

Regular Session

RS

Milwaukie City Council

COUNCIL REGULAR SESSION

City Hall Council Chambers, 10501 SE Main Street
 & Zoom Video Conference (www.milwaukieoregon.gov)

REVISED AGENDA

NOVEMBER 7, 2023

(Revised November 2, 2023)

Council will hold this meeting in-person and through video conference. The public may attend the meeting by coming to City Hall or joining the Zoom webinar, or watch the meeting on the [city's YouTube channel](#) or Comcast Cable channel 30 in city limits. **For Zoom login** visit <https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-359>.

To participate in this meeting by phone dial 1-253-215-8782 and enter Webinar ID 831 8669 0512 and Passcode: 023745. To raise hand by phone dial *9. **Written comments** may be delivered to City Hall or emailed to ocr@milwaukieoregon.gov. Council will take verbal comments.

Note: agenda item times are estimates and are subject to change.

Page #

- 1. **CALL TO ORDER** (6:00 p.m.)
 - A. **Pledge of Allegiance**
 - B. **Native Lands Acknowledgment**

- 2. **ANNOUNCEMENTS** (6:01 p.m.) **2**

- 3. **PROCLAMATIONS AND AWARDS**
 - A. **Veterans Day – Proclamation** (6:05 p.m.) **4**
 Presenters: Adam Khosroabadi and Robert Massey, City Councilors
 - B. **Small Business Saturday – Proclamation** (6:10 p.m.) **5**
 Presenter: Lisa Batey, Mayor

- 4. **SPECIAL REPORTS**
 - A. **New Business Introduction: Freeman Barrelhouse** (6:15 p.m.) **9**
 Presenter: Julie Molsom, Owner
 - B. **New Business Introduction: That One Vintage Shop** (6:25 p.m.)
 Presenter: Angie Swim, Owner
 - C. **New Business Introduction: Camper Van Rentals** (6:35 p.m.)
 Presenter: Austen Price, Owner
 - D. **Balfour Park Donation Acceptance** (6:45 p.m.)
 Staff: Ann Ober, City Manager

- 5. **COMMUNITY COMMENTS** (6:55 p.m.)
 To speak to Council, please submit a comment card to staff. Comments must be limited to city business topics that are not on the agenda. A topic may not be discussed if the topic record has been closed. All remarks should be directed to the whole Council. The presiding officer may refuse to recognize speakers, limit the time permitted for comments, and ask groups to select a spokesperson. **Comments may also be submitted in writing before the meeting, by mail, e-mail (to ocr@milwaukieoregon.gov), or in person to city staff.**

- 6. CONSENT AGENDA (7:00 p.m.)**
 Consent items are not discussed during the meeting; they are approved in one motion and any Council member may remove an item for separate consideration.
- A. Approval of Council Meeting Minutes of:** **11**
 - 1. October 3, 2023, work session,
 - 2. October 3, 2023, regular session, and
 - 3. October 10, 2023, study session.
 - B. Appointments to the Citizens Utility Advisory Board (CUAB) – Resolution** **19**
 - C. Authorization of a Playground Equipment Purchase – Resolution** **22**
 - D. Authorization and Acceptance of a Grant for Balfour Park – Resolution** **26**
 - E. Authorization and Acceptance of a Grant for Three Parks – Resolution** **30**
 - F. Authorization and Acceptance of a Grant for Scott Park – Resolution** **34**
 - G. Authorization of a Solar Grant Agreement – Resolution** **38**
 - H. Authorization of a Contract for Americans with Disabilities Act (ADA) Sidewalk and Ramp Improvements – Resolution** (Removed from the agenda)
- 7. BUSINESS ITEMS**
- A. Road Design 101 – Discussion (7:10 p.m.)** **49**
 Staff: Jennifer Garbely, City Engineer
 - B. Downtown Medallions – Discussion (8:10 p.m.)** **50**
 Staff: Emma Sagor, Assistant City Manager
- 8. PUBLIC HEARINGS**
- A. None Scheduled.**
- 9. COUNCIL REPORTS**
- A. Flavored Tobacco Ban – Resolution (8:25 p.m.)** **54**
 Presenters: Lisa Batey, Mayor
- 10. ADJOURNMENT (8:45 p.m.)**

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

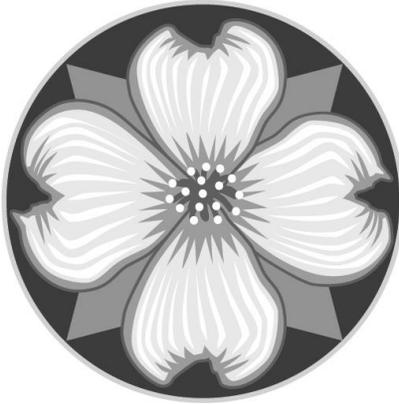
The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the [city's YouTube channel](#) and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el [canal de YouTube de la ciudad](#) y el Canal 30 de Comcast dentro de los límites de la ciudad.

Executive Sessions

The City Council may meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660(2); all discussions are confidential; news media representatives may attend but may not disclose any information discussed. Final decisions and actions may not be taken in executive sessions.



RS Agenda Item

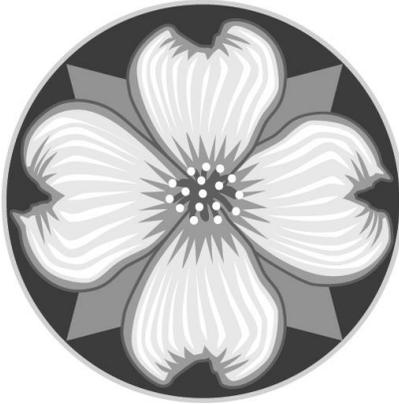
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Announcements



Mayor's Announcements – November 7, 2023

- **Neighborhood Hubs Online Workshop Open Until Nov. 15**
 - Share your thoughts about gathering spaces close to your home.
 - Didn't get a chance to attend an in-person workshop or have more to share?
 - Visit Engage Milwaukie to learn more and participate at engage.milwaukieoregon.gov
- **Music as a Tool for Social Justice – Donovan Scribes – Wed., Nov. 15 (6 PM)**
 - Join a facilitated conversation about what the word "justice" means and examine how it's applied in Oregon.
 - For adult and older teen audiences (14+)
 - Ledding Library, 10660 SE 21st Ave.
- **Free Leaf Drop Sessions – Sat., Nov. 18 and Dec. 2, 9 & 16 (7 AM – 2 PM)**
 - Free for those who live within Milwaukie city limits. Bring a utility bill (e-bill or paper bill) as proof of residency.
 - Leaves accepted in paper, plastic, or loose, but paper bags are preferred.
 - City is also collecting non-perishable food for local families for anyone that would like to donate.
 - Public Works Administration Building, 6101 SE Johnson Creek Blvd.
- **Thanksgiving Farmers Market – Sun., Nov. 19 (9:30 AM – 2 PM)**
 - Stock up on the freshest farm grown produce and ingredients for the holidays.
 - Market also includes craft vendors providing a selection of unique, hand-crafted gifts.
 - SE Main St. and SE Harrison St.
 - Visit www.milwaukiefarmersmarket.com for more information.
- **LEARN MORE AT [WWW.MILWAUKIEOREGON.GOV](https://www.milwaukieoregon.gov) OR CALL 503-786-7555**



RS Agenda Item

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Proclamations & Awards

PROCLAMATION

WHEREAS the United States first proclaimed November 11, 1919, as Armistice Day to mark the end of World War I, the “War to End All Wars,” and to solemnly reflect on the horrific consequences of all wars, and

WHEREAS since 1919, the 11th day of the 11th month has come to be a time to recognize the contributions made by the millions of men and women who answered Our Nation’s call to arms in the pursuit of world peace, and

WHEREAS Veterans Day brings communities together to honor military veterans and their legacy of selfless services and sacrifice and to remember the millions of civilians and military personnel who have died or been injured by war, and

WHEREAS the United States Department of Defense recognizes that the risk of future wars will be greatly increased by climate chaos and the resulting forced migrations due to devastating starvation, inundation, fires, flooding and drought and we should do everything necessary to decrease those effects, and

WHEREAS the City of Milwaukie has been proud to partner with American Legion Post 180 and the Susannah Lee Barlow Chapter of the Daughters of the American Revolution to recognize and honor veterans in community who did not come home, and

WHEREAS the City of Milwaukie recognizes the sacrifices made by the those who served our country so that all may pursue life, liberty, and happiness.

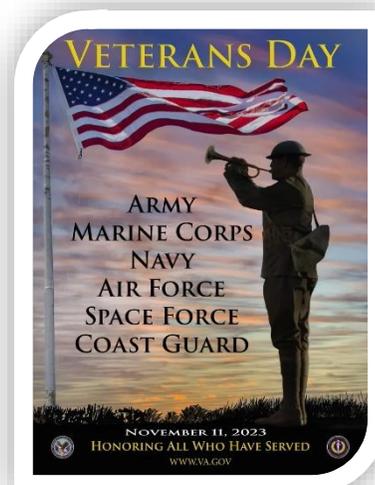
NOW, THEREFORE, I, Lisa Batey, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim **November 11, 2023**, to be **Veterans Day** in the City of Milwaukie.

IN WITNESS WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 7th day of November 2023.

Lisa Batey, Mayor

ATTEST:

Scott Stauffer, City Recorder



**RS 3. A. 11/7/23
Presentation**

CORPORAL DIFFIE VETERANS FUND

City Council
Regular Session
November 7, 2023





CORPORAL DIFFIE VETERANS FUND



Closing the "Gap" for our veterans in need.

A Non-Profit fund of the American Legion, Milwaukie, OR. Post #180

To donate visit <https://go.rallyup.com/cdvf/Campaign/Details>



To donate visit
[https://go.rallyup.com/cdvh/
Campaign/Details](https://go.rallyup.com/cdvh/Campaign/Details)



SUPPORTERS

- Dark Horse
- Reliable Credit Association
- Enchant Chocolatier
- K. Marie
- Milwaukie Floral and Garden
- Made in Milwaukie
- Cha Cha Cha Mexican Taqueria
- Charles H Day Co.
- Nisbett Jewelers
- Lisac's Fireplaces & Stoves
- Veterinary Cancer & Surgery Specialist





PROCLAMATION

WHEREAS the City of Milwaukie celebrates our local small businesses and the contributions they make to our local economy and community; and

WHEREAS according to the U.S. Small Business Administration, there are 33 million small businesses in the United States: small businesses represent 99.7% of firms with paid employees, small businesses are responsible for 62.7% of net new jobs created since 1995, and small businesses employ 46.4% of the employees in the private sector in the United States; and

WHEREAS 68 cents of every dollar spent at a small business in the United States stays in the local community and every dollar spent at small businesses creates an additional 48 cents in local business activity because of employees and local businesses purchasing local goods and services; and

WHEREAS 72% of consumers reported that Small Business Saturday 2022 made them want to shop and dine at small, independently owned retailers and restaurants all year long; and

WHEREAS the City of Milwaukie supports our local businesses that create jobs, boost our local economy, and preserve our communities; and

WHEREAS advocacy groups, as well as public and private organizations, across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

NOW, THEREFORE, I, Lisa Batey, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim, **November 25, 2023**, as **SMALL BUSINESS SATURDAY** and urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and to Shop Small throughout the year.

IN WITNESS, WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 7th day of November 2023.

Lisa M. Batey, Mayor

ATTEST:

Scott S. Stauffer, City Recorder

LET'S GO SHOP SMALL[®]

ON SMALL BUSINESS SATURDAY[®]



WHAT IS SMALL BUSINESS SATURDAY[®]?

Since its inception in 2010, Small Business Saturday, proudly backed by American Express, has illuminated the significance of supporting small, independently owned businesses across the country. Falling between Black Friday and Cyber Monday, it's a day dedicated to supporting the diverse range of local businesses that help create jobs, boost the economy, and keep communities thriving across the country.

WHY SUPPORT SMALL BUSINESS SATURDAY?

- Demonstrates a conscious commitment to the communities in which we live.
- Creates goodwill within the communities.
- When we support small businesses, we help create jobs and local communities preserve their unique culture.

2022 SMALL BUSINESS SATURDAY FACTS:

- In 2022, U.S. consumers reported spending an estimated \$17.9 billion at independent retailers and restaurants on Small Business Saturday.¹
- Elected officials in all 50 states, Washington, D.C., Puerto Rico, and other U.S. territories championed Small Business Saturday.
- 832 local governments issued proclamations in support of Small Business Saturday covering all 50 states and Washington, D.C.
- American Express enlisted the support of 50 large companies, known as Corporate Supporters, to help drive excitement for and promote Small Business Saturday.
- The Small Business Saturday Coalition, comprised of national, state and local associations that help coordinate activities for Small Business Saturday with small business owners and consumers, had over 300 organizations help spread the Shop Small[®] message.
- According to the 2022 Small Business Saturday Consumer Insights Survey, more than two-thirds (72%) of shoppers strongly agreed they will continue to Shop Small

¹ The American Express 2022 Small Business Saturday Consumer Insights Survey was conducted by Teneo on behalf of American Express. The study is a nationally representative sample of 2,471 U.S. adults 18 years of age or older. The sample was collected using an email invitation and an online survey. The study gathered self-reported data and does not reflect actual receipts or sales. It was conducted anonymously on November 27, 2022. The survey has an overall margin of error of +/- 2.0%, at the 95% level of confidence. Projections are based on the current U.S. Census estimates of the U.S. adult population, age 18 years and over.

LET'S GO SHOP SMALL[®]

ON SMALL BUSINESS SATURDAY[®]



throughout the holiday season because of the impact it has on their local community.²

JOIN THE COALITION:

Building on the success of previous years, the Coalition of supporters are more committed than ever. This includes support from advocacy organizations that join the initiative to motivate constituents through incentives and offers to not only Shop Small on November 25, 2023 but Shop Small all year long.

The coalition will be led by Women Impacting Public Policy, a business advocacy organization representing small businesses. [Join Us!](#)

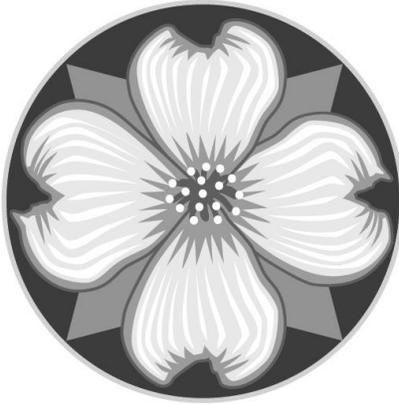
Contact Info:

Small Business Saturday Program

Women Impacting Public Policy

Phone: (415) 878-1576 | Email: sbscoalition@wipp.org

²The American Express 2022 Small Business Saturday Consumer Insights Survey was conducted by Teneo on behalf of American Express. The study is a nationally representative sample of 2,471 U.S. adults 18 years of age or older. The sample was collected using an email invitation and an online survey. The study gathered self-reported data and does not reflect actual receipts or sales. It was conducted anonymously on November 27, 2022. The survey has an overall margin of error of +/- 2.0%, at the 95% level of confidence. Projections are based on the current U.S. Census estimates of the U.S. adult population, age 18 years and over.



RS Agenda Item

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Special Reports



RS 4. A. 11/7/23
Exhibit

FREEMAN BARRELHOUSE

Woman-owned Whiskey Focused Bar and Taproom

We specialize in whiskey and cocktails but also serve some amazing local craft beer and espresso drinks. The ambiance is warm and welcoming, with dim lighting and vintage decor that adds to its charm.

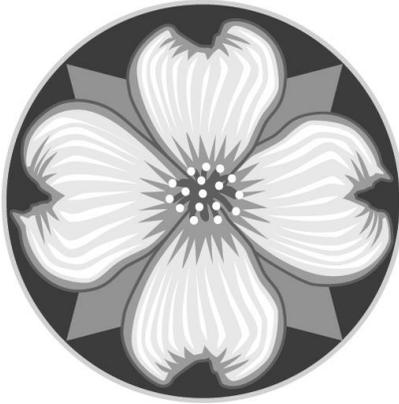
Julie, the owner, is a native born Oregonian with a passion for dark beer, espresso, and whiskey. Freeman BarrelHouse is her newest creation bringing this tasty trifecta to Milwaukie.

Call us today 503 850 4579

4630 SE International Way | Milwaukie | Ore
www.freemanbarrelhouse.com



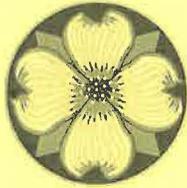
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RS Agenda Item

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Community Comments



**CITY OF MILWAUKIE
CITY COUNCIL**

10722 SE Main Street
P) 503-786-7502
F) 503-653-2444
ocr@milwaukieoregon.gov

Speaker Card

The City of Milwaukie encourages all citizens to express their views to their city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder. Note that this Speaker Card, once submitted to the City Recorder, becomes part of the public record.

Name: ANNE PERMICK **Address:** ~~MILWAUKIE~~ PORTLAND, OR
Organization: SAFE Cities at Stand Earth **Phone:** 415-863-4563 ext. 410
Meeting Date: 11/7/23 **Email:** anne@stand.earth
Topic: BUILDING ELECTRIFICATION

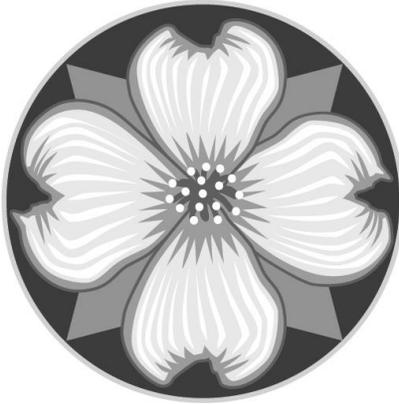
Agenda Item You Wish to Speak to:

- #5 Community Comments
Note: Council generally does not respond to comments during this meeting. The city manager will respond to comments at the next regular session.
- #7 Other Business, Topic: _____
- #8 Public Hearing, Topic: _____

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:



RS Agenda Item

6

Consent Agenda



COUNCIL WORK SESSION

City Hall Council Chambers, 10501 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

MINUTES

OCTOBER 3, 2023

Council Present: Councilors Adam Khosroabadi, Robert Massey, Rebecca Stavenjord, and Council President Desi Nicodemus, and Mayor Lisa Batey

Staff Present: Justin Gericke, City Attorney
Brandi Leos, Human Resources Director
Ann Ober, City Manager
Nicole Madigan, Deputy City Recorder
Peter Passarelli, Public Works Director
Natalie Rogers, Climate & Natural Resources Manager
Scott Stauffer, City Recorder

Mayor Batey called the meeting to order at 4:06 p.m. and noted the grand opening event for new city hall on October 6.

1. Tree Board – Annual Report

Passarelli shared that the board had two new members and explained what the board had worked on over the last year which included earning Tree City USA awards and detailed how those awards were earned, tree code updates, and implementation of a new tree permitting system. **Passarelli** shared the ongoing projects that the board focused on noting the leaf drop events on specific Saturdays in November and December, Arbor Day on October 28, and what events and projects the board would be focusing on for the rest of 2023 and into 2024 which included continuing work with the tree code.

Councilor Stavenjord noted the financial value and importance of volunteers and the group commented on education opportunities about providing natural habitats by not collecting leaves.

Councilor Khosroabadi and **Passarelli** commented on previous Mayor Gamba's pledge for the city to plant one tree for every resident of Milwaukie.

Councilor Massey, **Passarelli**, and **Rogers** discussed the metrics and tools used to track the city's tree canopy goal. **Massey** offered to connect the board with the Oregon Master Gardeners group.

Council President Nicodemus asked for clarification on the start time for the Arbor Day event. **Rogers** shared the schedule of events and noted the start time was 9 a.m.

Mayor Batey commented on the leaf drop event and suggested the city change the event to encourage community members to leave leaves for natural habitat. **Batey** and **Passarelli** discussed the city's tree permit invasive tree list. **Batey** and **Rogers** commented on a tree planting event that the rotary was hosting. **Batey**, **Passarelli**, and **Rogers** discussed the development of the commercial tree code.

2. Park and Recreation Board (PARB) – Annual Report

Rogers shared PARB's current roster, noted that some meetings were occurring in person, and covered what PARB had focused on for 2023. **Rogers** and **Ali Feuerstein**, PARB Chair, commented on the outreach work that the city and PARB had partnered on during development of the three new city parks. **Rogers** and **Feuerstein** shared that

there was a development engagement event at Scott Park on October 8. **Rogers** invited community members to attend the next PARB meeting.

Councilor Stavenjord, Rogers, and Feuerstein discussed using heat mapping for park planning and consideration for tree canopy, materials used, and water features.

Council commended PARB for their work and **Feuerstein** shared belief that the group was well diverse group and was working well together.

3. Adjourn

Mayor Batey announced that after the meeting Council would meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660 (2)(i) to review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.

Mayor Batey adjourned the meeting at 5:00 p.m.

Respectfully submitted,

Nicole Madigan, Deputy City Recorder

COUNCIL REGULAR SESSION

City Hall Council Chambers, 10501 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

MINUTES

OCTOBER 3, 2023

Council Present: Councilors Adam Khosroabadi, Robert Massey, Rebecca Stavenjord, and Council President Desi Nicodemus, and Mayor Lisa Batey

Staff Present: Joseph Briglio, Community Development Director
Justin Gericke, City Attorney
Vera Kolas, Senior Planner
Adam Moore, Parks Development Coordinator
Ann Ober, City Manager
Nicole Madigan, Deputy City Recorder

Peter Passarelli, Public Works Director
Gabriella Santoyo Gutierrez, Equity & Inclusion Coordinator
Scott Stauffer, City Recorder
Laura Weigel, Planning Manager

Mayor Batey called the meeting to order at 6:09 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Batey announced upcoming activities, including a Ledding Library heritage lecture, the new city hall grand opening, a park design open house, a fall author's series at the library, and a work party at the Minthorn Springs Natural Area.

3. PROCLAMATIONS AND AWARDS**A. Indigenous Peoples Day – Proclamation**

Santoyo Gutierrez remarked on recognizing Indigenous Peoples Day and **Mayor Batey** proclaimed October 9, 2023, to be Indigenous Peoples Day.

B. Hispanic Heritage Month – Proclamation

Santoyo Gutierrez remarked on recognizing Hispanic Heritage month and **Mayor Batey** proclaimed October to be Hispanic Heritage Month.

C. Archives Month – Proclamation

Mayor Batey congratulated Stauffer and Madigan on their election to leadership roles with the Oregon Association of Municipal Recorders (OAMR). **Stauffer** and **Greg Hemer**, Milwaukie Historical Society, remarked on recognizing community archives and **Mayor Batey** proclaimed October to be Archives Month.

D. Arbor Day – Proclamation

Ober remarked on the city's Arbor Day activities and **Mayor Batey** proclaimed October 28, 2023, to be Arbor Day.

E. Community Planning Month – Proclamation

Ober and **Weigel** remarked on recognizing community planning work and **Mayor Batey** proclaimed October to be Community Planning Month.

4. SPECIAL REPORTS

A. Tobacco Use Prevention – Update

Mayor Batey noted that Northwest Family Services (NWFS) had recently celebrated its 40th anniversary of operations.

Marc Czornji, Clackamas County Public Health, and **Abigail Wells**, NWFS, and **Michael Cox**, Flavors Hook Oregon Kids campaign, provided an overview of programs aimed at preventing youth tobacco use and discussed legislative efforts to ban the availability of flavored tobacco products. They noted where tobacco retailers were in Milwaukie and asked Council to support a statewide ban on flavored tobacco.

The group remarked on the differences between city and county government responses to public health issues and how bans adopted in adjacent counties may influence the availability of flavored tobacco in Clackamas County.

Councilor Khosroabadi and **Council President Nicodemus** expressed support for a flavored tobacco ban. **Councilor Massey** and **Cox** commented on whether the state legislature would adopt a statewide ban and how the Council could support a ban.

Mayor Batey remarked on the status of previous legislative efforts to pass a flavored tobacco ban and suggested Council would be open to considering a resolution in support of a ban. **Councilor Stavenjord** and **Cox** noted the campaign would appreciate having a resolution from Milwaukie and other cities by the end of the year.

5. COMMUNITY COMMENTS

Mayor Batey reviewed the public comment procedures and **Ober** reported that in response to previous comments staff had been in communication with Lewelling neighborhood residents regarding a proposed Safe Routes to School (SRTS) grant. It was noted that no audience member wished to speak to Council.

6. CONSENT AGENDA

It was moved by **Councilor Khosroabadi** and seconded by **Council President Nicodemus** to approve the Consent Agenda as presented.

A. City Council Meeting Minutes:

1. August 15, 2023, work session,
2. August 15, 2023, regular session,
3. August 20, 2023, Council dinner,
4. ~~September 5, 2023, work session, and (removed from the agenda)~~
5. ~~September 5, 2023, regular session.~~

B. Resolution 49-2023: A resolution of the City Council of the City of Milwaukie, Oregon, amending the Public Safety Advisory Committee (PSAC) Bylaws.

Motion passed with the following vote: **Councilors Khosroabadi, Massey, Nicodemus, and Stavenjord** and **Mayor Batey** voting “aye.” [5:0]

7. BUSINESS ITEMS

A. Planning Department Workplan – Discussion (continued)

Weigel continued to provide an overview of projects on the department’s workplan which had been started at a previous meeting.

Councilor Khosroabadi and **Weigel** discussed plans to update business industrial and town center zoning and the urban growth management agreement (UGMA).

Councilor Massey, Weigel, and **Ober** remarked on plans to update community service uses (CSUs) for parks and public areas to reflect recent Comprehensive Plan changes.

Mayor Batey, Weigel, and **Ober** commented on the UGMA and the city's interest in annexation. They remarked on updating the town center plan and Metro's 2040 Vision plan, and how Council's goals were reflected in the planning department's workplan.

Mayor Batey agreed that updating the sign code was not a top priority. **Batey, Weigel,** and **Ober** discussed how area plans were different from neighborhood hubs, why the Willamette Greenway zone needed to be revised, and the impact of state rule changes on department workplans.

Councilor Khosroabadi, Weigel, and **Ober** discussed project timeframes and noted that state mandated housing work would not be impacted by city projects.

Councilor Stavenjord observed that some projects focused on localized economic development work. **Stavenjord** and **Weigel** remarked on staff workload capacity.

Mayor Batey and **Weigel** commented on why staff and the Comprehensive Plan Advisory Committee (CPAC) had prioritized the neighborhood hubs project.

Councilor Khosroabadi, Mayor Batey, Weigel, and **Briglio** discussed whether the projects on the planning department workplan supported Council's goals.

Ober summarized that staff had enough Council direction on a workplan.

B. Neighborhood Parks Update – Report

Moore provided an update on the design and construction of Balfour, Bowman-Brae, and Scott parks, reporting that public access to Bowman-Brae Park from the west had been restored and the city had leased a parking lot west of Scott Park.

Moore reviewed the parks project budget which relied on grant funding, noted upcoming events including the final park design open house, and commented on the close working relationship between city staff and North Clackamas Parks and Recreation District (NCPRD) staff on the parks project.

Councilor Stavenjord, Moore, and **Mayor Batey** remarked on the colors to be used for playground equipment at the parks based on city branding and community input.

The group commented on the accessibility and equity goals of the parks project.

Mayor Batey recessed the meeting at 8:35 p.m. and reconvened at 8:45 p.m.

8. PUBLIC HEARING

A. Substantive Code Amendments – Ordinance

Call to Order: **Mayor Batey** called the public hearing on the proposed amendments to the Milwaukie Municipal Code (MMC), file # ZA-2023-002, to order at 8:46 p.m.

Purpose: **Mayor Batey** announced that the purpose of the hearing was to hear the staff report and take public comment on the proposed substantive code amendments.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: **Kolias** reported that the Planning Commission had recommended Council adopt the amendments and provided an overview of the proposed code amendments beginning with changes to MMC Title 12 access management. **Mayor Batey** and **Kolias** commented on how townhomes were referenced in Title 12.

Kolias provided a summary of proposed zoning code definition changes. **Councilor Massey** and **Kolias** noted differences between quadplexes and townhomes.

Kolias reviewed proposed code changes related to corner lots and setbacks. **Councilor Khosroabadi** and **Kolias** noted which setback scenarios had raised concerns.

Kolias summarized proposed changes related to the North Milwaukie Innovation Area (NMIA) design standards and supplementary development regulations for back decks and accessory structures. **Councilor Khosroabadi** and **Kolias** noted rear and side yard setback standards. **Councilor Massey** and **Kolias** noted that the 600 square-foot size limit had been the code standard for a long time. **Mayor Batey** and **Kolias** noted what the MMC allowed for accessory dwelling units (ADUs).

Kolias provided an overview of proposed cottage clusters code changes. **Mayor Batey** and **Kolias** noted that cottage clusters could be on a single or multiple lots.

Kolias reviewed proposed changes to electric vehicle (EV) parking requirements and a new code section for cottage cluster standard.

Mayor Batey and **Kolias** remarked on the proposed process change to the lot line adjustments. They noted there had been a proposal to revise the vacation rental code section related to backyard screening which the Planning Commission had removed from the package of amendments.

Correspondence: No correspondence on the hearing topic had been received.

Audience Testimony: No audience member wished to address Council.

Council Questions to Staff: **Councilor Khosroabadi** and **Kolias** noted that the one Planning Commissioner who had objected to the code package had done so because of the proposed vacation rental backyard screenings change.

Close Public Comment: **It was moved by Councilor Khosroabadi and seconded by Councilor Massey to close the public testimony part of the substantive code amendments hearing. Motion passed with the following vote: Councilors Stavenjord, Khosroabadi, Massey, Nicodemus, and Mayor Batey voting “aye.” [5:0]**

Mayor Batey closed the public comment part of the hearing at 9:12 p.m.

Council Discussion: **Mayor Batey** supported most of the proposed changes but was concerned about the removal of the vacation rental yard screening requirements and allowing metal structures to be placed close to property lines. The group remarked on whether the code should restrict the type of structure a property owner could build.

Council Decision: **It was moved by Council President Nicodemus and seconded by Councilor Khosroabadi for the first and second readings by title only and adoption of the ordinance amending Municipal Code Title 12 Streets, Sidewalks, and Public Places, Title 17 Land Division, and Title 19 Zoning, to make changes to select sections for the purpose of clarification and improved effectiveness (file #ZA-2023-002). Motion passed with the following vote: Councilors Stavenjord,**

Massey, Khosroabadi, and Nicodemus voting “aye” and Mayor Batey voting “no.” [4:1]

Ober read the ordinance one time by title only.

Mayor Batey announced that because the vote was not unanimous the second reading and roll call vote would be scheduled for the October 17, 2023, regular session.

9. COUNCIL REPORTS

Mayor Batey introduced a Council support letter request related to federal funding for local affordable housing and electrification projects. It was Council consensus to sign and send the letter as requested.

Ober reviewed plans for Council and staff to drive as a group to the Clackamas County Jail for the October 10, 2023, study session.

10. ADJOURNMENT

Mayor Batey announced that after meeting Council would meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660 (2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

It was moved by Council President Nicodemus and seconded by Councilor Massey to adjourn the Regular Session. Motion passed with the following vote: Councilors Khosroabadi, Massey, Nicodemus, and Stavenjord and Mayor Batey voting “aye.” [5:0]

Mayor Batey adjourned the meeting at 9:29 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

COUNCIL STUDY SESSION TOUR

Clackamas County Jail
2206 Kaen Rd, Oregon City, OR 97045

MINUTES

OCTOBER 10, 2023

Council Present: Councilors Adam Khosroabadi, Robert Massey, Rebecca Stavenjord, and Council President Desi Nicodemus, and Mayor Lisa Batey

Staff Present: Thomas Garrett, Police Detective Sergeant
Kimberly Graves, Municipal Court Judge
Nicole Madigan, Deputy City Recorder
Ann Ober, City Manager
Mary Quinn, Court Clerk

Council and staff entered the Clackamas County Jail at 5:29 p.m. and received a report on the history of the jail and heard about what the most common offenses were and programs that are offered.

It was noted that Councilor Stavenjord joined the group at 5:36 p.m.

The group discussed how inmates are housed, how changes in drug laws had affected intake rates, return rates for repeat offenders, and staffing shortages. The group then participated in a tour of the jail. Council took no action.

The tour ended at 7:20 p.m.

Respectfully submitted,

Nicole Madigan, Deputy City Recorder

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Oct. 27, 2023

Reviewed: Michael Osborne, Assistant Finance Director

From: Toby LaFrance, Finance Director, and
Peter Passarelli, Public Works Director

Subject: **Appointments to the Citizens Utility Advisory Board (CUAB)**

ACTION REQUESTED

As outlined in the Milwaukee Municipal Code (MMC), Council is asked to consider approving a resolution making appointments to the Citizens Utility Advisory Board (CUAB).

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[August 14, 2023](#): The proposal to appoint the citizen members of the Budget Committee to the CUAB was discussed at the Quarterly Budget Committee meeting.

[September 19, 2023](#): The appointment proposal was further discussed at a Council Work Session, where Council directed staff to prepare an appointing resolution.

ANALYSIS

As outlined in MMC 2.11, the CUAB is charged with acting in an advisory capacity to Council in reviewing rates and rate structures, capital improvements, master plans, and utility funding. Recent experience with the CUAB demonstrates that it has been difficult to fill with volunteers and that attendance at its meetings has been variable and difficult to achieve a quorum. Both the CUAB and the Budget Committee have duties around the city's capital improvement programs. This overlap makes the resident members of the Budget Committee a natural fit to also serve as the CUAB. Since state law requires the resident members of the Budget Committee to live in Milwaukee, they meet the membership qualifications of the CUAB of being "Milwaukee residents."

As MMC 2.11 does not specifically set a term length for CUAB members and as MMC 2.10.030.G. provides Council with flexibility in appointing board and committee terms up to four years in length, the proposed new CUAB term lengths vary. The proposed staggered term lengths reflect the term lengths of the nominees' Budget Committee terms. It is staff's belief that aligning Budget and CUAB terms is in the best interest of those being appointed and the city's ability to better track term dates.

At the September 19 work session, Council considered the staff recommendation to appoint the resident members of the Budget Committee to be the membership of the CUAB and instructed staff to bring this resolution forward. Council is considering these appointments under Section 26 of the City Charter which grants authority to fill board and committee vacancies for the Mayor and Council.

As there are currently two active CUAB members, the proposed resolution includes language to officially end these appointed terms to allow for all five citizen members of the Budget

Committee to be appointed as outlined below. The two active CUAB members who will be removed are Laura Kirk, who has not attended a board meeting since being appointed, and Sofie Sherman-Burton, who is also a member of the Budget Committee and will be appointed to serve on the CUAB through the same resolution that ends the active CUAB terms.

BUDGET & CLIMATE IMPACT

None.

WORKLOAD IMPACT

This board change will shift some workload for coordination of the CUAB from public works to finance staff. This will be a noticeable increase in the workload the city is asking of the resident members of the Budget Committee.

COORDINATION, CONCURRENCE, OR DISSENT

Coordination with the Budget Committee on this change occurred on August 14, 2023.

STAFF RECOMMENDATION

Staff recommends approval of the resolution appointing resident members of the Budget Committee to the CUAB.

Based on feedback from the Budget Committee and Council, staff recommends the following appointments to the CUAB:

Position	Name	Term Start Date	Term End Date
1	William Johnson	11/7/2023	6/30/2027
2	Mary Rowe	11/7/2023	6/30/2027
3	Leslie Schockner	11/7/2023	6/30/2026
4	Sofie Sherman-Burton	11/7/2023	6/30/2027
5	David Chitsazan	11/7/2023	6/30/2024

ALTERNATIVES

Council can decline to make the recommended appointments.

ATTACHMENTS

- 1. Resolution



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REMOVING CURRENT MEMBERS AND APPOINTING NEW MEMBERS TO THE CITIZENS UTILITY ADVISORY BOARD (CUAB).

WHEREAS Milwaukie Charter Section 26 authorizes the mayor, with the consent of the Council, to make appointments to boards and committees (BCs); and

WHEREAS the Citizens Utility Advisory Board (CUAB) has multiple vacancies; and

WHEREAS there are existing active CUAB members whose terms need to be ended by Council to allow for the appointment of a complete new CUAB; and

WHEREAS resident members of the Budget Committee are qualified to be members of the CUAB under Milwaukie Municipal Code (MMC) Section 2.11.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the two active members of the CUAB, Laura Kirk and Sofe Sherman-Burton, are removed from their positions on the CUAB effective immediately, and the following citizen members of the Budget Committee are appointed to the CUAB for term end dates that coincide with the end date of their appointments to the Budget Committee.

Position	Name	Term Start Date	Term End Date
1	William Johnson	11/7/2023	6/30/2027
2	Mary Rowe	11/7/2023	6/30/2027
3	Leslie Schockner	11/7/2023	6/30/2026
4	Sofie Sherman-Burton	11/7/2023	6/30/2027
5	David Chitsazan	11/7/2023	6/30/2024

Introduced and adopted by the City Council on **November 7, 2023**.

This resolution is effective immediately.

Lisa M. Batey, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney



COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Oct. 23, 2023

Reviewed: Peter Passarelli, Public Works Director, and
Sasha Freeman, Administrative Specialist II

From: Adam Moore, Parks Development Coordinator

Subject: Purchase Agreement for Equipment and Surfacing at Neighborhood Parks

ACTION REQUESTED

Council is asked to adopt a resolution authorizing the city manager to sign a purchase agreement with NWPlaygrounds for \$431,022.11 for play equipment and safety surfacing.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Park Development Project

[September 14, 2021](#): The park development project was presented by staff and discussed by Council during a study session.

[January 4, 2022](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[January 18](#): Council adopted a resolution authorizing a grant agreement with the State of Oregon Department of Administrative Services (DAS).

[February 1](#): Council adopted a resolution authorizing a contract for park design and development services with GreenWorks, P.C.

[June 7](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[September 20](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[November 1](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[December 6](#): Council approved the concept plans for Scott Park, Bowman-Brae Park, and Balfour Park by resolution.

[July 11, 2023](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[August 8](#): Balfour Park & Bowman-Brae Park public hearings.

[October 3](#): An update on the status of the park development project was presented by staff and discussed by Council during a regular session.

ANALYSIS

Designs for Scott, Balfour, and Bowman-Brae Parks have reached 100% with a final round of community engagement, which was held between October 3 and 17. The project is expected to go out to bid to hire a general contractor in mid-November and playground equipment is expected to be ordered through a purchase agreement through the King County Directors Association (KCDA) purchasing co-op by November 10. A consulting team led by GreenWorks, Inc will be retained to act as construction managers overseen by city staff in the public works department. Construction is expected to begin in January 2024 and be completed in the Fall of 2024.

The designs for equipment were developed through a public planning process, beginning in May 2022. Further playground design was completed in the spring and summer of 2023 with three focus groups and pop-up engagement at the community celebrations for Pride and Juneteenth. Final park and playground designs were reviewed at an open house on October 8 and online between October 3 and 17.

CLIMATE IMPACTS

The park development project will help the city address climate change adaptation and mitigation goals at the neighborhood level. This project will add park amenities, vegetation, stormwater facilities, and permeable sidewalks to existing city parkland. These new park amenities have the potential to limit automotive trips as residents living in the three Milwaukie neighborhoods will have developed parks within a walkable distance of their homes. Additional trees and plants will help meet the city's 40% tree cover goals, while small rain gardens will help with storm water detention. Any development project will have a carbon footprint, though this project will strive to keep its carbon footprint small using natural, recycled, and/or locally sourced products wherever possible.

BUDGET IMPACTS

Staff will work on a budget amendment to account for any revenue and expenses in the fiscal year the grants are received. This grant is a reimbursable grant, and this project is primarily paid for with federal American Recovery Plan Act (ARPA) funds received through the state, which makes up most of the match. A donation from the Ardenwald-Johnson Creek Neighborhood District Association (NDA) through the Milwaukie Parks Foundation is supporting Balfour Park construction. City staff are negotiating the award of a donation from the Ledding Library Foundation for Scott Park and city funds from the safe streets project to connect neighborhoods together through Scott and Balfour Parks.

WORKLOAD IMPACTS

Public works staff will be leading the effort to develop these three parks while coordinating with other city departments and outside agencies as required. Under the direction of the public works director, the parks development coordinator will collaborate with North Clackamas Parks and Recreation District (NCPRD) staff where appropriate, and staff in the city manager's office and the planning and engineering departments. In addition to Council, other public boards, and commissions, such as the city's Equity Steering Committee (ESC), Park and Recreation Board (PARB), and Planning Commission will all be engaged, particularly as park master plans are created and refined. Staff will manage workloads and currently have the capacity to manage the work detailed in this report.

COORDINATION, CONCURRENCE, OR DISSENT

Development of new public recreation space will require close collaboration between departments within the city, related outside agencies, and the public.

STAFF RECOMMENDATION

Adopt a resolution authorizing the city manager to sign a purchase agreement with NWPlaygrounds for \$431,022.11 for play equipment and safety surfacing.

ALTERNATIVES

Not applicable.

ATTACHMENTS

1. Resolution



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING A PURCHASE AGREEMENT WITH NWPLAYGROUNDS FOR EQUIPMENT AND SURFACING FOR SCOTT, BOWMAN-BRAE, AND BALFOUR PARKS.

WHEREAS the final park designs for Scott, Balfour, and Bowman-Brae Parks were completed in October 2023 and contain \$431,022.11 in playground equipment and safety surfacing, and

WHEREAS the city desires to participate in cost saving programs to the greatest extent possible as a means of providing needed park and recreation acquisitions, improvements, and enhancements, and

WHEREAS the City Council has prioritized the development of Milwaukie's undeveloped parks, and

WHEREAS the city has conducted an extensive public involvement process with the community to develop 2022 park concept plans and 2023 park designs, and

WHEREAS the conceptual plans provide a clear vision for future improvements and amenities to the park site, and

WHEREAS the city has available sufficient funds related to this project, and

WHEREAS the City of Milwaukie will ensure, through its park provider or itself, adequate funding for on-going operations and maintenance of this park and recreation facility should the grant funds be awarded.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager or their designee are authorized to execute a purchase agreement with NWPlaygrounds for \$431,022.11 for play equipment and safety surfacing at Scott, Bowman-Brae, and Balfour parks.

Introduced and adopted by the City Council on **November 7, 2023**

This resolution is effective immediately.

ATTEST:

Lisa M. Batey, Mayor

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Oct. 23, 2023

Reviewed: Peter Passarelli, Public Works Director, and
Sasha Freeman, Administrative Specialist II

From: Adam Moore, Parks Development Coordinator

Subject: **Milwaukie Park Foundation – Neighborhood Grant for Balfour Park**

ACTION REQUESTED

Council is asked to adopt a resolution authorizing the city manager to sign a grant agreement with the Milwaukie Parks Foundation for funding for park construction at Balfour Park.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**Park Development Project**

[September 14, 2021](#): The park development project was presented by staff and discussed by Council during a study session.

[January 4, 2022](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[January 18](#): Council adopted a resolution authorizing a grant agreement with the State of Oregon Department of Administrative Services (DAS).

[February 1](#): Council adopted a resolution authorizing a contract for park design and development services with GreenWorks, P.C.

[June 7](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[September 20](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[November 1](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[December 6](#): Council approved the concept plans for Scott Park, Bowman-Brae Park, and Balfour Park by resolution.

[July 11, 2023](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[August 8](#): Balfour Park and Bowman-Brae Park public hearings.

[October 3](#): An update on the status of the park development project was presented by staff and discussed by Council during a regular session.

ANALYSIS

Grant support from the Ardenwald-Johnson Creek Neighborhood District Association (NDA) through the Milwaukie Parks Foundation for \$22,603 will also be used on the project specifically for Balfour Park play feature construction. Other grant funds including the Metro Nature in Neighborhoods (NIN)- Neighborhood Livability grant program for \$350,000 to be used for partial construction of Scott, Balfour, and Bowman-Brae Parks in conjunction with \$2.25million American Recovery Program Act (ARPA) and \$60,000 city Capital Improvement Plan (CIP) funds already received. The city has also recently been awarded \$300,000 funds from the Oregon Parks and Recreation Department Local Government Grant Program (LGGP) for Scott Park construction. City staff are also negotiating the use of \$25,000 in city Safe Access for Everyone (SAFE) program street funds and a possible \$10,000 in a donation from the Ledding Library Foundation for park construction.

Designs for Scott, Balfour, and Bowman-Brae parks have reached 100% with a final round of community engagement was held between October 3 and 17. The project is expected to go out to bid to hire a general contractor in mid-November and playground equipment is expected to be ordered through a purchase agreement through the King County Directors Association (KCDA) purchasing co-op by November 10. A consulting team led by GreenWorks, Inc will be retained to act as construction managers overseen by city staff in the public works department. Construction is expected to begin in January 2024 and be completed in the Fall of 2024.

CLIMATE IMPACTS

The park development project will help the city address climate change adaptation and mitigation goals at the neighborhood level. This project will add park amenities, vegetation, stormwater facilities, and permeable sidewalks to existing city parkland. These new park amenities have the potential to limit automotive trips as residents living in the three Milwaukie neighborhoods will have developed parks within a walkable distance of their homes. Additional trees and plants will help meet the city's 40% tree cover goals, while small rain gardens will help with storm water detention. Any development project will have a carbon footprint, though this project will strive to keep its carbon footprint small using natural, recycled, and/or locally sourced products wherever possible.

BUDGET IMPACTS

Staff will work on a budget amendment to account for any revenue and expenses in the fiscal year the grants are received. This grant is a reimbursable grant, and this project is primarily paid for with federal American Recovery Plan Act (ARPA) funds received through the state, which makes up most of the match. A donation from the Ardenwald-Johnson Creek NDA through the Milwaukie Parks Foundation is supporting Balfour Park construction. City staff are negotiating the award of a donation from the Ledding Library Foundation for Scott Park and city funds from the safe streets project to connect neighborhoods together through Scott and Balfour Parks.

WORKLOAD IMPACTS

Public works staff will be leading the effort to develop these three parks while coordinating with other city departments and outside agencies as required. Under the direction of the public works director, the parks development coordinator will collaborate with North Clackamas Parks and Recreation District (NCPRD) staff where appropriate, and staff in the city manager's

office and the planning and engineering departments. In addition to Council, other public boards, and commissions, such as the city's Equity Steering Committee (ESC), Park and Recreation Board (PARB), and Planning Commission will all be engaged, particularly as park master plans are created and refined. Staff will manage workloads and currently have the capacity to manage the work detailed in this report.

COORDINATION, CONCURRENCE, OR DISSENT

Development of new public recreation space will require close collaboration between departments within the city, related outside agencies, and the public.

STAFF RECOMMENDATION

Adopt the resolution authorizing staff to sign the Milwaukie Parks Foundation grant agreement for Balfour Park.

ALTERNATIVES

Not applicable.

ATTACHMENTS

1. Resolution



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACCEPTING A FINANCIAL CONTRIBUTION FOR THE MILWAUKIE PARK FOUNDATIONS GRANT FOR THE CONSTRUCTION OF BALFOUR PARK.

WHEREAS the Milwaukie Park Foundation and the Ardenwald-Johnson Creek NDA has awarded \$22,603 in grant funding for the construction of Balfour Park, and

WHEREAS the city desires to participate in this grant program to the greatest extent possible as a means of providing needed park and recreation acquisitions, improvements, and enhancements, and

WHEREAS the City Council has prioritized the development of Milwaukie’s undeveloped parks, and

WHEREAS the city has conducted an extensive public involvement process with the community to develop 2022 park concept plans and 2023 park designs, and

WHEREAS the conceptual plans provide a clear vision for future improvements and amenities to the park site, and

WHEREAS the city has available sufficient local matching funds related to this grant application should the grant funds be awarded, and

WHEREAS the City of Milwaukie will ensure, through its park provider or itself, adequate funding for on-going operations and maintenance of this park and recreation facility should the grant funds be awarded.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager or their designee accept the financial contribution with the Milwaukie Parks Foundation for funding for park construction at Balfour Park

Introduced and adopted by the City Council on **November 7, 2023**

This resolution is effective immediately.

ATTEST:

Lisa M. Batey, Mayor

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Oct. 23, 2023

Reviewed: Peter Passarelli, Public Works Director, and
Sasha Freeman, Administrative Specialist II

From: Adam Moore, Parks Development Coordinator

Subject: **Metro Nature in Neighborhoods – Neighborhood Livability grant agreement**

ACTION REQUESTED

Council is asked to adopt a resolution authorizing the city manager to sign a grant agreement with Metro to receive Nature in Neighborhood funding for park construction at Balfour, Bowman-Brae, and Scott parks.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**Park Development Project**

[September 14, 2021](#): The park development project was presented by staff and discussed by Council during a study session.

[January 4, 2022](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[January 18](#): Council adopted a resolution authorizing a grant agreement with the State of Oregon Department of Administrative Services (DAS).

[February 1](#): Council adopted a resolution authorizing a contract for park design and development services with GreenWorks, P.C.

[June 7](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[September 20](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[November 1](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[December 6](#): Council approved the concept plans for Scott Park, Bowman-Brae Park, and Balfour Park by resolution.

[July 11, 2023](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[August 8](#): Balfour Park & Bowman-Brae Park public hearings.

[October 3](#): An update on the status of the park development project was presented by staff and discussed by Council during a regular session.

ANALYSIS

On April 4, 2023, Council authorized the application for the Metro Nature in Neighborhoods (NIN) – Neighborhood Livability grant program for \$350,000 to be used for partial construction of Scott, Balfour, and Bowman-Brae parks in conjunction with American Recovery Program Act (ARPA) and city Capital Improvement Plan (CIP) funds already received, as well as recently awarded funds from the Oregon Parks and Recreation Department Local Government Grant Program (LGGP). Grant support from the Ardenwald-Johnson Creek Neighborhood District Association (NDA) through the Milwaukie Parks Foundation for \$22,603 will also be used on the project. City staff are negotiating the use of \$25,000 in the city’s Safe Access for Everyone (SAFE) program street funds and a possible \$10,000 in a donation from the Ledding Library Foundation.

The \$350,000 NIN grant is specifically to pay for planting, soil preparation, and other natural features at Scott, Balfour, and Bowman-Brae Parks. Other park amenities in each of the three parks will be paid for by matching funds on the grant.

Designs for Scott, Balfour, and Bowman-Brae Parks have reached 100% with a final round of community engagement which was held between October 3 and 17. The project is expected to go out to bid to hire a general contractor in mid-November and playground equipment is expected to be ordered through a purchase agreement through the King County Directors Association (KCDA) purchasing co-op by November 10. A consulting team led by GreenWorks, Inc will be retained to act as construction managers overseen by city staff in the public works department. Construction is expected to begin in January 2024 and be completed in the Fall of 2024.

CLIMATE IMPACTS

The park development project will help the city address climate change adaptation and mitigation goals at the neighborhood level. This project will add park amenities, vegetation, stormwater facilities, and permeable sidewalks to existing city parkland. These new park amenities have the potential to limit automotive trips as residents living in the three Milwaukie neighborhoods will have developed parks within a walkable distance of their homes. Additional trees and plants will help meet the city’s 40% tree cover goals, while small rain gardens will help with storm water detention. Any development project will have a carbon footprint, though this project will strive to keep its carbon footprint small using natural, recycled, and/or locally sourced products wherever possible.

BUDGET IMPACTS

Staff will work on a budget amendment to account for any revenue and expenses in the fiscal year the grants are received. This grant is a reimbursable grant, and this project is primarily paid for with federal American Recovery Plan Act (ARPA) funds received through the state, which makes up most of the match. A donation from the Ardenwald-Johnson Creek NDA through the Milwaukie Parks Foundation is supporting Balfour Park construction. City staff are negotiating the award of a donation from the Ledding Library Foundation for Scott Park and city funds from the safe streets project to connect neighborhoods together through Scott and Balfour Parks.

WORKLOAD IMPACTS

Public works staff will be leading the effort to develop these three parks while coordinating with other city departments and outside agencies as required. Under the direction of the public works director, the parks development coordinator will collaborate with North Clackamas Parks and Recreation District (NCPRD) staff where appropriate, and staff in the city manager's office and the planning and engineering departments. In addition to Council, other public boards, and commissions, such as the city's Equity Steering Committee (ESC), Park and Recreation Board (PARB), and Planning Commission will all be engaged, particularly as park master plans are created and refined. Staff will manage workloads and currently have the capacity to manage the work detailed in this report.

COORDINATION, CONCURRENCE, OR DISSENT

Development of new public recreation space will require close collaboration between departments within the city, related outside agencies, and the public.

STAFF RECOMMENDATION

Adopt the resolution authorizing staff to sign the Metro NIN grant agreement.

ALTERNATIVES

Not applicable.

ATTACHMENTS

1. Resolution



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING A GRANT AGREEMENT FOR METRO’S NATURE IN NEIGHBORHOODS GRANT FOR SCOTT PARK, BOWMAN-BRAE PARK, AND BALFOUR PARK.

WHEREAS Metro has awarded \$350,000 in grant funding through the Nature in Neighborhoods program, and

WHEREAS the city desires to participate in this grant program to the greatest extent possible as a means of providing needed park and recreation acquisitions, improvements, and enhancements, and

WHEREAS the City Council has prioritized the development of Milwaukie’s undeveloped parks, and

WHEREAS the city has conducted an extensive public involvement process with the community to develop 2022 park concept plans and 2023 park designs, and

WHEREAS the conceptual plans provide a clear vision for future improvements and amenities to the park site, and

WHEREAS the city has available sufficient local matching funds related to this grant application should the grant funds be awarded, and

WHEREAS the City of Milwaukie will ensure, through its park provider or itself, adequate funding for on-going operations and maintenance of this park and recreation facility should the grant funds be awarded.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager or their designee are authorized to execute a grant agreement with Metro to receive Nature in Neighborhood funding for park construction at Balfour, Bowman-Brae, and Scott parks.

Introduced and adopted by the City Council on **November 7, 2023**

This resolution is effective immediately.

ATTEST:

Lisa M. Batey, Mayor
APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Oct. 23, 2023

Reviewed: Peter Passarelli, Public Works Director, and
Sasha Freeman, Administrative Specialist II

From: Adam Moore, Parks Development Coordinator

Subject: **State Parks Grant Agreement for Scott Park Construction**

ACTION REQUESTED

Council is asked to adopt a resolution authorizing the city manager to sign a grant agreement with the Oregon Parks and Recreation Department Local Government Grant Program for \$300,000 in funding for park construction of Scott Park.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**Park Development Project**

[September 14, 2021](#): The park development project was presented by staff and discussed by Council during a study session.

[January 4, 2022](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[January 18](#): Council adopted a resolution authorizing a grant agreement with the State of Oregon Department of Administrative Services (DAS).

[February 1](#): Council adopted a resolution authorizing a contract for park design and development services with GreenWorks, P.C.

[June 7](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[September 20](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[November 1](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[December 6](#): Council approved the concept plans for Scott Park, Bowman-Brae Park, and Balfour Park by resolution.

[July 11, 2023](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[August 8](#): Balfour Park & Bowman-Brae Park public hearings.

[October 3](#): An update on the status of the park development project was presented by staff and discussed by Council during a regular session.

ANALYSIS

Grant support from the Local Government Grant Program provided by the Oregon Parks and Recreation Department for \$300,000 will be used on the project, specifically for Scott Park construction. Additional funds for the partial construction of Scott, Bowman-Brae and Balfour include \$350,000 from the Metro Nature in Neighborhoods (NIN)- Neighborhood Livability grant program, \$2.25 million from the American Recovery Program Act (ARPA) and \$60,000 City CIP funds already received. The city has also recently been awarded \$22,603 in funds from the Milwaukie Park Foundation and Ardenwald-Johnson Creek Neighborhood District Association (NDA) for Balfour Park construction. City staff are negotiating the use of \$25,000 in SAFE street funds and a possible \$10,000 in a donation from the Ledding Library Foundation for park construction.

Designs for Scott, Balfour, and Bowman-Brae parks have reached 100% with a final round of community engagement which was held between October 3 and 17. The project is expected to go out to bid to hire a general contractor in mid-November and playground equipment is expected to be ordered through a purchase agreement through the King County Directors Association (KCDCA) purchasing co-op by November 10. A consulting team led by GreenWorks, Inc will be retained to act as construction managers overseen by city staff in the public works department. Construction is expected to begin in January 2024 and be completed in the Fall of 2024.

CLIMATE IMPACTS

The park development project will help the city address climate change adaptation and mitigation goals at the neighborhood level. This project will add park amenities, vegetation, stormwater facilities, and permeable sidewalks to existing city parkland. These new park amenities have the potential to limit automotive trips as residents living in the three Milwaukie neighborhoods will have developed parks within a walkable distance of their homes. Additional trees and plants will help meet the city's 40% tree cover goals, while small rain gardens will help with storm water detention. Any development project will have a carbon footprint, though this project will strive to keep its carbon footprint small using natural, recycled, and/or locally sourced products wherever possible.

BUDGET IMPACTS

Staff will work on a budget amendment to account for any revenue and expenses in the fiscal year the grants are received. This grant is a reimbursable grant, and this project is primarily paid for with federal American Recovery Plan Act (ARPA) funds received through the state, which makes up most of the match. A donation from the Ardenwald-Johnson Creek NDA through the Milwaukie Parks Foundation is supporting Balfour Park construction. City staff are negotiating the award of a donation from the Ledding Library Foundation for Scott Park and city funds from the Safe Access for Everyone (SAFE) program streets project to connect neighborhoods together through Scott and Balfour Parks.

WORKLOAD IMPACTS

Public works staff will be leading the effort to develop these three parks while coordinating with other city departments and outside agencies as required. Under the direction of the public works director, the parks development coordinator will collaborate with North Clackamas Parks and Recreation District (NCPRD) staff where appropriate, and staff in the city manager's

office and the planning and engineering departments. In addition to Council, other public boards, and commissions, such as the city's Equity Steering Committee (ESC), Park and Recreation Board (PARB), and Planning Commission will all be engaged, particularly as park master plans are created and refined. Staff will manage workloads and currently have the capacity to manage the work detailed in this report.

COORDINATION, CONCURRENCE, OR DISSENT

Development of new public recreation space will require close collaboration between departments within the city, related outside agencies, and the public.

STAFF RECOMMENDATION

Adopt the resolution authorizing staff to sign the Oregon Parks Department Local Government Grant Program grant agreement.

ALTERNATIVES

Not applicable.

ATTACHMENTS

1. Resolution



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING A GRANT AGREEMENT FOR THE OREGON PARKS AND RECREATION DEPARTMENT’S LOCAL GOVERNMENT GRANT PROGRAMS GRANT FOR SCOTT PARK.

WHEREAS the Oregon Parks and Recreation Department has awarded \$300,000 in grant funding from the Local Government Grant Program, and

WHEREAS the city desires to participate in this grant program to the greatest extent possible as a means of providing needed park and recreation acquisitions, improvements, and enhancements, and

WHEREAS the City Council has prioritized the development of Milwaukie’s undeveloped parks, and

WHEREAS the city has conducted an extensive public involvement process with the community to develop 2022 park concept plans and 2023 park designs, and

WHEREAS the conceptual plans provide a clear vision for future improvements and amenities to the park site, and

WHEREAS the city has available sufficient local matching funds related to this grant application should the grant funds be awarded, and

WHEREAS the City of Milwaukie will ensure, through its park provider or itself, adequate funding for on-going operations and maintenance of this park and recreation facility should the grant funds be awarded.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager or their designee are authorized to execute a grant agreement with the Oregon Parks and Recreation Department Local Government Grant Program for \$300,000 in funding for park construction of Scott Park.

Introduced and adopted by the City Council on **November 7, 2023**

This resolution is effective immediately.

Lisa M. Batey, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Oct. 25, 2023

Reviewed: Mandy Byrd, Development Project Manager, and
Jon Hennington, Administrative Specialist II

From: Peter Passarelli, Public Works Director

Subject: State Solar Grant Agreement #107-2023-5506-27

ACTION REQUESTED

Council is asked to adopt a resolution authorizing the city manager to sign a grant agreement with the state to receive general fund dollars for the Johnson Creek Boulevard (JCB) facility solar project.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

April 2023: The city submitted a request for capital funding from the state for the design and construction of a 120 kilowatt(kW)-DC solar system at its JCB public works facility. The grant was facilitated by Rep. Mark Gamba.

September 2023: The state approved the city's funding request and sent a grant agreement in the amount of \$375,000.

ANALYSIS**Project History**

The State of Oregon Department of Administrative Services (DAS) awarded general funds to the city for design and construction of a 120 kW-DC solar system at its JCB public works facility. This system is estimated to produce approximately 118,000 kWh of electricity annually which would provide approximately 65% of the current facility's total load. Future increases in total load due to increased vehicle charging will more than likely reduce this to 50%. This project would be a rooftop installation and would take advantage of the open roof space available on the facilities at JCB.

Preliminary Project Schedule

- Solar Consultations with Energy Trust of Oregon / PGE Coordination – Fall 2023
- Preliminary Design – Winter 2024
- Final Design – Spring 2024
- Contract Solicitation – Summer - 2024
- Construction Contract Award - Fall 2024
- Projection Construction – Fall 2024
- Project Completion – Fall 2024

CLIMATE IMPACTS

Building operations are one the largest culprits of carbon emissions in Milwaukie, comprising 44% of Milwaukie's 2020 local emissions. These emissions come from the fuels and energy that are used to operate equipment, power lights and technology, and run heating and cooling systems. The city's Climate Action Plan (CAP) addresses the carbon intensity of various energy sources (electricity, methane, and other fuels) as well as the energy efficiency of city buildings and assets. The CAP identifies adding solar as one way to reduce emissions and to promote future resilience of the community.

This solar project will help the city address climate change by increasing the city's alternative clean energy sources. Adding solar power to the JCB office aligns with the city's climate goal to become completely carbon neutral by 2045.

BUDGET IMPACTS

This project is primarily funded with DAS grant funds received through the state. For the remaining portion, the project has already been identified in the current capital improvement plan and is programmed for fiscal year (FY) 2025.

WORKLOAD IMPACTS

Public works staff will be managing the effort from design through construction, while coordinating with other city departments and outside agencies as required. A full-time staff person has been assigned, who will act as project manager and oversee the project consulting team. Under the direction of the public works director, the project manager will collaborate with city staff, the planning and engineering departments, grant coordination, procurement, design/engineering, and the construction team.

COORDINATION, CONCURRENCE, OR DISSENT

Development of a new solar array at Johnson Creek will require close collaboration between departments within the city, consultants, contractors, and related outside agencies.

STAFF RECOMMENDATION

Staff recommends that Council adopt a resolution authorizing the city manager to sign the grant agreement #107-2023-5506-27 with the state for general funds.

ALTERNATIVES

None.

ATTACHMENTS

1. Resolution
2. Grant Agreement with DAS

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING A GRANT AGREEMENT WITH THE OREGON DEPARTMENT OF ADMINISTRATIVE SERVICES FOR DESIGN AND CONSTRUCTION OF ROOFTOP SOLAR PANELS AT MILWAUKIE PUBLIC WORKS JOHNSON CREEK CAMPUS.

WHEREAS the City Council has prioritized the implementation of Milwaukie's Climate Action Plan (CAP); and

WHEREAS the City submitted a capital fund request for \$375,000 in state funding to construct a 120-kW solar project located at its Johnson Creek Boulevard (JCB) Public Works Campus:

WHEREAS the State of Oregon allocated \$375,000 towards the project in Senate Bill 5506: and

WHEREAS the identified (JCB) Solar Project meets State of Oregon Department of Administrative Services (DAS) Grant requirements.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager or their designee is authorized to sign a grant agreement with the State of Oregon Department of Administrative Services (DAS) to accept funds for design and construction services for a rooftop solar panel installation at 6101 SE Johnson Creek Blvd.

Introduced and adopted by the City Council on **November 7, 2023**.

This resolution is effective immediately.

ATTEST:

Lisa Batey, Mayor

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

GRANT AGREEMENT

Title: Senate Bill 5506 (2023 Regular Session) General Fund Grant

Agreement Number: 107-2023-5506-27

This grant agreement (“Agreement”), dated as of the date the Agreement is fully executed, is made by the State of Oregon, acting by and through its Department of Administrative Services (“DAS” or “State”), and City of Milwaukie (“Recipient”). This Agreement becomes effective only when fully signed and approved as required by applicable law (the “Effective Date”) and, unless earlier terminated, expires on June 30, 2025 (the “Expiration Date”). **Certain terms of the Agreement survive its termination or expiration as set forth in Section 8.K below.**

Pursuant to the Oregon Laws 2023, chapter 605, section 87(22) (the “Authorization”), the Oregon Legislature appropriated \$375,000 from the General Fund for a grant to Recipient for the Johnson Creek Solar Project.

SECTION 1 – GRANT

DAS shall provide Recipient, and Recipient shall accept from DAS, a grant (the “Grant”) in the amount of \$375,000.

Conditions Precedent. DAS’s obligations are subject to the receipt of the following items, in form and substance satisfactory to DAS and its counsel:

- (1) This Agreement duly signed by an authorized officer of Recipient; and
- (2) Such other certificates, documents, opinions, and information as DAS may reasonably require.

SECTION 2 – DISBURSEMENT

- A. Full Disbursement. Upon satisfaction of all conditions precedent, DAS shall disburse the full Grant to Recipient.
- B. Condition to Disbursement. DAS has no obligation to disburse funds unless, in the reasonable exercise of its administrative discretion, it has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement.

SECTION 3 - USE OF GRANT

- A. Use of Grant Moneys. Recipient shall use the Grant for the Johnson Creek Solar Project (“the Project”).
- B. Costs Paid for by Others. Recipient may not use any of the Grant to cover costs to be paid for by another State of Oregon agency or any third party.

SECTION 4 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

Recipient represents and warrants to DAS:

- A. Organization and Authority.
 - (1) Recipient is a city validly organized and existing under the laws of the State of Oregon.

- (2) Recipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Agreement, (b) incur and perform its obligations under this Agreement, and (c) receive the Grant funds.
 - (3) This Agreement has been authorized by an ordinance, order or resolution of Recipient's governing body.
 - (4) This Agreement has been duly executed by Recipient, and when executed by DAS, is legal, valid and binding, and enforceable in accordance with their terms.
- B. Full Disclosure. Recipient has disclosed in writing to DAS all facts that materially adversely affect its ability to perform all obligations required by this Agreement. Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Agreement is true and accurate in all respects.
- C. Pending Litigation. Recipient has disclosed in writing to DAS all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the ability of Recipient to perform all obligations required by this Agreement.
- D. No Defaults. No Defaults or Events of Default exist or occur upon authorization, execution or delivery of this Agreement.
- E. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Agreement will not: (i) cause a breach of any agreement or instrument to which Recipient is a party; (ii) violate any provision of the charter or other document pursuant to which Recipient was organized or established; or (iii) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient or its properties or operations.

SECTION 5 – COVENANTS OF RECIPIENT

Recipient covenants as follows:

- A. Notice of Adverse Change. Recipient shall promptly notify DAS of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient related to the ability of Recipient to perform all obligations required by this Agreement.
- B. Compliance with Laws. Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Agreement and Recipient's use of the Grant funds.
- C. Annual Progress Reports. Recipient must submit to DAS annual progress reports (each a "Progress Report") until Grant funds are fully expended. A Progress Report is due one year from distribution of funding and thereafter annually until the Grant funds are fully expended. Each Progress Report shall contain a brief narrative and financial report on the total use of Grant funds. The narrative and financial report should include, but need not be limited to, the following information:
 - (1) Brief description of the Project and use of Grant funds to date;
 - (2) Timeline for major Project deliverables;
 - (3) Grant funds spent to date; and
 - (4) Project milestones met to date.

- D. Books and Records. Recipient shall keep accurate books and records of the uses of the Grant and maintain them according to generally accepted accounting principles.
- E. Inspections; Information. Recipient shall permit DAS and any party designated by DAS to inspect and make copies, at any reasonable time, of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters. Recipient shall supply any related reports and information as DAS may reasonably require.
- F. Records Maintenance. Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement for a minimum of six years beyond the later of the final and total expenditure or disposition of the Grant. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.
- G. Notice of Default. Recipient shall give DAS prompt written notice of any Default as soon as any senior administrative or financial officer of Recipient becomes aware of its existence or reasonably believes a Default is likely.
- H. Contribution.
- 1) If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Recipient with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
 - 2) With respect to a Third Party Claim for which State is jointly liable with Recipient (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Recipient on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
 - 3) With respect to a Third Party Claim for which Recipient is jointly liable with State (or would be if joined in the Third Party Claim), Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one

hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

SECTION 6 - DEFAULTS

Any of the following constitutes an "Event of Default":

- A. Any false or misleading representation is made by or on behalf of Recipient, in this Agreement or in any document provided by Recipient related to this Grant.
- B. Recipient fails to perform any obligation required under this Agreement, other than those referred to in subsection A of this section 6, and that failure continues for a period of 10 business days after written notice specifying such failure is given to Recipient by DAS. DAS may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 7 - REMEDIES

- A. Remedies. Upon any Event of Default, DAS may pursue any or all remedies in this Agreement and any other remedies available at law or in equity to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to any one or more of the following:
 - (1) Terminating DAS's commitment and obligation to make the Grant.
 - (2) Barring Recipient from applying for future awards.
 - (3) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Agreement.
 - (4) Requiring repayment of the Grant and all interest earned by Recipient on those Grant funds.
- B. Application of Moneys. Any moneys collected by DAS pursuant to section 7.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by DAS; then, as applicable, to repay any Grant proceeds owed; then, to pay other amounts due and payable under this Agreement, if any.
- C. No Remedy Exclusive; Waiver; Notice. No remedy available to DAS is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Agreement will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. DAS is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 7 of this Agreement.

If to Recipient:

ATTN: Ann Ober, City Manager
10722 SE Main St
Milwaukie, OR 97222
obera@milwaukieoregon.gov

- E. No Construction against Drafter. This Agreement is to be construed as if the parties drafted it jointly.
- F. Severability. If any term or condition of this Agreement is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.
- G. Amendments, Waivers. This Agreement may not be amended without the prior written consent of DAS (and when required, the Department of Justice) and Recipient. This Agreement may not be amended in a manner that is not in compliance with the Authorization. No waiver or consent is effective unless in writing and signed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.
- H. Attorneys' Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Agreement is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to DAS by its attorneys.
- I. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.
- Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.
- Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.
- J. Integration. This Agreement (including all exhibits, schedules or attachments, if any) constitutes the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Agreement.
- K. Survival. The following provisions survive expiration or termination of this Agreement: Sections 5.C., 5.E., 5.F., 5.H., 6, 7, 8.H., 8.I and 8.K. Moreover, unless this Agreement is terminated pursuant to Section 7.A., Recipient may continue using Grant funds to complete the Project beyond the Expiration Date.

L. Execution in Counterparts. This Agreement may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

Recipient, by its signature below, acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

STATE OF OREGON
acting by and through its
Department of Administrative Services

RECIPIENT
City of Milwaukie

By: _____

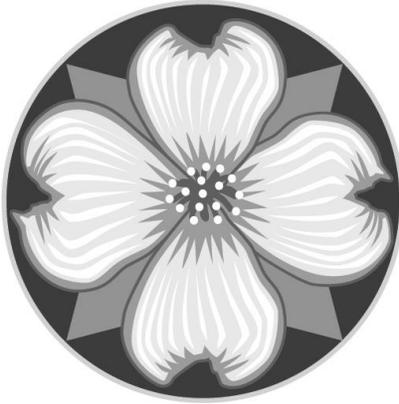
By: _____

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

David Berryman, Assistant Attorney General, via email dated 8/31/2023



RS Agenda Item

7

Business Items

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Reviewed: Joseph Briglio, Community Development Director

From: Jennifer Garbely, City Engineer

Subject: **Road Design 101**

Date Written: Oct. 26, 2023

ACTION REQUESTED

This presentation is for informational purposes. No action is requested at this time.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Engineering department staff have periodically provided Council with updates and overviews on the city's approach to constructing and maintaining roads.

ANALYSIS

The goal of this presentation is to provide an understanding of engineering practices and priorities. Engineering staff will discuss the following topics:

- The different types of roads in Milwaukee.
- Traffic calming items in our toolbox.
- What causes an intersection to fail.
- What are the different street surface repair methods.
- When building sidewalks what are our priorities.

BUDGET IMPACTS

None.

CLIMATE IMPACTS

With each project staff looks for ways to reduce climate impacts and increase tree canopy throughout the city.

WORKLOAD IMPACTS

The engineering department is not currently fully staffed. Recruitment efforts are underway to hire a new assistant city engineer.

COORDINATION, CONCURRENCE, OR DISSENT

Engineering staff coordinated with public works, community development, finance, and the city manager's office on engineering projects.

STAFF RECOMMENDATION

This report is informational only.

ALTERNATIVES

Not applicable.

ATTACHMENTS

None.

RS 7. A. 11/7/23
Presentation

Road Design 101

November 7, 2023

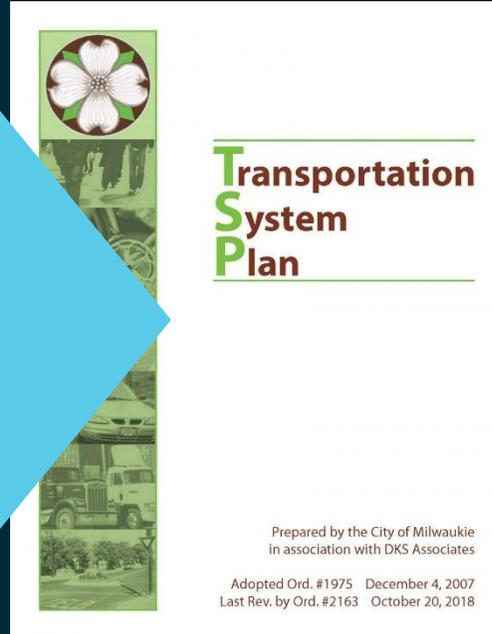
Jennifer Garbely, PE



1. Policy context: Where to find Milwaukie's design requirements?
2. Road types in Milwaukie
3. Traffic calming toolbox
4. Intersection failures
5. Street surface repair methods
6. Sidewalk construction priorities
7. Questions

POLICY CONTEXT

The **TSP** sets out the **goals, policies, and elements** the city seeks to implement to improve its transportation system.



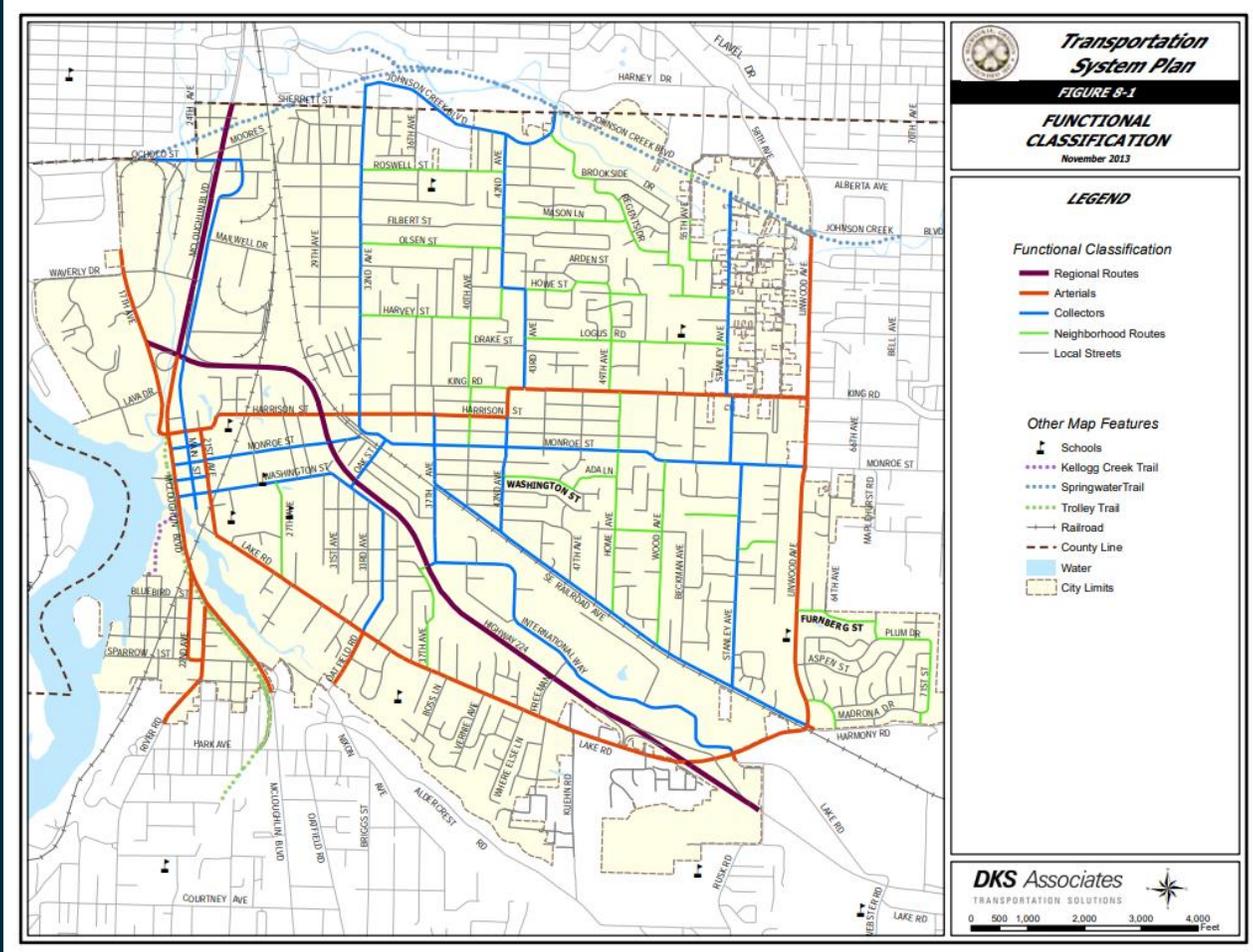
The **Public Works Standards** are the specifications to which city engineers and other external developers must **construct improvements in the right of way.**



The Public Works Standards provide design specifications for elements called out in the TSP

ROAD TYPES IN MILWAUKIE

Road classifications designated in the Transportation System Plan (TSP):



- **Regional Routes:**
 - 20,000 vehicles per day
 - 4 or more lanes
 - Generally high speeds
- **Arterials:**
 - 10,000 vehicles per day
 - 2 or more lanes
 - 30 – 45 MPH
- **Collectors:**
 - 5-10,000 vehicles a day
 - 2-3 lanes
 - 25 – 35 MPH
- **Neighborhood Routes:**
 - 1,500 – 5,000 vehicles a day
 - 2 lanes
 - 25 MPH or lower
- **Local Streets:**
 - Less than 1,500 vehicles a day
 - 2 lanes
 - 25 MPH or lower

Milwaukie's Public Works Standards contain specifications for width, striping, grading, curves, etc. for each classification

WHAT IS TRAFFIC CALMING?

Strategies that “**[reduce] automobile speeds or volumes**, mainly through the use of physical measures, to improve quality of life in both residential and commercial areas and **increase the safety and comfort of walking and bicycling.**” (USDOT FHWA)

- **Horizontal Deflection**
- **Vertical Deflection**
- **Volume Measures**
- **Other Measures**

TRAFFIC CALMING TOOLBOX

Horizontal Deflection

- Bulbouts
- Chokers
- Chicanes
- Curvilinear streets
- Skinny streets/narrow lanes
- Center medians
- Traffic circles
- Offset intersections



TRAFFIC CALMING TOOLBOX



Vertical Deflection

- Raised crosswalks
- Raised intersections
- Speed cushions

TRAFFIC CALMING TOOLBOX

Volume Control Measures

- Full/partial closures
- Center median barriers
- Diverters
- One-way streets



TRAFFIC CALMING TOOLBOX



Other Measures

- Pavement alternatives
- Entry treatments
- On-street parking
- Truck restrictions
- Signal timing
- Enforcement and education
- Speed reader boards
- Shared streets
- Trees and Landscaping
- Paint and markings

INTERSECTION FAILURES



Credit: Hearst Connecticut Media



Credit: FHWA



- Traffic designers use “level of service” ratings to understand how well a transportation facility is working for all users.
- The Highway Capacity Manual defines level of service scores for evaluating different roadway facilities.
- A “F” level of service score for an intersection means most intersection cycles are not able to clear the queue of cars or large delay times.
- Intersections that are or are close to failing in Milwaukie include:
 - Harrison and 42nd
 - Johnson Creek and 42nd
 - Lake & Harmony
 - Harrison and 32nd upcoming
- Level of service is not the only metric we use to evaluate and prioritize infrastructure improvement needs.

STREET SURFACE REPAIR METHODS



Crack Seal



Slurry Seal

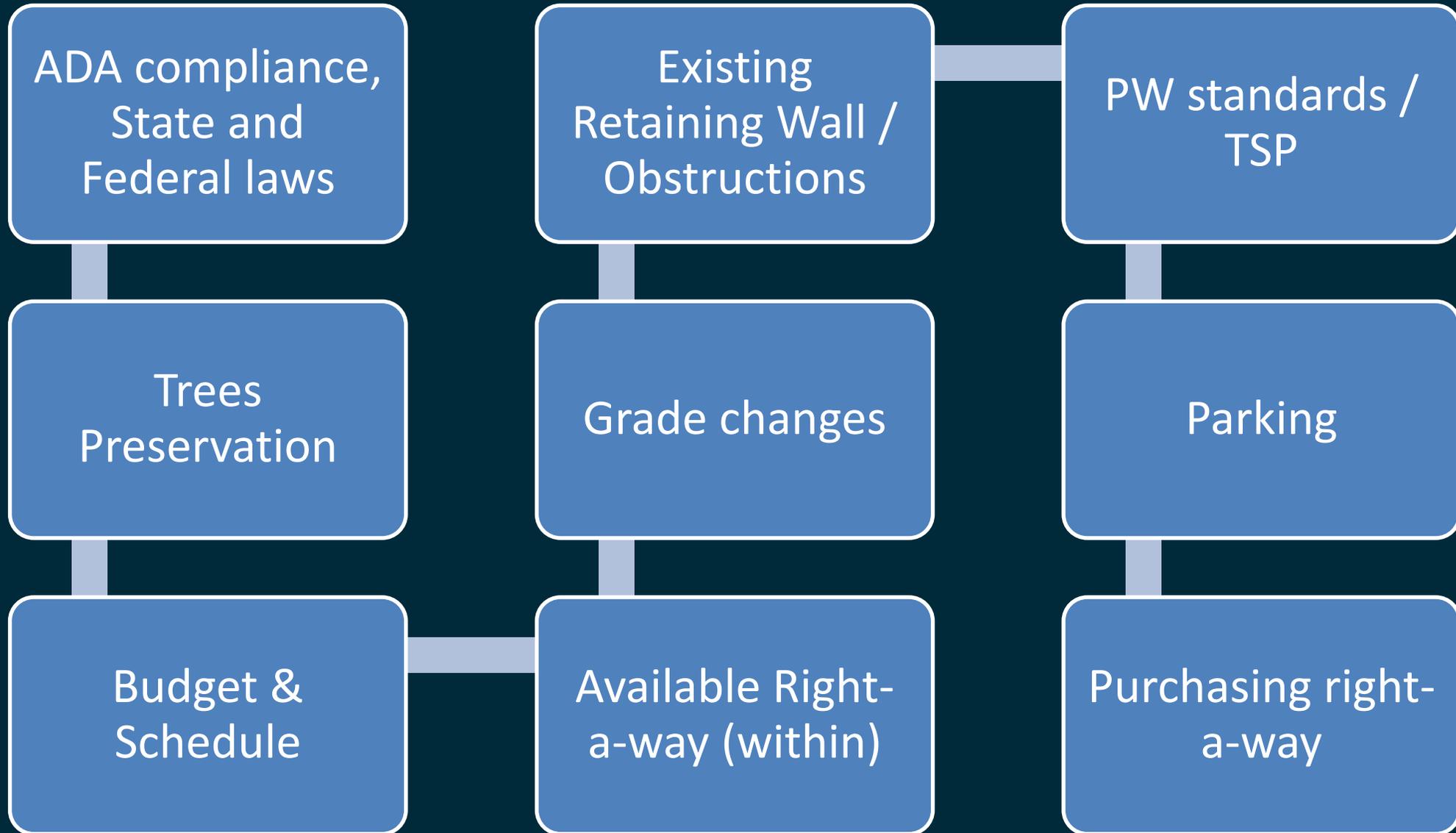


Mill &
inlay/overlay

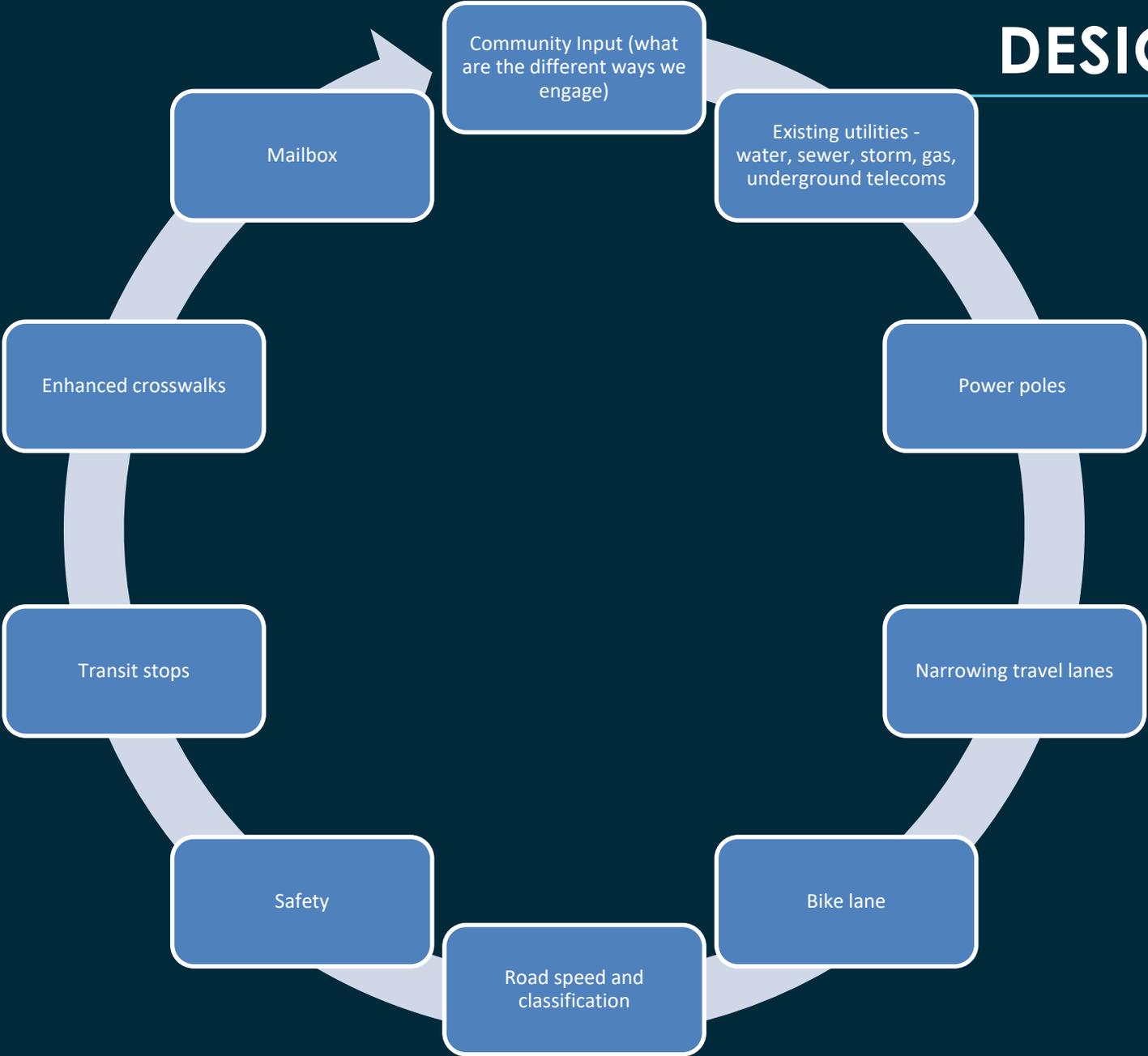


Full depth
repaving

SIDEWALK CONSTRUCTION PRIORITIES



DESIGN CONSIDERATIONS



**QUESTIONS OR
COMMENTS?**

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Reviewed: Jennifer Garbely, City Engineer,
Hector Gomez-Barrios, Associate Engineer, and
Jordan Imlah, Communications Program Manager

From: Emma Sagor, Assistant City Manager

Subject: **Main Street Medallions**

Date Written: Oct. 25, 2023

ACTION REQUESTED

Council is asked to receive an update about plans to create and install four bronze medallions on the corners of Main and Washington streets.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

November 2007: Original granite medallions installed on Main Street outside of historic city hall.

February 2019: Contract executed to fabricate additional medallions for installation along Main Street as part of the South Downtown (SODO) project. This contract was not fulfilled, and plywood placeholders were installed on the corners of Main and Washington streets in 2020.

ANALYSIS

The [Milwaukee Downtown and Riverfront Plan Public Area Requirements](#) provide specifications for optional medallions to be inlaid in the sidewalk along Main Street. The requirements refer to both granite medallions and bronze medallions.

In November 2007, the first two medallions were installed on Main Street on the corners of Main Street, at Harrison and Jackson streets, in front of historic city hall. These medallions were made of terrazzo and granite by a local artist.

In February 2019, the city contracted with the same artist to create three medallions for installation on the northwest, northeast and southeast corners of the Main and Washington streets intersection as part of the SODO project, as well as produce a set of production molds and terrazzo formulas so the city could produce additional medallions in the future as needed. The artist did not fulfill the terms of the contract and never delivered the fabricated medallions or the molds for future production. The city attorney notified the artist they were in default in February 2022, but no response was received.

Because the city expected to install granite and terrazzo medallions at the corner of Main and Washington streets, square plywood holes have been in place since the SODO project was completed. In spring 2024, the city plans to have contractors performing tree removal and replanting work, as well as sidewalk repairs, along Main Street. The city would like to install medallions in the placeholder locations during the concrete work to maximize efficiency and minimize cost.

Because the city did not receive a mold or the formulas needed to match the existing medallion design, staff propose creating the new medallions in bronze using a template like the existing medallions but developed by city staff for easy replication in the future. Bronze was selected because it is a material specified in the Downtown and Riverfront Plan Public Area Requirements, is proven to hold up well in external elements, and is not cost prohibitive.

The proposed design for the bronze medallions is as follows:



Staff proposes forging four medallions and installing them at the corners of the intersection of Main and Washington in spring 2024. Each side of the square hole has a length of 4 feet and a depth of 2 inches. A bronze medallion will be installed in the center of each hole and will have a diameter of 30 inches and a depth of ¾ inch.

BUDGET IMPACT

City staff have received quotes from two companies to forge the bronze medallions. Costs range from \$15,300 to \$15,400. These quotes will be confirmed once staff receives direction from Council about how to proceed. These estimates do not include installation costs.

The production and installation costs for the bronze medallions will be factored into the budget for the spring 2024 Main Street concrete work.

WORKLOAD IMPACT

This project will be incorporated into the spring 2024 Main Street concrete work. Installing the medallions at this time will minimize impact on staff workload and overall budget.

CLIMATE IMPACT

None.

COORDINATION, CONCURRENCE, OR DISSENT

This recommendation was collectively developed and supported by the city manager's office, engineering division, and planning division.

STAFF RECOMMENDATION

Staff recommend Council direct the city to develop and install bronze medallions at the four corners of Main and Washington streets.

ALTERNATIVES

Council could direct staff to fill the holes with concrete and not include medallions at this intersection.

ATTACHMENTS

None.

Main Street Medallions

Update | Nov. 7, 2023



1. History of medallions on Main Street
2. Proposal for bronze medallions, to be installed
Spring 2024
3. Questions

HISTORY: MEDALLIONS ON MAIN STREET

- **2000** - Milwaukie Downtown and Riverfront Plan Public Area Requirements adopted
 - Allow for bronze and granite medallions on Main Street
- **2007** – Original granite medallions installed on Main Street outside of historic city hall
- **2019** – Contract executed to fabricate additional medallions as part of SODO project (not fulfilled)





PLANNED MAIN STREET WORK IN 2024

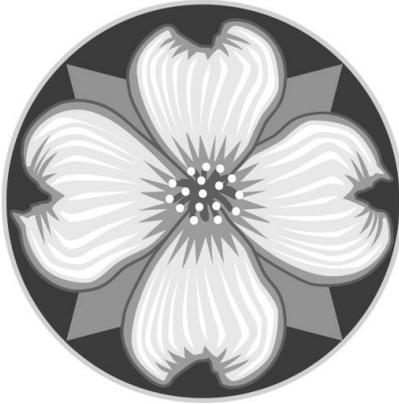
- City will be conducting tree removal/replanting and sidewalk repairs on Main Street in spring 2024
- Ideal time to install medallions at Main/Washington corners
 - Maximize efficiency and minimize cost
 - Southwest corner currently does not have a hole, but will be reconstructed during work to include a medallion

**Proposed
design for
bronze
medallions**



**QUESTIONS OR
COMMENTS?**





RS Agenda Item

9

Council Reports

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, IN SUPPORT OF RESTRICTING THE SALE OF FLAVORED TOBACCO PRODUCTS AND PROTECTING KIDS FROM A LIFETIME OF NICOTINE ADDICTION.

WHEREAS Big Tobacco's use of candy flavors like bubblegum, root beer, and minty menthol hooks generations of consumers – especially kids, students, and communities of color – on the massive hits of nicotine their tobacco products can deliver and 90% of adults who smoke report that they started before age 18; and

WHEREAS the millions Big Tobacco spends on lobbying so retailers can continue selling their predatory, candy-flavored products has triggered what the Surgeon General and the FDA have called an “epidemic” of e-cigarette use across the nation; and

WHEREAS big Tobacco spends \$115 million for marketing in Oregon each year, ~~and~~
~~WHEREAS nearly 1140.8%~~ of Oregon 11th grade students use e-cigarettes, and 5,000 Oregon kids under age 18 try cigarettes for the first time each year; and

WHEREAS each year, tobacco use kills over 8,000 Oregonians and costs almost \$5.7 billion in medical expenses and lost productivity; and

WHEREAS school zones throughout the county, including Milwaukie, continue to be targeted as prime locations for tobacco retail establishments; and

WHEREAS tobacco companies are creating a cycle of addiction that puts taxpayers – whether they smoke or not – on the hook for \$373.6 million in annual Medicaid costs caused by smoking in Oregon; and

~~WHEREAS each year, tobacco use kills over 8,000 Oregonians and costs almost \$5.7 billion in medical expenses and lost productivity; and~~

WHEREAS in 2022, 25% of tobacco retailers inspected in Oregon sold tobacco to underage buyers; ~~and~~

~~WHEREAS nine of 10 adults who smoke report that they started smoking by 18; and~~

~~WHEREAS two thirds of Oregon youth tobacco users use flavored tobacco compared to about 26% of older adult tobacco users, thus beginning a life of addiction because of the attraction of flavors.~~

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milwaukie, Oregon, encourages both that the Oregon State Legislature and the Clackamas County Board of Commissioners is encouraged to pass legislation ending the sale of flavored tobacco products to protect kids from Big Tobacco's candy flavored and minty-menthol tobacco, our children and end the allure of tobacco and vaping products for underage users.

Introduced and adopted by the City Council on **October 17, 2023**

This resolution is effective immediately.

Lisa M. Batey, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney