Since the LED fixtures are still

a relatively new technology, their cost is higher than current fixtures. So although the cost to operate the LED fixtures is lower, the initial expense to purchase the fixtures has made them less cost-effective than the existing fixtures. However with advances in manufacturing and the large amount of units now being ordered, the expense to produce the LED fixtures has come down and PGE was able to develop a tariff that is about 70% of the current tariff (see attachment 2 for tariff #95 - for LED and #91 – for HPS fixtures).

PGE provides street lighting services to the City according to three options. Under Option “A” PGE owns the street lighting asset (light fixture and/or pole). With Option “B” the customer (City) owns the street lighting asset (light fixture and/or pole). Under both Options, PGE maintains the assets (fixtures and poles) and energizes the lights. The third option, Option “C” is for assets (fixtures and poles) that are owned and maintained by the customer with PGE only energizing the lights.

The City’s street light inventory includes 1874 Option “A” fixtures, 267 Option “B” fixtures, 151 Option “B” poles and 16 Option “C” street lights (maintained by ODOT along Highway 224).

PGE plans to convert 1799 of the Option “A” City streetlights that meet their current eligibility as cobra head fixtures under 300W to LED streetlights. PGE will change out the fixtures at no cost to the City. 174 Option “B” streetlight fixtures are eligible for conversion. These fixtures are owned by the City and must be changed to Option “A” fixtures in order for PGE to convert them to LED at no cost to the City.

If the City chooses, the 151 Option “B” poles will be changed to Option “A” poles by PGE and a credit of \$55,855 given to the City. The credit would be paid back to PGE over 5 years under the higher Option “A” rate.

The 16 Option “C” street lights are not eligible for LED conversion at this time.

An alternative to the PGE conversion would be for the City to purchase and maintain all new LED light fixtures (Option “C”). The initial purchase, installation and ongoing maintenance costs for this alternative have not been determined but would be significant.

As discussed at the November 27th study session meeting, the following conversion process was recommended by staff and requested to move forward with by Council;

1. Permit PGE to move forward with the conversion of the 1799 Option “A” fixtures.
2. Change the 174 Option “B” fixtures to Option “A” and move forward with their conversion.
3. Continue the City’s ownership status of the 151 Option “B” poles, do not accept credit for the pole at this time.

With this action, PGE will handle the LED conversion, take on capital costs and continue to maintain the street lights that they currently maintain. With City action to move forward soon, the conversion can be completed in 2013-2014.

The recommended action results in the following savings to the City from current charges:

Conversion of the 1799 Option "A" Fixtures:

Current cost per year is \$211,437. The LED tariff would be \$145,250, a savings of \$66,188 per year.

Conversion of the 174 Option "B" Fixtures:

Current cost per year is \$14,100. The LED tariff would be \$13,653 (including the conversion to Option "A"), a savings of \$447 per year.

The total annual savings with the conversion is estimated at \$66,635 a year.

CONCURRENCE

The City Manager's office worked with Public Works on this issue. Both departments agree on moving forward with the conversion using option "A" fixtures (PGE ownership and maintenance) and retaining the City owned, PGE maintained streetlight poles.

FISCAL IMPACTS

Saves the City \$66,635 annually in funding that is currently paid for out of the Transportation (Gas Tax) Fund.

WORK LOAD IMPACT

None for City staff.

ALTERNATIVES

The Option "B" poles (City owned) could be transferred to PGE for an immediate savings of \$55,585 which would be paid back to PGE in higher rates over 5 years.

ATTACHMENTS

1. Resolution to initiate the LED conversion
2. Tariff schedules for LED (#95) and HPS (#91)

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
CONVERTING STREETLIGHT FIXTURES TO LIGHT EMITTING DIODE (LED)**

WHEREAS, the City of Milwaukie has Streetlights to provide for traffic safety and security; and

WHEREAS, the current Streetlighting fixtures use High Pressure Sodium (HPS) technology; and

WHEREAS, new Light Emitting Diode (LED) are much more energy efficient and sustainably constructed; and

WHEREAS, the City of Milwaukie is committed to improving efficiencies and sustainable practices; and

WHEREAS, Portland General Electric (PGE) has established a tariff (#95) for LED streetlights that reflects their energy efficiency with a lower tariff than the current HPS lights; and

WHEREAS, Portland General Electric (PGE) will replace all PGE owned and City owned streetlight fixtures without cost to the City; and

WHEREAS, The Milwaukie City Council desires to have Portland General Electric replace all PGE owned and City owned streetlight fixtures that will result in a savings to the City of Milwaukie and its citizens.

NOW, THEREFORE, BE IT RESOLVED by the City Council that PGE is authorized to convert all PGE owned and City owned streetlight fixtures to LED fixtures. The fixtures will be PGE owned and maintained. City owned poles will remain City owned and PGE maintained.

Introduced and adopted by the City Council on December 18, 2012.

This resolution is effective on December 18, 2012.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:

Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

**SCHEDULE 95
STREET AND HIGHWAY LIGHTING
NEW TECHNOLOGY
(COST OF SERVICE)**

AVAILABLE

In all territory served by the Company.

APPLICABLE

To municipalities or agencies of federal or state governments for lighting service utilizing Company approved new technology streetlighting equipment for public streets and highways and public grounds where funds for payment of Electricity generally are provided through taxation or property assessment.

CHARACTER OF SERVICE

From dusk to dawn daily, controlled by a photoelectric control to be mutually agreeable to the Customer and Company for an average of 4,100 hours annually.

LUMINAIRE SERVICE OPTIONS - The Company offers the following Luminaire Service Options at the applicable rates specified herein.

The Customer will elect the Luminaire Service Option at the time of initial luminaire installation.

Option A - Luminaire

Option A provides electricity service to luminaires that are purchased, owned, and maintained by the Company with attachment to Company-owned poles at the monthly Option A rate applicable to the installed type of light.

Maintenance Service under Option A

The Company will only perform emergency maintenance on the luminaires listed in this schedule. The Company does not perform preventative maintenance on the luminaires listed in this schedule.

The Company will repair or replace inoperable luminaires and circuits as soon as reasonably possible, subject to the Company's operating schedule, following notification to PGE's Customer Service or PGE's Outdoor Lighting Services⁽¹⁾ department by the Customer, a member of the public, or a PGE employee performing luminaire replacement work. PGE has no obligation for repair or replacement of inoperable luminaires other than as described in this section of the tariff.

(1) Contact PGE's Outdoor Lighting Services at 503-736-5710, PGE's Customer Service 503-228-6322 or 1-800-542-8818, or www.portlandgeneral.com to report an inoperable streetlight.

Advice No. 12-17
Issued September 7, 2012
Maria M. Pope, Senior Vice President

Effective for service
on and after October 24, 2012

SCHEDULE 95 (Continued)

LUMINAIRE SERVICE OPTIONS (Continued)
Maintenance Service under Option A (Continued)

The Customer is responsible for repair or replacement of luminaires and circuits damaged as a result of rotted wood poles owned by the Customer.

The Company may remove or discontinue service to any luminaire and related equipment that has become unsafe or unsatisfactory for further service by reason of deterioration, storm, flood, and lightning, proximity to interference by trees or structures, or other causes as determined by the Company. The Company will notify the Customer as soon as reasonably practical of any such service discontinuation.

Option C – Luminaire

Option C provides electricity service to luminaires that are purchased, owned and maintained by the Customer and installed on Customer-owned poles or Company-owned distribution poles. As a condition to the election of Option C, Customer is responsible for ensuring that all new underground service installations of Option C luminaires are isolated by a disconnect switch or fuse. Both the equipment used to isolate the luminaire and its location must be approved by the Company.

Maintenance Service under Option C

The Company has no obligation to maintain Customer-purchased lighting if the Customer selects this option. Such maintenance and service is the sole responsibility of the Customer.

Special Provisions for Schedule 91/591 Option B to Schedule 95/595 Option C Luminaire Conversion and Future Maintenance Election

1. If Customer elects to convert any of its luminaires from Schedule 91 Option B to Schedule 95 Option C, the Customer must at the same time commit to convert the entirety of Customer's Schedule 91 Option B luminaires to Schedules 91 Option C and Schedule 95 Option C using one of two methods: (A) within five years following PGE's group lamp replacement cycle or (B) within three years on a schedule mutually agreed upon between the Company and Customer. Customer may elect to have some of its luminaires on Schedule 91 Option C and some on Schedule 95 Option C.
2. Upon such conversion, the Customer will assume and bear the cost of all on-going maintenance responsibilities for the luminaires and associated circuits in accordance with this schedule's provisions for Option C luminaires from the date each luminaire is converted to Option C. After the three or five year period, any remaining Option B luminaires will be converted to Option C. The Company may not provide new Option B lighting under Schedule 91 following the election to convert any Option B luminaires to Schedule 91 or Schedule 95 Option C luminaires.

SCHEDULE 95 (Continued)

STREETLIGHT POLES SERVICE OPTIONS

See Schedule 91 for Streetlight poles service options.

MONTHLY RATE

In addition to the service rates for Option A lights, all Customers will pay the following charges for each installed luminaire based on the Monthly kWhs applicable to each luminaire.

<u>Transmission and Related Services Charge</u>	0.188 ¢ per kWh
<u>Distribution Charge</u>	3.391 ¢ per kWh
<u>Energy Charge</u>	
Cost of Service Option	5.452 ¢ per kWh

NON-COST OF SERVICE OPTION

Daily Price Option – Available only to Customers with an average load of five MW or greater on Schedules 91 and 95 and those customers that met the five MW or greater threshold prior to converting to lights from Schedule 91 to Schedule 95. This selection of this option applies to all luminaires served under Schedules 91 and 95. This option gives eligible Customers an option between a daily Energy price and a Cost of Service option for the Energy charge. In addition to the daily Energy price, the Customer will pay a Basic Charge of \$75 per month to help offset the costs of billing this option. The daily Energy price for all kWh will be the Dow Jones Mid-Columbia Daily on- and off-peak Electricity Firm Price Index (DJ-Mid-C Firm Index) plus 0.258¢ per kWh for wheeling, plus losses. If prices are not reported for a particular day or days, the average of the immediately preceding and following reported days' on- and off-peak prices will be used to determine the price for the non-reported period.

Prices reported with no transaction volume or as “survey-based” will be considered reported. For the purposes of calculating the daily on- and off-peak usage, actual kWhs will be determined for each month, using Sunrise Sunset Tables with adjustments for typical photocell operation and 4,100 annual burning hours.

For Customers billed on the Daily Price Option, an average of the daily rates will be used to bill installations and removals that occur during the month. Any additional analysis of billing options and price comparisons beyond the monthly bill will be billed at a rate of \$100 per manhour.

Losses will be included by multiplying the applicable daily Energy price by 1.0820.

The Daily Price Option is subject to Schedule 128, Short Term Transition Adjustment.

Advice No. 12-17

Issued September 7, 2012

Maria M. Pope, Senior Vice President

**Effective for service
on and after October 24, 2012**

SCHEDULE 95 (Continued)

NON-COST OF SERVICE OPTION (Continued)

Daily Price Option (Continued)

Enrollment for Service

To begin service under the Daily Price Option on January 1st, the Customer will notify the Company by 5:00 p.m. PPT on November 15th (or the following working day if the 15th falls on a weekend or holiday) of the year prior to the service year of its choice of this option. Customers selecting this option must commit to this option for an entire service year. The Customer will continue to be billed on this option until timely notice is received to return to the Cost of Service Option.

ELECTION WINDOW

Balance-of-year Election Window

The Balance-of-Year Election Window begins at 8:00 a.m. on February 15th (or the following business day if the 15th falls on a weekend or holiday). The Balance-of-Year Election Window will remain open from 8:00 a.m. of the first day through 5:00 p.m. of the third business day of the Election Window.

During the Balance-of-Year Election Window, a Customer may notify the Company of its choice to move to Direct Access Service. The move is effective on the following April 1st. A Customer may not choose to move from an alternative option back to either the Cost of Service or Daily Price Option during the Balance-of-Year Election Window.

November Election Window

Enrollment for the November Election Window begins at 2:00 p.m. on November 15th (or the following business day if the 15th falls on a weekend or holiday). The November Enrollment Windows will remain open until 5:00 p.m. of the fifth consecutive business day.

During a November Election Window, a Customer may notify the Company of its choice to change to any service options for an effective date of January 1st.

During an Election Window, Customers may notify the Company of a choice to change to eligible service options using the Company's website, PortlandGeneral.com/business

SCHEDULE 95 (Continued)

REPLACEMENT OF NON-REPAIRABLE LUMINAIRES INSTALLATION LABOR RATES

Labor Rate ⁽¹⁾	Straight Time	Overtime
	\$120.00 per hour	\$167.00 per hour

⁽¹⁾ Per Article 20.2 of the Collective Bargaining Agreement Union No. 125 Contract, overtime is paid at the Overtime Rate for a minimum of one hour.

RATES FOR STANDARD LIGHTING

Light-Emitting Diode (LED) Only – Option A Service Rates

LED lighting is new to the Company and pricing is changing rapidly. The Company may adjust rates under this schedule based on actual frequency of maintenance occurrences and changes in material prices.

<u>Type of Light</u>	<u>Watts</u>	<u>Nominal Lumens</u>	<u>Monthly kWh</u>	<u>Monthly Rate Option A</u>
LED	37	2,530	13	\$4.94
LED	50	3,162	17	4.94
LED	52	3,757	18	5.37
LED	67	5,050	23	5.86
LED	106	7,444	36	6.75

SCHEDULE 95 (Continued)

RATES FOR STANDARD LIGHTING (Continued)

Light-Emitting Diode (LED) Only – Option C Energy Use

<u>Type of Light</u>	<u>Watts*</u>	<u>Monthly kWh**</u>
LED	30 - 35	12
LED	>35 - 40	13
LED	>40 - 45	15
LED	>45 - 50	17
LED	>50 - 55	18
LED	>55 - 60	20
LED	>60 - 65	22
LED	>65 - 70	24
LED	>70 - 75	25
LED	>75 - 80	27
LED	>80 - 85	29
LED	>85 - 90	30
LED	>90 - 95	32
LED	>95 - 100	34
LED	>100 - 110	36
LED	>110 - 120	40
LED	>120 - 130	43
LED	>130 - 140	47
LED	>140 - 150	50
LED	>150 - 160	53
LED	>160 - 170	57
LED	>170 - 180	60
LED	>180 - 190	64
LED	>190 - 200	67

* Wattage based on total consumption of fixture (lamp, driver, photo control, etc). Customer may be required to provide verification of total energy consumption upon Company request.

** Monthly kWh figure based on 4,100 burning hours per year and midpoint of listed watt range, rounded to the next full kWh.

Monthly kWh = (midpoint of wattage range / 1,000) x (4,100 hours / 12 months)

Advice No. 12-17
Issued September 7, 2012
Maria M. Pope, Senior Vice President

Effective for service
on and after October 24, 2012

SCHEDULE 95 (Continued)

RATES FOR STANDARD LIGHTING (Continued)
Light-Emitting Diode (LED) Only – Option C Energy Use (Continued)

<u>Type of Light</u>	<u>Watts*</u>	<u>Monthly kWh**</u>
LED	>200 - 210	71
LED	>210 - 220	74
LED	>220 - 230	77
LED	>230 - 240	81
LED	>240 - 250	84
LED	>250 - 260	88
LED	>260 - 270	91
LED	>270 - 280	94
LED	>280 - 290	98
LED	>290 - 300	101

* Wattage based on total consumption of fixture (lamp, driver, photo control, etc). Customer may be required to provide verification of total energy consumption upon Company request.

** Monthly kWh figure based on 4,100 burning hours per year and midpoint of listed watt range, rounded to the next full kWh.

Monthly kWh = (midpoint of wattage range / 1,000) x (4,100 hours / 12 months)

SPECIALTY SERVICES OFFERED

Upon Customer request and subject to the Company's agreement, the Company will provide the following streetlighting services based on the Company's total costs including Company indirect charges:

- . Trimming of trees adjacent to streetlight equipment and circuits.
- . Arterial patrols to ensure correct operation of streetlights.
- . Painting or staining of wood and steel streetlight poles.

ADJUSTMENTS

Service under this schedule is subject to adjustments approved by the Commission. Adjustments include those summarized in Schedule 100.

SCHEDULE 95 (Continued)

SPECIAL CONDITIONS

1. Customer is responsible for the cost associated with trenching, boring, conduit and restoration required for underground service to streetlighting.
2. Unless otherwise specifically provided, the location of Company-owned streetlighting equipment and poles may be changed at the Customer's request and upon payment by the Customer of the costs of removal and reinstallation.
3. If Company-owned streetlighting equipment or poles are removed at the Customer's request, a charge will be made consisting of the estimated original cost, less depreciation, less salvage value, plus removal cost. This provision does not pertain to the sale of Company-owned equipment. This condition applies if a Customer's selection of service under this Schedule requires the removal of Company-owned streetlighting equipment or poles.
4. If circuits or poles not already covered under Special Conditions 2 or 3 are removed or relocated at the Customer's request, the Customer is responsible for all associated costs for labor and materials incurred when fulfilling this request.
5. For Option C lights: When the Company provides the circuit, the Customer will incur a circuit charge of \$1.38 per luminaire per month. The Company does not provide the circuit on new installations.
6. For Option A lights: The Company shall not be liable when either (i) the luminaires become inoperable or (ii) repair or replacement of inoperable luminaires is delayed or prevented; provided that, such inoperability of the luminaires or delay or prevention of repair or replacement is due to any cause beyond the Company's control, or that otherwise could not reasonably be foreseen or guarded against including but not limited to such causes as: strikes, lockouts, labor troubles, riots, insurrection, war, acts of God, extreme weather conditions, access to equipment, or the like.
7. For Option C lights: The Customer must ensure that (i) all maintenance and other work associated with this schedule is in compliance with the applicable requirements of OSHA, OPUC Safety Rules, the NESC and/or NEC and (ii) that all such work is performed by a Qualified Worker. A "Qualified Worker" means one who is knowledgeable about the construction and operation of the electric power generation, transmission, and distribution equipment as it relates to his or her work, along with the associated hazards, as demonstrated by satisfying the qualifying requirements for a "qualified person" or "qualified employee" with regard to the work in question as described in 29 CFR 1910.269 effective January 31, 1994, as it may be amended from time to time. In this case, a Qualified Worker is a journeyman lineman, or someone who has the equivalent training, expertise and experience to perform journeyman lineman work.

SCHEDULE 95 (Continued)

SPECIAL CONDITIONS (Continued)

8. Indemnification:

- a. For Option A lights: To the extent permitted by the Oregon Constitution and subject to the limits of the Oregon Tort Claims Act, the Customer shall hold the Company harmless and indemnify it for any and all third-party claims, actions, liability, costs, and expense by reason of injury to or death of persons or damage to property arising or resulting from any negligent acts or omissions or willful misconduct of the Customer, its officers, employees, or agents that arise under this Schedule, including but not limited to the street lighting requested by Customer, its officers, employees, or agents under this Schedule or the associated lighting levels. The Company shall hold Customer harmless and indemnify it for any and all third-party claims, actions, liability, costs, and expense by reason of injury to or death of persons or damage to property arising or resulting from any negligent acts or omissions or willful misconduct of the Company, its officers, employees, or agents that arise under this Schedule.
- b. For Option C lights: To the extent permitted by the Oregon Constitution and subject to the limits of the Oregon Tort Claims Act, the Customer shall hold the Company harmless and indemnify it for any and all third-party claims, actions, liability, costs, and expense by reason of injury to or death of persons or damage to property arising or resulting from any negligent acts or omissions or willful misconduct of the Customer, its officers, employees, or agents that arise under this Schedule, including but not limited to the street lighting requested by Customer, its officers, employees, or agents under this Schedule or the associated lighting levels or Customer's failure to comply with any of its obligations under Special Condition 8.d. below. This paragraph applies only to Option C lights that are attached to poles owned by PGE and does not apply to Option C lights attached to poles owned by Customer.
- c. For Option C lights: Customer has the obligation to ensure that any contractor performing any street or outdoor area light maintenance work or any construction associated with street or outdoor area lighting carry commercial liability insurance in an aggregate amount of \$5 million and \$2 million per occurrence and list PGE as an additional insured on the policy or policies. Customer will, at least seven (7) business days prior to the performance by a contractor of any street or outdoor area light maintenance work or any construction associated with street or outdoor area lighting, cause the contractor to furnish the Company with a certificate naming the Company as an additional insured under the contractor's commercial liability policy or policies. This paragraph shall not apply to Option C lights that are attached to poles owned by Customer.

SCHEDULE 95 (Continued)

SPECIAL CONDITIONS (Continued)

- d. Customer will provide (i) commercial liability insurance in an aggregate amount of \$10 million and \$5 million per occurrence and list PGE as an additional insured on the policy or policies or (ii) proof of adequate self-insurance for the amounts identified. All Insurance certificates or proof of self-insurance required under this Schedule shall be sent to Portland General Electric Company, Utility Asset Management, 2213 SW 153rd, Beaverton, OR 97006. All insurance required by this Schedule, to the extent it is provided by an insurance carrier, must be provided by an insurance carrier rated "A-" VIII or better by the A.M. Best Key Rating Guide. All policies of insurance required to be carried under this Schedule shall not be cancelled, reduced in coverage or renewal refused without at least thirty (30) days' prior written notice to the Company. The insurance coverage required by this Schedule must (i) be primary over, and pay without contribution from, any other insurance or self-insurance used by the Company, and (ii) waive all rights of subrogation against the Company. Customer shall bear all costs of deductibles and shall remain solely and fully liable for the full amount of any liability to the Company that is not compensated by Customer's or contractor's insurance.
 - e. The indemnifying party under this Schedule shall be liable only for third-party claims, actions, liability, costs, and expense pursuant to the terms of this Schedule and shall not be liable to the indemnified party for any of the indemnified party's special, punitive, exemplary, consequential, incidental or indirect losses or damages. For avoidance of doubt, the indemnifying party shall pay all reasonable attorneys' fees, experts' fees, and other legal expenses incurred in responding to or defending the third-party claim or action.
9. The conversion of existing Schedule 91 luminaires to Schedule 95 Option A luminaires is subject to the Company's operating schedule.
 10. The Customer is responsible for the cost of temporary disconnection and reconnection of Electricity Service. The Customer must provide written notice to request a temporary disconnection. During the period of temporary disconnection, the Customer remains responsible for all fixed charges in this schedule except for the cost of providing energy. After one year, the disconnection may no longer considered temporary and the facilities removed with the Customer responsible for the cost listed in Special Condition No. 3 of this schedule.
 11. For Option C lights: Customer is responsible to notify the Company within 30 days of conversions to Option C lights in this Schedule. The Company will limit all billing adjustments to 30 days back. The Company will use the nearest billing cycle date for all adjustments.

SCHEDULE 95 (Concluded)

TERM

A Customer served under the Daily Pricing Option may not choose service under another rate schedule until the end of the calendar year in which the pricing choice was made.

SCHEDULE 91 (Continued)

RATES FOR STANDARD LIGHTING

(M)

High-Pressure Sodium (HPS) Only – Service Rates

<u>Type of Light</u>	<u>Watts</u>	<u>Nominal Lumens</u>	<u>Monthly kWh</u>	<u>Monthly Rates</u>	
				<u>Option A</u>	<u>Option B</u>
Cobrahead Power Doors **	70	6,300	30	*	\$ 2.57
	100	9,500	43	*	2.58
	150	16,000	62	*	2.59
	200	22,000	79	*	2.62
	250	29,000	102	*	2.63
	400	50,000	163	*	2.64
Cobrahead	70	6,300	30	\$5.22	2.83
	100	9,500	43	5.27	2.79
	150	16,000	62	5.29	2.80
	200	22,000	79	5.70	2.84
	250	29,000	102	5.73	2.83
	400	50,000	163	5.77	2.87
Flood	250	29,000	102	6.05	2.91
	400	50,000	163	6.06	2.92
Early American Post-Top	100	9,500	43	5.75	2.87
Shoebox (bronze color, flat lens, or drop lens, multi-volt)	70	6,300	30	5.88	2.86
	100	9,500	43	6.16	2.95
	150	16,000	62	6.40	2.95

* Not offered.

** Service is only available to Customers with total power door luminaires in excess of 2,500.

(M)

RATES FOR STANDARD POLES

<u>Type of Pole</u>	<u>Pole Length (feet)</u>	<u>Monthly Rates</u>	
		<u>Option A</u>	<u>Option B</u>
Fiberglass, Black	20	\$4.10	\$0.14
Fiberglass, Bronze	30	5.47	0.18
Fiberglass, Gray	30	5.49	0.18
Wood, Standard	30 to 35	4.71	0.15
Wood, Standard	40 to 55	5.91	0.20

Advice No. 12-17

Issued September 7, 2012

Maria M. Pope, Senior Vice President

Effective for service

on and after October 24, 2012

SCHEDULE 91 (Continued)

RATES FOR CUSTOM LIGHTING

(M)

<u>Type of Light</u>	<u>Watts</u>	<u>Nominal Lumens</u>	<u>Monthly kWh</u>	<u>Monthly Rates</u>	
				<u>Option A</u>	<u>Option B</u>
Special Acorn-Types					
HPS	100	9,500	43	\$ 8.80	\$ 3.29
HADCO Victorian, HPS	150	16,000	62	8.54	3.29
	200	22,000	79	8.68	3.39
	250	29,000	102	8.76	3.39
HADCO Capitol Acorn, HPS	100	9,500	43	12.12	3.41
	150	16,000	62	12.13	3.42
	200	22,000	79	12.13	3.42
	250	29,000	102	12.13	3.42
Special Architectural Types					
HADCO Independence, HPS	100	9,500	43	8.23	3.31
	150	16,000	62	8.24	3.32
HADCO Techtra, HPS	100	9,500	43	15.24	4.32
	150	16,000	62	15.25	4.33
	250	29,000	102	21.27	4.93
HADCO Westbrooke, HPS	70	6,300	30	13.07	3.47
	100	9,500	43	13.03	3.46
	150	16,000	62	13.05	3.48
	200	22,000	79	13.19	3.48
	250	29,000	102	13.19	3.48

(M)

Advice No. 12-17
Issued September 7, 2012
Maria M. Pope, Senior Vice President

Effective for service
on and after October 24, 2012

SCHEDULE 91 (Continued)

RATES FOR CUSTOM LIGHTING (Continued)

(M)

<u>Type of Light</u>	<u>Watts</u>	<u>Nominal Lumens</u>	<u>Monthly kWh</u>	<u>Monthly Rates</u>	
				<u>Option A</u>	<u>Option B</u>
Special Types					
Cobrahead, Metal Halide	150	10,000	60	\$ 7.62	\$ 3.24
Flood, Metal Halide	350	30,000	139	9.15	3.42
Flood, HPS	750	105,000	285	8.39	3.98
Holophane Mongoose, HPS	150	16,000	62	7.33	3.06
	250	29,000	102	7.42	3.07
	400	50,000	163	7.46	3.09
Option C Only **					
Ornamental Acorn Twin	85	9,600	64	*	*
Ornamental Acorn	55	2,800	21	*	*
Ornamental Acorn Twin	55	5,600	42	*	*
Composite, Twin	140	6,815	54	*	*
	175	9,815	66	*	*

* Not offered.

** Rates are based on current kWh energy charges.

RATES FOR CUSTOM POLES

<u>Type of Pole</u>	<u>Pole Length (feet)</u>	<u>Monthly Rates</u>	
		<u>Option A</u>	<u>Option B</u>
Aluminum, Regular	16	\$5.83	\$0.20
	25	9.48	0.32
	30	10.26	0.34
	35	11.29	0.38
	Aluminum Davit	25	9.79
Aluminum Davit	30	10.44	0.35
	35	11.53	0.38
	40	14.08	0.47
Aluminum Double Davit	30	12.56	0.42

(M)

Advice No. 12-17

Issued September 7, 2012

Maria M. Pope, Senior Vice President

Effective for service
on and after October 24, 2012

SCHEDULE 91 (Continued)

RATES FOR CUSTOM POLES (Continued)

<u>Type of Pole</u>	<u>Pole Length (feet)</u>	<u>Monthly Rates</u>	
		<u>Option A</u>	<u>Option B</u>
Aluminum, HADCO, Fluted Victorian Ornamental	14	\$11.08	\$0.37
Aluminum, HADCO, Non-Fluted Techtra Ornamental	18	19.81	0.65
Aluminum, HADCO, Fluted Ornamental	16	10.60	0.35
Aluminum, HADCO, Non-Fluted Ornamental	16	15.95	0.52
Aluminum, HADCO, Fluted Westbrooke	18	13.39	0.45
Aluminum, HADCO, Non-Fluted Westbrooke	18	14.74	0.49
Aluminum, Painted Ornamental	35	27.35	0.90
Concrete, Decorative Ameron	20	29.01	0.97
Concrete, Ameron Post-Top	25	23.42	0.78
Fiberglass, HADCO, Fluted Ornamental Black	14	6.47	0.21
Fiberglass, Smooth	18	5.62	0.19
Fiberglass, Regular			
color may vary	22	3.17	0.11
color may vary	35	7.47	0.25
Fiberglass, Anchor Base, Gray	35	11.95	0.40
Fiberglass, Direct Bury with Shroud	18	6.20	0.21
Fiberglass, Portland Rd	35	21.10	0.70

SERVICE RATE FOR OBSOLETE LIGHTING

The following equipment is not available for new installations under Options A and B. To the extent feasible, maintenance will be provided. Obsolete Lighting will be replaced with the Customer's choice of Standard or Custom equipment. The Customer will then be billed at the appropriate Standard or Custom rate. If an existing Mercury Vapor luminaire requires the replacement of a ballast, the unit will be replaced with a corresponding HPS unit.

<u>Type of Light</u>	<u>Watts</u>	<u>Nominal Lumens</u>	<u>Monthly kWh</u>	<u>Monthly Rates</u>	
				<u>Option A</u>	<u>Option B</u>
Cobrahead, Mercury Vapor	100	4,000	39	*	*
	175	7,000	66	\$5.42	\$ 2.75
	250	10,000	94	6.33	2.96
	400	21,000	147	5.49	2.83
	1,000	55,000	374	6.27	3.12
Special Box Similar to GE "Space-Glo"					
HPS	70	6,300	30	8.75	2.87
Mercury Vapor	175	7,000	66	8.90	2.80

* Not offered.

Advice No. 12-17

Issued September 7, 2012

Maria M. Pope, Senior Vice President

**Effective for service
on and after October 24, 2012**

(M)

(M)

SCHEDULE 91 (Continued)

SERVICE RATE FOR OBSOLETE LIGHTING (Continued)

Type of Light	Watts	Nominal Lumens	Monthly kWh	Monthly Rates	
				Option A	Option B
Special Box, Anodized Aluminum Similar to GardCo Hub					
HPS - Twin	70	6,300	60	*	*
HPS	70	6,300	30	*	*
	100	9,500	43	\$8.56	\$3.21
	150	16,000	62	*	3.22
	250	29,000	102	*	*
	400	50,000	163	*	*
Metal Halide	250	20,500	99	*	3.42
	400	40,000	156	*	3.82
Cobrahead, Metal Halide	175	12,000	71	5.54	2.99
Flood, Metal Halide	400	40,000	156	6.06	3.04
Cobrahead, Dual Wattage, HPS					
70/100 Watt Ballast	100	9,500	43	*	2.77
100/150 Watt Ballast	100	9,500	43	*	2.77
100/150 Watt Ballast	150	16,000	62	*	2.78
Special Architectural Types					
KIM SBC Shoebox, HPS	150	16,000	62	*	3.73
KIM Archetype, HPS	250	29,000	102	*	3.40
	400	50,000	163	*	3.39
Special Acorn-Type, HPS	70	6,300	30	8.52	2.87
Special GardCo Bronze Alloy					
HPS	70	5,000	30	*	*
Mercury Vapor	175	7,000	66	*	*
Special Acrylic Sphere					
Mercury Vapor	400	21,000	147	*	*
Early American Post-Top, HPS					
Black	70	6,300	30	5.13	2.77
Rectangle Type	200	22,000	79	*	*
Incandescent	92	1,000	31	*	*
	182	2,500	62	*	*
Town and Country Post-Top					
Mercury Vapor	175	7,000	66	5.52	2.74

* Not offered.

(M)

(M)

SCHEDULE 91 (Continued)

SERVICE RATE FOR OBSOLETE LIGHTING (Continued)

(M)

<u>Type of Light</u>	<u>Watts</u>	<u>Nominal Lumens</u>	<u>Monthly kWh</u>	<u>Monthly Rates</u>	
				<u>Option A</u>	<u>Option B</u>
Flood, HPS	70	6,300	30	\$ 5.73	\$ 2.84
	100	9,500	43	5.62	2.81
	200	22,000	79	6.03	2.89
Cobrahead, HPS					
Power Door	310	37,000	124	6.45	3.19
Special Types Customer-Owned & Maintained					
Ornamental, HPS	100	9,500	43	*	*
Twin Ornamental, HPS	Twin 100	9,500	86	*	*
Compact Fluorescent	28	N/A	12	*	*

* Not offered.

RATES FOR OBSOLETE LIGHTING POLES

<u>Type of Pole</u>	<u>Poles Length (feet)</u>	<u>Monthly Rates</u>	
		<u>Option A</u>	<u>Option B</u>
Aluminum Post	30	\$5.83	*
Bronze Alloy GardCo	12	*	\$0.24
Concrete, Ornamental	35 or less	9.48	0.32
Steel, Painted Regular **	25	9.48	0.32
Steel, Painted Regular **	30	10.26	0.34
Steel, Unpainted 6-foot Mast Arm **	30	*	0.34
Steel, Unpainted 6-foot Davit Arm **	30	*	0.35
Steel, Unpainted 8-foot Mast Arm **	35	*	0.38
Steel, Unpainted 8-foot Davit Arm **	35	*	0.38
Wood, Laminated without Mast Arm	20	5.30	0.14
Wood, Laminated Street Light Only	20	4.10	*

* Not offered.

** Maintenance does not include replacement of rusted steel poles.

(M)

Advice No. 12-17

Issued September 7, 2012

Maria M. Pope, Senior Vice President

Effective for service
on and after October 24, 2012

SCHEDULE 91 (Continued)

RATES FOR OBSOLETE LIGHTING POLES (Continued)

(M)

<u>Type of Pole</u>	<u>Poles Length (feet)</u>	<u>Monthly Rates</u>	
		<u>Option A</u>	<u>Option B</u>
Wood, Curved Laminated	30	\$6.84	\$0.25
Wood, Painted Underground	35	4.71	0.20
Wood, Painted Street Light Only	35	4.71	*

* Not offered.

SERVICE RATES FOR ALTERNATIVE LIGHTING

The purpose of this series of luminaires is to provide lighting utilizing the latest in technological advances in lighting equipment. The Company does not maintain an inventory of this equipment, and so delays with maintenance are likely. This equipment is more subject to obsolescence since it is experimental and yet to be determined reliable or cost effective. The Company will order and replace the equipment subject to availability.

<u>Type of Light</u>	<u>Watts</u>	<u>Nominal Lumens</u>	<u>Monthly kWh</u>	<u>Monthly Rates</u>	
				<u>Option A</u>	<u>Option B</u>
Special Architectural Types Including Philips QL Induction Lamp Systems					
HADCO Victorian, QL	85	6,000	32	\$10.59	\$2.05
	165	12,000	60	12.28	2.13
HADCO Techtra, QL	85	6,000	32	13.98	2.19
	165	12,000	60	14.69	2.23

(M)

SPECIALTY SERVICES OFFERED

Upon Customer request and subject to the Company's agreement, the Company will provide the following streetlighting services based on the Company's total costs including Company indirect charges:

- . Trimming of trees adjacent to streetlight equipment and circuits.
- . Arterial patrols to ensure correct operation of streetlights.
- . Painting or staining of wood and steel streetlight poles.

(D)

ADJUSTMENTS

Service under this schedule is subject to adjustments approved by the Commission. Adjustments include those summarized in Schedule 100.

(M)