AGENDA
CITIZENS UTILITY ADVISORY BOARD
September 7, 2016
7:00pm

<u>Johnson Creek Facility</u>
6101 SE Johnson Creek Blvd

I.	CONSENT AGENDA		CUAB Board
	A.	Approve Minutes from July 14, 2016 meeting	ALL
II.	REPORT		
	A.	SSMP Program	Chuck
III.	DISCUSSION		
	A.	SSMP Fee	Chuck
IV.	MATTERS FROM THE BOARD		CUAB Members
V.	FUTURE MEETING DATE/AGENDA ITEMS		ALL
	Next regular meeting: October 5, 2016		
VI.	ADJOURN		

CUAB Meeting Minutes
Thursday, July 14, 2016
Johnson Creek Facility - CD Conference Room
6101 SE Johnson Creek Blvd

Members Present
Vincent Alvarez, Chair
Kevin Hasey, Vice Chair
Joel Bergman
Edward Simmons

Members Absent
DeLon Lewis (resigned effective this meeting)

Guest(s) Present
None

Staff Present
Chuck Eaton, Engineering Director
Gary Parkin, Public Works Director

Meeting began at 7:20 p.m.

I. CONSENT AGENDA

The June 1, 2016, meeting minutes were approved.

II. REPORT

A. Sidewalk Program – Engineering Director Eaton presented the recommended action plan for the new Bicycle and Pedestrian Accessibility Program. CUAB was asked to recommend a funding level and fee amount for City Council consideration. CUAB members discussed several alternatives and financing strategies in an effort to minimize the impact to residences. Discussions revolved around a compromise of not funding all the projects completely, relying on grants, and extending the timeframe to complete the program to 25 years. CUAB approved a recommendation to City Council for a $0.46 per trip rate, adjusted for inflation annually, and dedicated to the program and the safety improvements identified.

DRAFT

III. DISCUSSION

A. CUAB members discussed the possibility of a field trip for the next meeting to an active construction project. Unfortunately, no utility construction projects were anticipated to be underway during August. August meeting was canceled.

IV. MATTERS FROM THE BOARD

Gary let the group know of DeLon's resignation from the board as he addresses life challenges.

V. FUTURE MEETING DATE/AGENDA ITEMS

Next regular meeting will be September 7, 2016, at 7:00 p.m. at JCB.

VI. ADJOURN

Adjourned at 9:27 p.m.

DRAFT

_____ _____
Vincent Alvarez, Chair Chuck Eaton, Scribe

MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item:
Meeting Date: August 2, 2016

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **SSMP Review**

From: Charles Eaton, Engineering Director

Date: July 25, 2016

ACTION REQUESTED
Direction on the Future of the SSMP Program

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS
During the annual report of the SSMP program City Council directed staff to look at including residential streets into the SSMP project selection and review the funding requirements to achieve an SSMP goal of a system rating of 70+. In addition, Council requested that staff develop an overall cost to achieve this goal.

BACKGROUND
The City of Milwaukie's Street Surface Maintenance Program (SSMP) was adopted by Ordinance No. 1966, effective on July 1, 2007. The ordinance, in concert with related ordinances, established a street maintenance fee, an electric utility privilege tax and local gas tax to fund the SSMP. All funds were dedicated to street maintenance and rehabilitation, with the goal of bringing all arterials and collectors in the City to a "good" or better condition within ten years. Good is defined as a condition rating of 75 or better.

Unfortunately, the revenues have not kept up with inflation and as presented at the April 5th City Council meeting it is now anticipated to take 15 years to complete the initial 10 years of projects and the rate of surface maintenance anticipated has not been met. City Staff has been reevaluating the SSMP program and will be presenting those results during the presentation at the City Council work session on August 2, 2016.

Since the Council meeting in April, Clackamas County has announced that it will be placing a 6 cent gas tax on the ballot in November with the potential of additional funds becoming available to the City if the measure passes. The City has until September 1, 2016 to notify the County of whether or not it will be part of the County program. As part of the review, staff has identified several areas within the current SSMP ordinance that could be modified to better accommodate the capital improvement projects and the proposed county gas tax if passed, those are as follows:

- Removal of the limitation on new revenues
- Provide for inflation indexing of street fee
- Clarify the use of the funds for street facilities
- Miscellaneous housekeeping items

The City of Milwaukie is experiencing additional pressures from competing interests since the SSMP was adopted in 2007. These include new ADA requirements for streets and recent court cases limiting development responsibilities. These pressures have created a gap in the available funding for street maintenance and construction projects. The changes identifies will help the City to close this funding gap and together with other funding sources and code revisions are necessary for the City to complete the Transportation System Plan adopted in 2013.

Staff will present cost data and bonding information, as requested, at the City Council work session as part of the presentation.

CONCURRENCE
N/A

FISCAL IMPACTS
These changes, if passed, would result in providing an increase in revenues to counter inflation.

WORK LOAD IMPACTS
Work load impacts will include staff time to prepare the ordinance and resolution as well as some additional administration of the program due to indexing.

ALTERNATIVES
The City Council could only address some or none of the revisions being proposed and direct staff to bring back an appropriate ordinance.

ATTACHMENTS
1. Clean copy of Chapter 3.25
2. Underline/strike proposed code amendment
3. Presentation

CHAPTER 3.25

STREET SURFACE MAINTENANCE PROGRAM

3.25.010 DEFINITIONS

As used in this chapter, unless the context requires otherwise:

"Developed property" means a parcel or portion of real property on which an improvement exists or has been constructed. Improvement on developed property includes, but is not limited to buildings, parking lots, landscaping, and outside storage.

"Dwelling Unit" As defined in Section 19.201.

"Gross square footage" means the area of all structures, located on a developed property, measured along the exterior walls of the structures, and including but not limited to enclosed courtyards and stairwells, but not including fences and parking areas which are not enclosed within a building.

"Multiunit residential property" means residential property consisting of two (2) or more dwelling units. For the purposes of this chapter, condominiums and individual mobile home units are also classified as multiunit residential properties.

"Nonresidential property" means any property that is not residential property.

"Residential property" means a property that is primarily for personal, domestic accommodation, including single-family, multiunit residential property, and group homes, but not including hotels and motels.

"Responsible party" means the person or persons who by occupancy or contractual arrangement are responsible to pay for utility and other services provided to an occupied unit. Unless another party has agreed in writing to pay and a copy of the writing is filed with the City, the person(s) paying the City's water and/or sewer bill for an occupied unit shall be deemed the responsible party as to that occupied unit. For any occupied unit not otherwise required to pay a City utility bill, "responsible party" shall mean the person or persons legally entitled to occupancy of the occupied unit, unless another responsible party has agreed in writing to pay and a copy of the writing is filed with the City. Any person who has agreed in writing to pay is considered the responsible person if a copy of the writing is filed with the City.

"Single-family residential" means residential property that has only detached dwelling units.

"Street" means a public street or right-of-way within the City that is under the jurisdiction or control of the City. For purposes of this chapter, County, State and federal roads are excluded.

"Street surface maintenance program" means the program established by this chapter to maintain, repair, and reconstruct City of Milwaukie streets. Activities include the administration of the street maintenance fee, preventive maintenance, rehabilitation, and reconstruction projects; design and inspection of such projects; street condition monitoring and assessment, including inspection of street repairs; and staff training and consultant services in support of the above activities.

"Trip generation" means the average number of vehicle trips, as determined by reference to the manual entitled, Trip Generation, published by the Institute of Transportation Engineers (ITE) ("ITE Manual"), 7th edition.

"Use category or category of use" means the code number and resulting trip generation estimate determined with reference to the ITE Manual, and applicable to a particular developed property.

3.25.020 ADMINISTRATIVE OFFICERS

A. Except as provided in subsections B and C of this section, the Engineering Director shall be responsible for the administration of this chapter. The Engineering Director shall be responsible for developing administrative procedures for the chapter, and consideration and assignment of categories of use subject to appeal to the City Council.

B. The Engineering Director and the Streets Supervisor shall be jointly responsible for annually developing and updating a five (5)-year street surface maintenance program project schedule. The Engineering Director is responsible for ensuring that the schedule is properly integrated into the CIP and that the schedule is coordinated with other City capital projects.

C. The Community Development and Public Works Director shall provide an annual report on the street surface maintenance program to City Council.

D. The Engineering Director shall be responsible for implementation and enforcement of steps to minimize utility cut damage to streets, including a five (5)-year moratorium on capital projects on recently reconstructed, rehabilitated, or newly built City streets. The Public Works Operations Director is responsible for City compliance with street cut repair policy.

E. The Finance Director shall be responsible for the administration and collection of fees under this chapter.

3.25.030 DEDICATION OF REVENUES

A. All funds and all proceeds from funds collected pursuant to this chapter shall be used for the street surface maintenance program.

B. Upon the establishment of County, regional, State or other programs providing monies to the City for street maintenance at rates or annual amounts greater than those in effect at the time of adoption of the ordinance codified in this chapter, local fees or taxes shall be reduced in an equal amount to the additional monies made available to the City for street maintenance. The dollar-for-dollar reductions shall be made first in the local fee or tax most similar to the newly established fee or tax. If the City share of the new fee or tax exceeds the annual revenue of the reduced local fee or tax, the City shall reduce another fee by the excess amount. The selection of the second fee to reduce shall be at the discretion of Council. Revenues from the motor vehicle fuel tax and any utility privilege tax, including the electric utility privilege tax under Chapter 3.30, shall not be considered additional monies or new revenue. Annual variations in the City share of state gas tax revenues absent a change in the allocation method or tax rate shall not be considered additional monies or new revenue. Any reduction in the street maintenance fee shall be shared proportionally across all billing categories, residential and nonresidential. The fee per trip charge shall be reduced for all nonresidential bills and the residential bills shall be reduced by the same percentage.

3.25.040 ANNUAL STREET SURFACE MAINTENANCE PROGRAM REPORT

A. Each spring the Community Development and Public Works Director shall prepare and present to Council the Annual Street Surface Maintenance Program Report.

B. The report shall include a narrative description of the overall condition of the street network, the findings of any new condition assessments, a detailed project schedule for the upcoming year, an updated five (5) year project schedule, the project selection criteria

employed, and a report on the previous year projects, workload impacts, and overall program progress. The report shall include revenues received relative to revenue projections, project cost inflation trends, and any other new developments that impact the adequacy of the program funds to meet program goals.

3.25.050 STREET MAINTENANCE FEE

A. A street maintenance fee is imposed and levied upon the responsible party for all developed property within the City. The fee shall be based on the direct and indirect use of or benefit derived from the use of public streets generated by the developed property, to be calculated as described in Section 3.25.060.

B. The street maintenance fee is also imposed and levied on the property owner of the developed property in the event of nonpayment by the responsible party.

3.25.060 DETERMINATION OF STREET MAINTENANCE FEE

A. Residential Fees

1. Single-family residences shall be charged three dollars and thirty-five cents ($3.35) per month.
2. Multifamily residences, except for elderly housing, mobile home parks, and congregate care, shall be charged two dollars and ten cents ($2.10) per month for each dwelling unit.
3. Elderly housing and mobile homes parks will be charged one dollar and forty cents ($1.40) per month for each dwelling unit.
4. Congregate care facilities will be charged seventy cents ($0.70) per month for each dwelling unit.

B. Nonresidential Fees

1. Category Assignment

   Each nonresidential developed property in the City shall be assigned to a category of use according to the land use type listed in subsection C of this section.

2. Upon request of the customer, the Engineering Director shall review the category of use assignment. The Engineering Director shall consider evidence provided by the customer that relates to the actual trip generation patterns of the property in question. The determination of category of use shall not be considered a land use decision as that term is defined in ORS 197.015.

3. Fee Calculation

   The street maintenance fee shall be calculated by multiplying the number of units (listed in subsection C) by the trip rate per unit for that assigned category of use and then by the monthly per trip charge of thirty-five cents ($0.35) to establish the monthly fee to be billed.

4. Fee Maximum

   The maximum monthly street maintenance fee for nonresidential accounts shall be two hundred and fifty dollars ($250.00) per property. The maximum shall be adjusted for inflation annually according to the Consumer Price Index published by the Bureau of Labor Statistics. The adjustment for inflation shall be included in the annual fee schedule update beginning in 2008.

5. Fee Minimum

   The minimum monthly street maintenance fee for nonresidential accounts shall be three dollars and thirty-five cents ($3.35).

C. Category of Use

1. Category 1 shall be estimated at 0.75 trips per unit. Land uses include elementary and middle schools, private schools (K12), and lodge/fraternal organizations (ITE Codes 520, 521, 522 and 591).
2. Category 2 shall be estimated at two (2) trips per unit. Land uses include general heavy industrial, mini-warehouses, City parks, high schools, colleges, and furniture stores (ITE Codes 120, 151, 411, 530, 540, 550 and 890).
3. Category 3 shall be estimated at four (4) trips per unit. Land uses include manufacturing, warehouses, utilities, County parks, religious institutions, and nursing homes (ITE Codes 140, 150, 170, 412, 560, and 620).
4. Category 4 shall be estimated at eight (8) trips per unit. Land uses include general light industrial, industrial park, motels, golf courses, general office, single-tenant office buildings, office parks, research and development centers, and drinking places (ITE Codes 110, 130, 320, 430, 710, 715, 750, 760, and 836).
5. Category 5 shall be estimated at sixteen (16) trips per unit. Land uses are hotels, cemeteries, hospitals, business parks, wholesale nurseries, automobile care centers, self-service car washes, tire stores, discount clubs, and apparel stores (ITE Codes 310, 432, 566, 610, 770, 818, 840, 847, 848, 849, 861 and 870).
6. Category 6 shall be estimated at thirty-two (32) trips per unit. Land uses include marinas, tennis courts, racquet clubs, health clubs, bowling alleys, recreational community centers, day care, libraries, clinics, medical/dental office buildings, building materials and lumber, discount stores, specialty retail, hardware/paint stores, nursery/garden centers, shopping centers, high turnover sit-down restaurants, quick lubrication vehicle stops, new car sales, gas stations with convenience market, supermarkets, home improvement superstores, and electronics superstores (ITE Codes 420, 491, 492, 493, 494, 495, 565, 590, 630, 720, 812, 813, 814, 815, 816, 817, 820, 832, 837, 841, 844A, 845, 850, 862 and 863).
7. Category 7 shall be estimated at sixty-four (64) trips per unit. Land uses include government office buildings, quality restaurants, and gas stations (ITE Codes 730, 831, 844, 846, and 854).
8. Category 8 shall be estimated at one hundred twenty-eight (128) trips per unit. Land uses include U.S. Post Offices, fast food restaurants, convenience markets, and banks (ITE Codes 732, 833, 834, 851, 911, and 912).
9. Category 9 shall be estimated at two hundred (200) trips per unit. Land use is a multipurpose recreational facility (ITE Code 435).
10. Category 10 shall be estimated at four hundred forty (440) trips per unit. Land use is a movie theater (ITE Code 444).

D. Units. The unit used in calculating the nonresidential street maintenance fee shall be one thousand (1,000) gross square feet of building area, with the following exceptions:

USE	UNIT
Parks, golf courses, cemeteries, marinas, multipurpose recreational facilities	One (1) acre
Schools and colleges	One (1) student
Lodges	One (1) member
Hotels and motels	One (1) room
Self-service car washes	One (1) wash stall
Tennis courts and racquet clubs	One (1) court
Quick lubrication vehicle stops and gas stations	One (1) fueling or service position
Movie theaters	One (1) screen

E. Unlisted Uses

In the event that a property is occupied by a use that is not expressly listed in any of the above categories, the Engineering Director shall determine which category the property should be placed in, based on similarity in expected trip generation. If no category is appropriate, the Engineering Director shall determine the trips per unit shall be based on a transportation study, the Trip Generation Manual, or any other method of determining trips. Any determination by the Engineering Director under this section may be reviewed under the procedure described in Section 3.25.100.B. The result of the review may be appealed to the City Council by filing a notice of appeal within ten (10) days of the date notice of the result of the review is mailed to the property owner.

3.25.070 ADMINISTRATION OF STREET MAINTENANCE FEE

A. Under the supervision of the Finance Director, the street maintenance fee shall be billed and collected with and as part of the monthly water and sewer bill for those lots or parcels utilizing City water and sewer, as provided for in Section 13.04.100, and billed and collected separately for those developed properties not utilizing City water and sewer. In the event of nonpayment, the City may bill the property owner or take other action as authorized by law to collect from the responsible party.

B. In the event funds received from City utility billings are inadequate to satisfy in full all of the water, sanitary sewer, storm sewer, and street maintenance fees, credit shall be given to the street maintenance fee, sanitary sewer service charges, storm sewer service charges, and water service charges proportionately.

C. Notwithstanding any provision herein to the contrary, the City may institute any necessary legal proceedings to enforce the provisions of this chapter, including, but not limited to injunctive relief and collection of charges owing. The City's enforcement rights shall be cumulative.

3.25.080 WAIVER OF STREET MAINTENANCE FEE IN CASE OF VACANCY

A. When any property within the City becomes vacant and water service is discontinued, a waiver of the street maintenance fee may be granted by the Finance Director upon written application of the person responsible, including a signed statement, affirming under penalty of perjury that the property is vacant, and upon payment of all outstanding water, sanitary sewer, storm sewer and street maintenance charges.

B. For purposes of this section, "vacant" means that an entire building or utility billing unit has become vacant or continuously unoccupied for at least thirty (30) days. "Vacant" shall not mean that only a portion of a property without a separate water meter has become vacant or unoccupied.

C. Fees shall be waived in accordance with this section only while the property remains vacant. The person responsible shall notify the City within five (5) days of the premises being occupied, partially occupied, or used, regardless of whether water service is restored.

3.25.090 RELIEF FOR LOW INCOME RESIDENTIAL CUSTOMERS FROM STREET MAINTENANCE FEE

The street maintenance fee shall not be billed to those households included in the low income utility program.

3.25.100 STREET MAINTENANCE FEE APPEAL PROCEDURE

A. Any owner who disputes any interpretation given by the City as to the category of use assigned to such owner's property pursuant to this chapter may request a review and appeal such interpretation, but only in accordance with this section. The dispute must first be presented to the Engineering Director for review and thereafter may be appealed to the City Council in accordance with this section. Failure to appeal an interpretation made under this chapter within the time and in the manner provided shall be sufficient cause to deny the relief requested. Except in cases of hardship as determined by the Council, disputes which result in changes in the street maintenance fee charged under this chapter shall become effective with the next billing cycle.

B. A utility customer may request a review of the category of use assigned. The Engineering Director shall conduct the review, considering all relevant evidence presented by the customer related to their actual trip generation patterns. Such evidence may include business records, parking lot usage, or traffic studies. The Engineering Director shall make a determination based on the evidence provided and provide notice to the customer.

C. An owner who disputes an interpretation made by the Engineering Director as to the assigned category of use under this chapter shall submit a written appeal to the City Manager within ten (10) days from the date of notice of the Engineering Director's determination under subsection B of this section, together with a filing fee in the amount of three hundred dollars ($300.00). The application for appeal shall specify the reasons therefore and include an engineering study prepared by a licensed professional engineer in conformance with the methodology outlined in the ITE Manual. Appeals shall be limited to the issue of whether the appropriate category of use has been assigned to the property.

D. The City Manager shall schedule the matter for City Council review and notify the appellant not less than ten (10) days prior to the date of such Council review. The Council shall conduct a hearing during a public meeting and determine whether there is substantial evidence in the record to support the interpretation given by the Engineering Director. The Council may continue the hearing for purposes of gathering additional information bearing on the issue. The Council shall make a tentative oral decision and shall adopt a final written decision together with appropriate findings in support. The decision of the Council with respect to the category of use shall be limited to whether the appellant has been assigned to the appropriate category of use. If the Council should determine that a different category of use should be assigned, it shall so order, provided no refund of prior street maintenance fees shall be given. Only where the Council decision results in a change in category of use will the filing fee on the appeal be refunded. The Council decision shall be final.

3.25.110 EXCEPTIONS TO STREET MAINTENANCE FEE

The following shall not be subject to the street maintenance fee:

A. City-owned parking lots;

B. Publicly owned parkland, open spaces, and greenways, unless public off-street parking designed to accommodate the use of such areas is provided;

C. Areas encompassed by railroad and public rights-of-way, except for developed railroad property such as maintenance areas, nonrolling storage areas, and areas used for the transfer of rail-transported goods to nonrail transport, which areas shall be subject to street maintenance fees.

3.25.120 STREET MAINTENANCE PROJECT SELECTION

The Engineering Director and Public Works Operations Director shall annually update a five (5) year schedule of street maintenance projects and include that schedule in the City Capital Improvement Plan.

3.25.130 STREET MAINTENANCE PROJECT SCHEDULE AND NARRATIVE

The street maintenance project schedule shall include a narrative description of street conditions, the project selection criteria, and a history of projects completed as part of the Street Surface Maintenance Program. The Street Maintenance Project Schedule and Narrative is a public record. The Street Maintenance Project Schedule and Narrative shall be prepared annually and presented to City Council as part of the Community Development and Public Works Director's annual report on the program.

3.25.140 SEVERABILITY

In the event any section, subsection, paragraph, sentence, or phrase of this chapter is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the chapter shall continue to be effective. If a court of competent jurisdiction determines that this ordinance imposes a tax or charge, which is therefore unlawful as to certain but not all affected properties, then as to those certain properties, an exception or exceptions from the imposition of the street maintenance fee shall be created and the remainder of the ordinance and the fees imposed thereunder shall continue to apply to the remaining properties without interruption. Nothing contained herein shall be construed as limiting the City's authority to levy special assessments in connection with public improvements pursuant to applicable law.

Underline/Strikeout Amendments

CHAPTER 3.25

STREET SURFACE MAINTENANCE PROGRAM

3.25.010 DEFINITIONS

As used in this chapter, unless the context requires otherwise:

"Developed property" means a parcel or portion of real property on which an improvement exists or has been constructed. Improvement on developed property includes, but is not limited to buildings, parking lots, landscaping, and outside storage.

"Dwelling Unit" As defined in Section 19.201.

"Gross square footage" means the area of all structures, located on a developed property, measured along the exterior walls of the structures, and including but not limited to enclosed courtyards and stairwells, but not including fences and parking areas which are not enclosed within a building.

"Multiunit residential property" means residential property consisting of two (2) or more dwelling units. For the purposes of this chapter, condominiums and individual mobile home units are also classified as multiunit residential properties.

"Nonresidential property" means any property that is not residential property.

"Reconstruction Project" means to replace, widen, improve or other construction of Milwaukie streets. Activities include Right-of-way acquisition, widening roadways to City Standard, construction of other elements within the Right-of-way as necessary to complete the project.

"Residential property" means a property that is primarily for personal, domestic accommodation, including single-family, multiunit residential property, and group homes, but not including hotels and motels.

"Responsible party" means the person or persons who by occupancy or contractual arrangement are responsible to pay for utility and other services provided to an occupied unit. Unless another party has agreed in writing to pay and a copy of the writing is filed with the City, the person(s) paying the City's water and/or sewer bill for an occupied unit shall be deemed the responsible party as to that occupied unit. For any occupied unit not otherwise required to pay a City utility bill, "responsible party" shall mean the person or persons legally entitled to occupancy of the occupied unit, unless another responsible party has agreed in writing to pay and a copy of the writing is filed with the City. Any person who has agreed in writing to pay is considered the responsible person if a copy of the writing is filed with the City.

"Single-family residential" means residential property that has only detached dwelling units.

"Street" means a public street or right-of-way within the City that is under the jurisdiction or control of the City. For purposes of this chapter, County, State and federal roads are excluded.

"Street surface maintenance program" means the program established by this chapter to maintain, repair, and reconstruct City of Milwaukie streets. Activities include the administration of the street maintenance fee, preventive maintenance, rehabilitation, and reconstruction projects; design and inspection of such projects; street condition monitoring and assessment,

including inspection of street repairs; and staff training and consultant services in support of the above activities.

"Trip generation" means the average number of vehicle trips, as determined by reference to the most recent manual entitled, Trip Generation, published by the Institute of Transportation Engineers (ITE) ("ITE Manual"), ~~7th edition~~.

"Use category or category of use" means the code number and resulting trip generation estimate determined with reference to the ITE Manual, and applicable to a particular developed property.

3.25.020 ADMINISTRATIVE OFFICERS

A. Except as provided in subsections B and C of this section, the Engineering Director shall be responsible for the administration of this chapter. The Engineering Director shall be responsible for developing administrative procedures for the chapter, and consideration and assignment of categories of use subject to appeal to the City Council.

B. The Engineering Director and the Streets Supervisor shall be jointly responsible for annually developing and updating a five (5)-year street surface maintenance program project schedule. The Engineering Director is responsible for ensuring that the schedule is properly integrated into the CIP and that the schedule is coordinated with other City capital projects.

C. The Community Development and Public Works Director shall provide an annual report on the street surface maintenance program to City Council.

D. The Engineering Director shall be responsible for implementation and enforcement of steps to minimize utility cut damage to streets, including a five (5)-year moratorium on capital projects on recently reconstructed, rehabilitated, or newly built City streets. The Public Works Operations Director is responsible for City compliance with street cut repair policy.

E. The Finance Director shall be responsible for the administration and collection of fees under this chapter.

3.25.030 DEDICATION OF REVENUES

A. All funds and all proceeds from funds collected pursuant to this chapter shall be used for the street surface maintenance program.

~~B. Upon the establishment of County, regional, State or other programs providing monies to the City for street maintenance at rates or annual amounts greater than those in effect at the time of adoption of the ordinance codified in this chapter, local fees or taxes shall be reduced in an equal amount to the additional monies made available to the City for street maintenance. The dollar for dollar reductions shall be made first in the local fee or tax most similar to the newly established fee or tax. If the City share of the new fee or tax exceeds the annual revenue of the reduced local fee or tax, the City shall reduce another fee by the excess amount. The selection of the second fee to reduce shall be at the discretion of Council. Revenues from the motor vehicle fuel tax and any utility privilege tax, including the electric utility privilege tax under Chapter 3.30, shall not be considered additional monies or new revenue. Annual variations in the City share of state gas tax revenues absent a change in the allocation method or tax rate shall not be considered additional monies or new revenue. Any reduction in the street maintenance fee shall be shared proportionally across all billing categories, residential and nonresidential. The fee per trip charge shall be reduced for all nonresidential bills and the residential bills shall be reduced by the same percentage.~~

Comment [EC1]: Removal of paragraph to allow other fees for work within the right-of-way.

3.25.040 ANNUAL STREET SURFACE MAINTENANCE PROGRAM REPORT

A. Each spring the ~~Community Development and Public Works~~Engineering Director shall prepare and present to Council the Annual Street Surface Maintenance Program Report.

B. The report shall include a narrative description of the overall condition of the street network, the findings of any new condition assessments, a ~~detailed project~~ schedule of projects for the upcoming year, an updated five (5) year project schedule, the project selection criteria employed, and a report on the previous year projects, workload impacts, and overall program progress. The report shall include revenues received relative to revenue projections, project cost inflation trends, and any other new developments that impact the adequacy of the program funds to meet program goals.

3.25.050 STREET MAINTENANCE FEE

A. A street maintenance fee is imposed and levied upon the responsible party for all developed property within the City. The fee shall be based on the direct and indirect use of or benefit derived from the use of public streets generated by the developed property, to be calculated as described in Section 3.25.060.

B. The street maintenance fee is also imposed and levied on the property owner of the developed property in the event of nonpayment by the responsible party.

3.25.060 DETERMINATION OF STREET MAINTENANCE FEE

Comment [EC2]: Simplified calculation procedure by moving residential fee determinination into a category equal to the internal calculations being done to determine the rate.

~~A. Residential Fees~~

~~1. Single family residences shall be charged three dollars and thirty five cents ($3.35) per month.~~

~~2. Multifamily residences, except for elderly housing, mobile home parks, and congregate care, shall be charged two dollars and ten cents ($2.10) per month for each dwelling unit.~~

~~3. Elderly housing and mobile homes parks will be charged one dollar and forty cents ($1.40) per month for each dwelling unit.~~

~~4. Congregate care facilities will be charged seventy cents ($0.70) per month for each dwelling unit.~~

~~B. Nonresidential Fees~~

~~1~~A. Category Assignment

1. Each nonresidential developed property in the City shall be assigned to a category of use according to the land use type listed in subsection C of this section.

2. Upon request of the customer, the Engineering Director shall review the category of use assignment. The Engineering Director shall consider evidence provided by the customer that relates to the actual trip generation patterns of the property in question. The determination of category of use shall not be considered a land use decision as that term is defined in ORS 197.015.

~~3~~B. Fee Calculation

1. The street maintenance fee shall be calculated by multiplying the number of units (listed in subsection C) by the trip rate per unit for that assigned category of use and then by the monthly per trip charge of ~~thirty-five cents ($0.35) to establish the monthly~~

~~fee to be billed~~determined by resolution of the Coity Council, to establish the monthly fee to be billed.

~~4~~2. Fee Maximum

The maximum monthly street maintenance fee for nonresidential accounts shall be ~~two hundred and fifty dollars ($250.00) per property. The maximum shall be adjusted for inflation annually according to the Consumer Price Index published by the Bureau of Labor Statistics. The adjustment for inflation shall be included in the annual fee schedule update beginning in 2008~~as determined by resolution of the City Council.

~~5~~3. Fee Minimum

The minimum monthly street maintenance fee ~~for nonresidential accounts shall be three dollars and thirty five cents ($3.35)~~shall be equal to single family residential, except for multi-family residential units being billed speratly which will be billed at the Multi-Family residential rate.

4. Fee Indexed

All fees shall be adjusted for inflation annually according to the Consumer Price Index published by the Bureau of Labor Statistics. The adjustment for inflation shall be included in the annual fee schedule update.

C. Category of Use

1. Category 1 shall be estimated at 0.75 trips per unit. Land uses include elementary and middle schools, private schools (K12), and lodge/fraternal organizations (ITE Codes 520, 521, 522 and 591).
2. Category 2 shall be estimated at two (2) trips per unit. Land uses include general heavy industrial, mini-warehouses, City parks, high schools, colleges, ~~and~~ furniture stores, and congregate care facilities (ITE Codes 120, 151, 253, 254, 411, 530, 540, 550 and 890).
3. Category 3 shall be estimated at four (4) trips per unit. Land uses include manufacturing, warehouses, utilities, County parks, religious institutions, ~~and~~ nursing homesand elderly housing and mobile home parkes (ITE Codes 140, 150, 170, 240, 251, 252, 255, 412, 560, and 620).
4. Category 4 shall be estimated at eight (8) trips per unit. Land uses include general light industrial, industrial park, motels, golf courses, general office, single-tenant office buildings, office parks, research and development centers, and drinking places (ITE Codes 110, 130, 320, 430, 710, 715, 750, 760, and 836).
5. Category 5 shall be estimated at sixteen (16) trips per unit. Land uses are hotels, cemeteries, hospitals, business parks, wholesale nurseries, automobile care centers, self-service car washes, tire stores, discount clubs, and apparel stores (ITE Codes 310, 432, 566, 610, 770, 818, 840, 847, 848, 849, 861 and 870).
6. Category 6 shall be estimated at thirty-two (32) trips per unit. Land uses include marinas, tennis courts, racquet clubs, health clubs, bowling alleys, recreational community centers, day care, libraries, clinics, medical/dental office buildings, building materials and lumber, discount stores, specialty retail, hardware/paint stores, nursery/garden centers, shopping centers, high turnover sit-down restaurants, quick lubrication vehicle stops, new car sales, gas stations with convenience market, supermarkets, home improvement superstores, and electronics superstores (ITE

Comment [EC3]: From Residential uses above

Codes 420, 491, 492, 493, 494, 495, 565, 590, 630, 720, 812, 813, 814, 815, 816, 817, 820, 832, 837, 841, 844A, 845, 850, 862 and 863).

7. Category 7 shall be estimated at sixty-four (64) trips per unit. Land uses include government office buildings, quality restaurants, and gas stations (ITE Codes 730, 831, 844, 846, and 854).
8. Category 8 shall be estimated at one hundred twenty-eight (128) trips per unit. Land uses include U.S. Post Offices, fast food restaurants, convenience markets, and banks (ITE Codes 732, 833, 834, 851, 911, and 912).
9. Category 9 shall be estimated at two hundred (200) trips per unit. Land use is a multipurpose recreational facility (ITE Code 435).
10. Category 10 shall be estimated at four hundred forty (440) trips per unit. Land use is a movie theater (ITE Code 444).
11. Category 11 shall be estimated at ten (10) trips per unit. Land use is single family residential (ITE Code 210).
12. Category 12 shall be estimated at six (6) trips per unit. Land use is Multi-family residences, except for elderly housing, mobile home parks and congregate care (ITE Code 220, 221, 222, 230, 231, 232, and 260).

Comment [EC4]: From residential uses above

D. Units. The unit used in calculating the nonresidential street maintenance fee shall be one thousand (1,000) gross square feet of building area, with the following exceptions:

USE	UNIT
Parks, golf courses, cemeteries, marinas, multipurpose recreational facilities	One (1) acre
Schools and colleges	One (1) student
Lodges	One (1) member
Hotels and motels	One (1) room
Self-service car washes	One (1) wash stall
Tennis courts and racquet clubs	One (1) court
Quick lubrication vehicle stops and gas stations	One (1) fueling or service position
Movie theaters	One (1) screen
Assisted Living facilities	One (1) bed
Residential uses, except assisted living	One (1) dwelling unit

Comment [EC5]: New use from ITE manual

Comment [EC6]: From residential uses above

E. Unlisted Uses

In the event that a property is occupied by a use that is not expressly listed in any of the above categories, the Engineering Director shall determine which category the property should be placed in, based on similarity in expected trip generation. If no category is appropriate, the Engineering Director shall determine the trips per unit shall be based on a transportation study, the Trip Generation Manual, or any other method of determining trips. Any determination by the Engineering Director under this section may be reviewed under the procedure described in Section 3.25.100.B. The result of the review may be appealed to the City Council by filing a notice of appeal within ten (10) days of the date notice of the result of the review is mailed to the property owner.

3.25.070 ADMINISTRATION OF STREET MAINTENANCE FEE

A. Under the supervision of the Finance Director, the street maintenance fee shall be billed and collected with and as part of the monthly water and sewer bill for those lots or parcels utilizing City water and sewer, as provided for in Section 13.04.100, and billed and collected separately for those developed properties not utilizing City water and sewer. In the event of nonpayment, the City may bill the property owner or take other action as authorized by law to collect from the responsible party.

B. In the event funds received from City utility billings are inadequate to satisfy in full all of the water, sanitary sewer, storm sewer, ~~and~~ streets, ~~maintenance~~ bicycle and pedestrian fees, credit shall be given to the bicycle and pedestrian fee, street maintenance fee, sanitary sewer service charges, storm sewer service charges, and water service charges proportionately.

C. Notwithstanding any provision herein to the contrary, the City may institute any necessary legal proceedings to enforce the provisions of this chapter, including, but not limited to injunctive relief and collection of charges owing. The City's enforcement rights shall be cumulative.

Comment [EC7]: Added to reflect the new code 3.26 passed during last city council meeting (Typical)

3.25.080 WAIVER OF STREET MAINTENANCE FEE IN CASE OF VACANCY

A. When any property within the City becomes vacant and water service is discontinued, a waiver of the street maintenance fee may be granted by the Finance Director upon written application of the person responsible, including a signed statement, affirming under penalty of perjury that the property is vacant, and upon payment of all outstanding water, sanitary sewer, storm sewer, ~~and~~ street maintenance, bicycle and pedestrian charges.

B. For purposes of this section, "vacant" means that an entire building or utility billing unit has become vacant or continuously unoccupied for at least thirty (30) days. "Vacant" shall not mean that only a portion of a property without a separate water meter has become vacant or unoccupied.

C. Fees shall be waived in accordance with this section only while the property remains vacant. The person responsible shall notify the City within five (5) days of the premises being occupied, partially occupied, or used, regardless of whether water service is restored.

3.25.090 RELIEF FOR LOW INCOME RESIDENTIAL CUSTOMERS FROM STREET MAINTENANCE FEE

The street maintenance fee shall not be billed to those households included in the low income utility program.

3.25.100 STREET MAINTENANCE FEE APPEAL PROCEDURE

A. Any owner who disputes any interpretation given by the City as to the category of use assigned to such owner's property pursuant to this chapter may request a review and appeal such interpretation, but only in accordance with this section. The dispute must first be presented to the Engineering Director for review and thereafter may be appealed to the City Council in accordance with this section. Failure to appeal an interpretation made under this chapter within the time and in the manner provided shall be sufficient cause to deny the relief requested. Except in cases of hardship as determined by the Council, disputes which result in changes in the street maintenance fee charged under this chapter shall become effective with the next billing cycle.

B. A utility customer may request a review of the category of use assigned. The Engineering Director shall conduct the review, considering all relevant evidence presented by the customer related to their actual trip generation patterns. Such evidence may include business records, parking lot usage, or traffic studies. The Engineering Director shall make a determination based on the evidence provided and provide notice to the customer.

C. An owner who disputes an interpretation made by the Engineering Director as to the assigned category of use under this chapter shall submit a written appeal to the City Manager within ten (10) days from the date of notice of the Engineering Director's determination under subsection B of this section, together with a filing fee in the amount ~~of three hundred dollars ($300.00)~~determined by resolution. The application for appeal shall specify the reasons therefore and include an engineering study prepared by a licensed professional engineer in conformance with the methodology outlined in the ITE Manual. Appeals shall be limited to the issue of whether the appropriate category of use has been assigned to the property.

D. The City Manager shall schedule the matter for City Council review and notify the appellant not less than ten (10) days prior to the date of such Council review. The Council shall conduct a hearing during a public meeting and determine whether there is substantial evidence in the record to support the interpretation given by the Engineering Director. The Council may continue the hearing for purposes of gathering additional information bearing on the issue. The Council shall make a tentative oral decision and shall adopt a final written decision together with appropriate findings in support. The decision of the Council with respect to the category of use shall be limited to whether the appellant has been assigned to the appropriate category of use. If the Council should determine that a different category of use should be assigned, it shall so order, provided no refund of prior street maintenance fees shall be given. Only where the Council decision results in a change in category of use will the filing fee on the appeal be refunded. The Council decision shall be final.

3.25.110 EXCEPTIONS TO STREET MAINTENANCE FEE

The following shall not be subject to the street maintenance fee:

A. City-owned parking lots;

B. Publicly owned parkland, open spaces, and greenways, unless public off-street parking designed to accommodate the use of such areas is provided;

C. Areas encompassed by railroad and public rights-of-way, except for developed railroad property such as maintenance areas, nonrolling storage areas, and areas used for the transfer of rail-transported goods to nonrail transport, which areas shall be subject to street maintenance fees.

3.25.120 STREET MAINTENANCE PROJECT SELECTION

The Engineering Director and Public Works Operations Director shall annually update a five (5) year schedule of street maintenance projects and include that schedule in the City Capital Improvement Plan.

3.25.130 ~~STREET MAINTENANCE PROJECT SCHEDULE AND NARRATIVE~~RESERVED

~~The street maintenance project schedule shall include a narrative description of street conditions, the project selection criteria, and a history of projects completed as part of the Street Surface Maintenance Program. The Street Maintenance Project Schedule and Narrative is a public record. The Street Maintenance Project Schedule and Narrative shall be prepared annually and presented to City Council as part of the Community Development and Public Works Director's annual report on the program.~~

Comment [EC8]: Duplicated information from 3.25.040.B

3.25.140 SEVERABILITY

In the event any section, subsection, paragraph, sentence, or phrase of this chapter is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the chapter shall continue to be effective. If a court of competent jurisdiction determines that this ordinance imposes a tax or charge, which is therefore unlawful as to certain but not all affected properties, then as to those certain properties, an exception or exceptions from the imposition of the street maintenance fee shall be created and the remainder of the ordinance and the fees imposed thereunder shall continue to apply to the remaining properties without interruption. Nothing contained herein shall be construed as limiting the City's authority to levy special assessments in connection with public improvements pursuant to applicable law.

Street Surface Maintenance Program

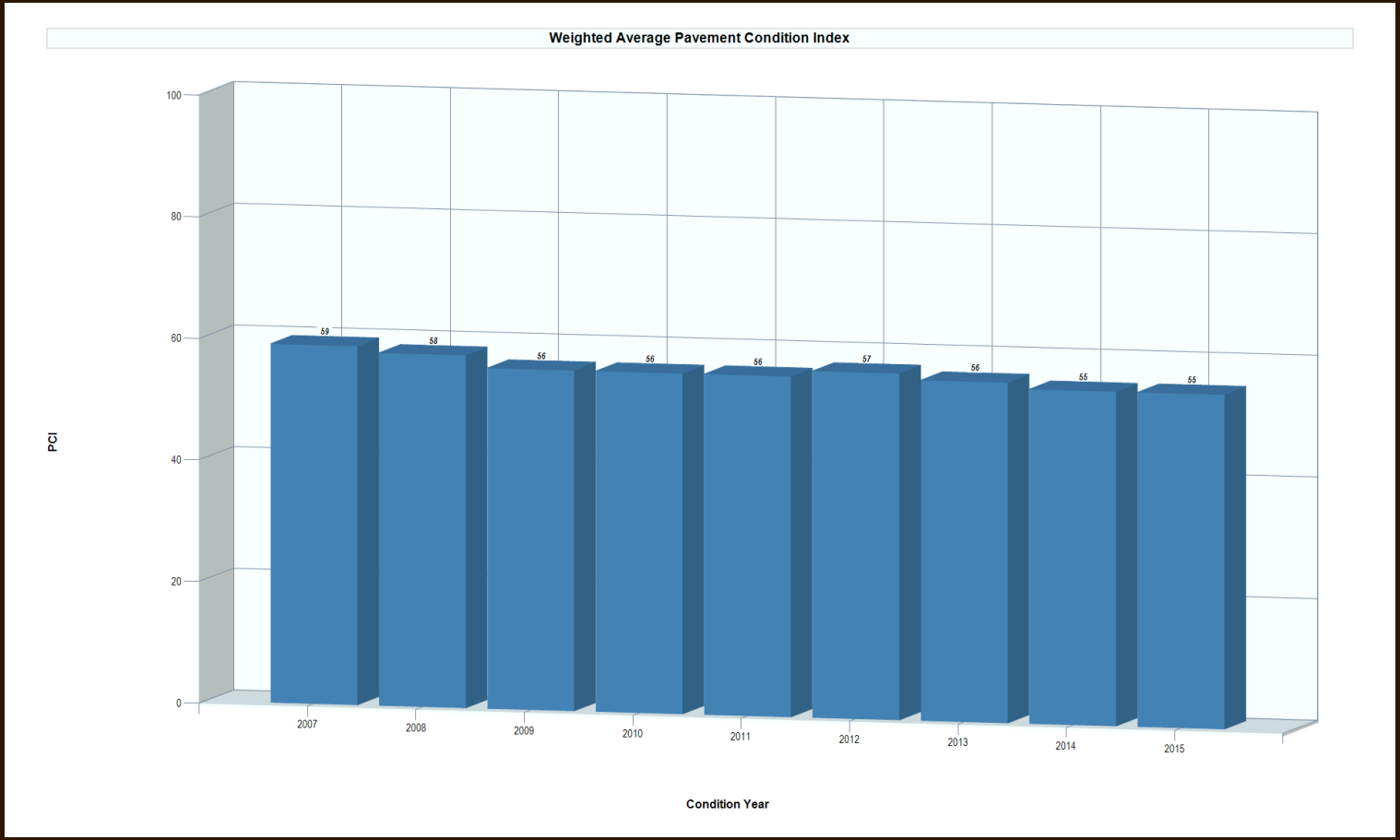
Program Review

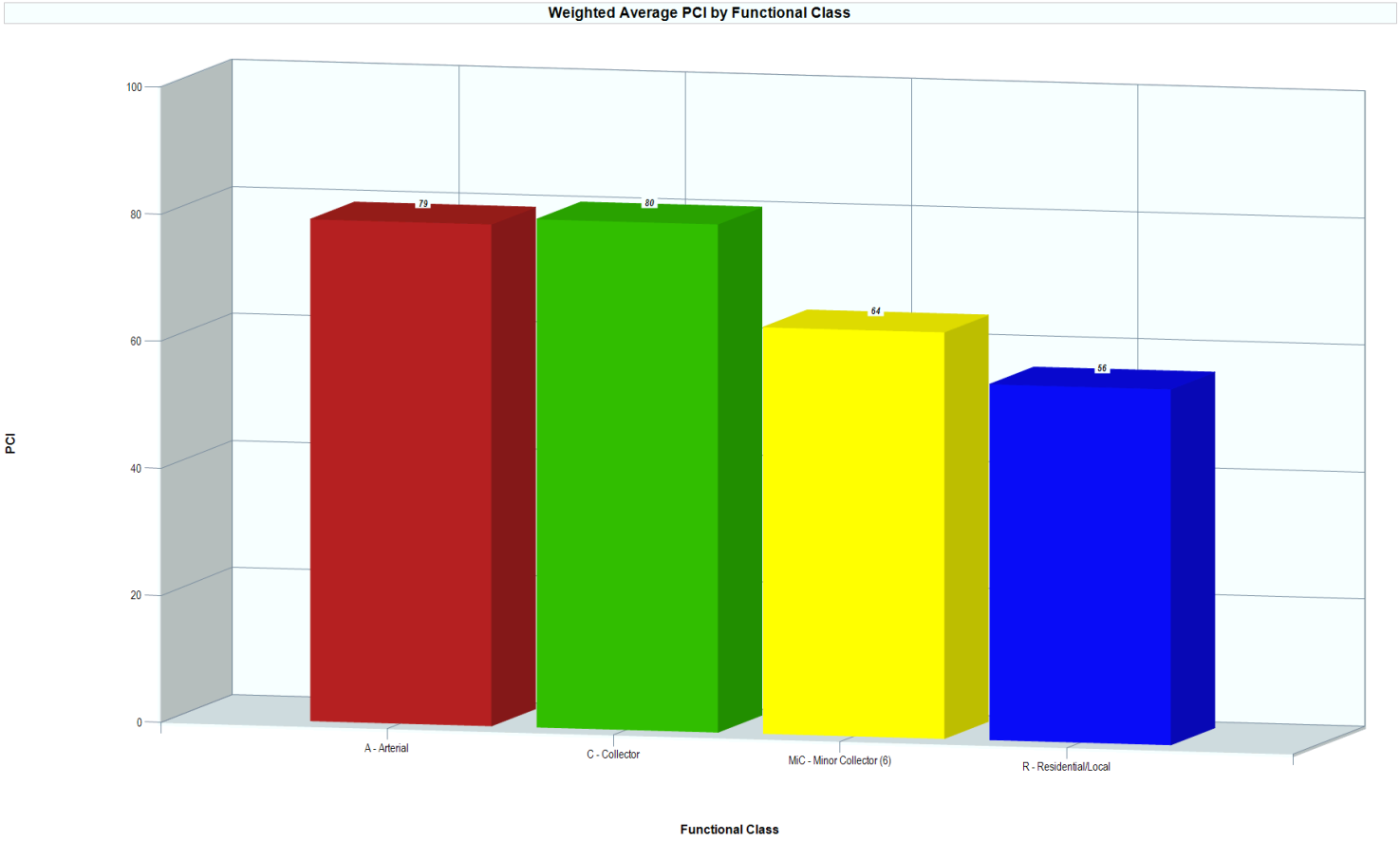
8/3/2016

City Council Work Session

Financial Limitations

- Unable to keep up with street surface needs.
- Network PCI has dropped from 59 to 53 since 2007.
- Original 10yr. Program will take 15yrs. to complete at current funding levels.
- SSMP rate fixed in 2007 for 10yr plan.

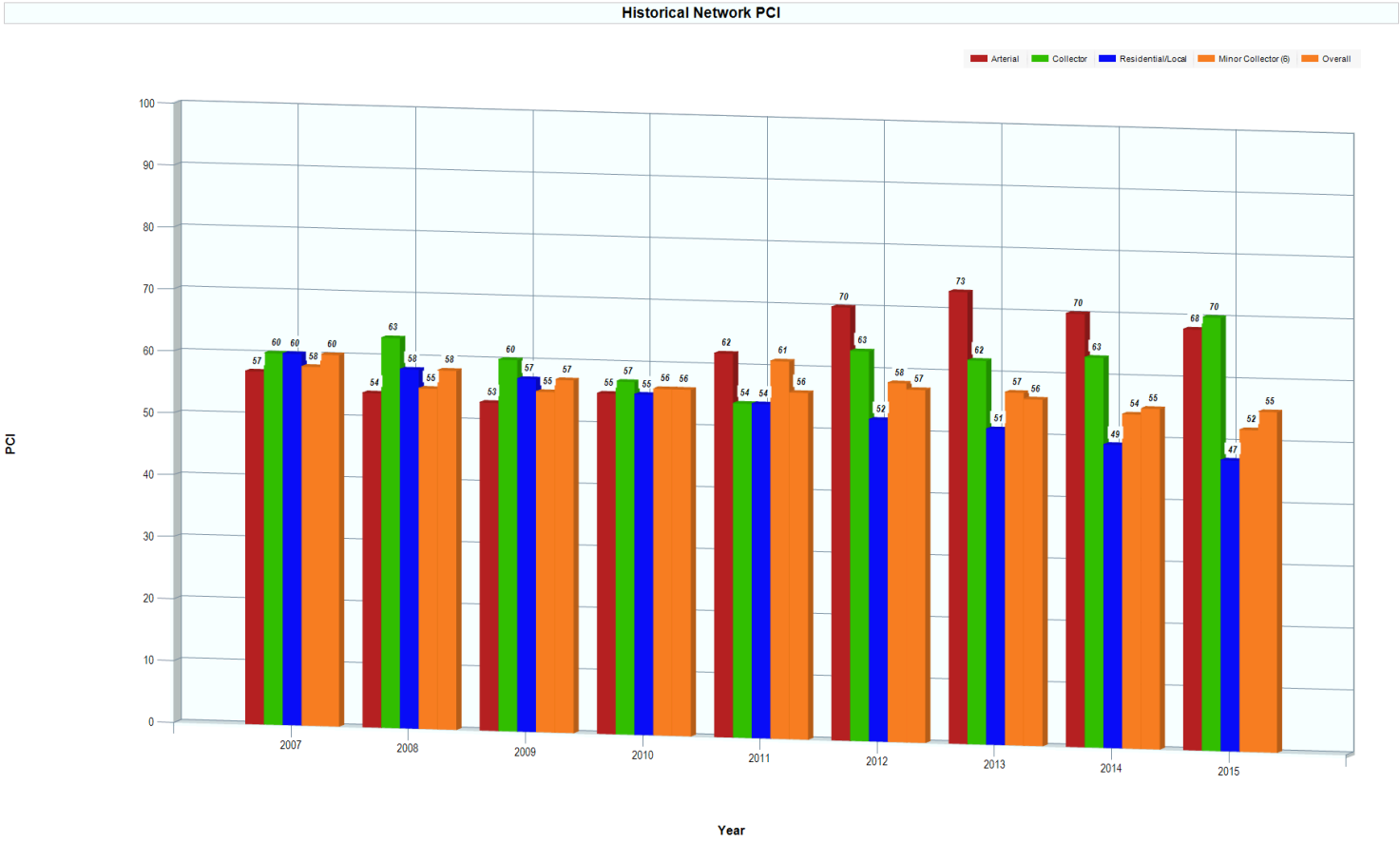

Weighted Average Pavement Condition Index
PCI
100
80
60
40
20
0
59
58
56
56
56
57
56
55
55
2007
2008
2009
2010
2011
2012
2013
2014
2015
Condition Year

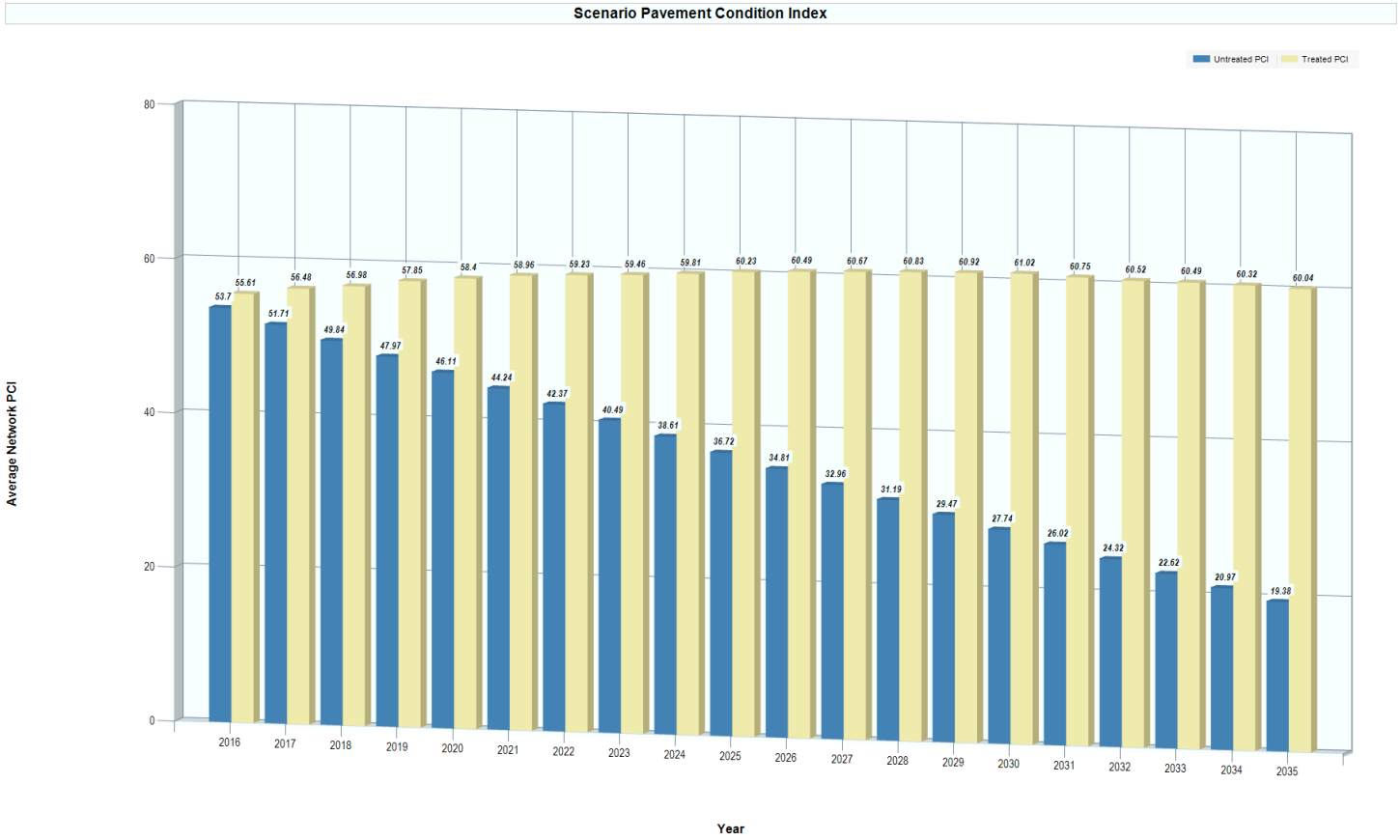

Weighted Average PCI by Functional Class
PCI
100
80
60
40
20
0
79
80
64
56
A - Arterial
C - Collector
MiC - Minor Collector (6)
R - Residential/Local
Functional Class

Existing Financial Status

- Street Fee (SFR=$3.35/mo.; $625,000/yr.)
- Gas Tax ($0.02/gal.; $183,000/yr.)
- Franchise Fee ($315,000/yr.)

- Total estimated Income $1,123,000/yr.


Historical Network PCI
Arterial
Collector
Residential/Local
Minor Collector (6)
Overall
PCI
100
90
80
70
60
50
40
30
20
10
0
57 60 60 58 60
54 63 58 55 58
53 60 57 55 57
55 57 55 56 56
62 54 54 61 56
70 63 52 58 57
73 62 51 57 56
70 63 49 54 55
68 70 47 52 55
2007
2008
2009
2010
2011
2012
2013
2014
2015
Year

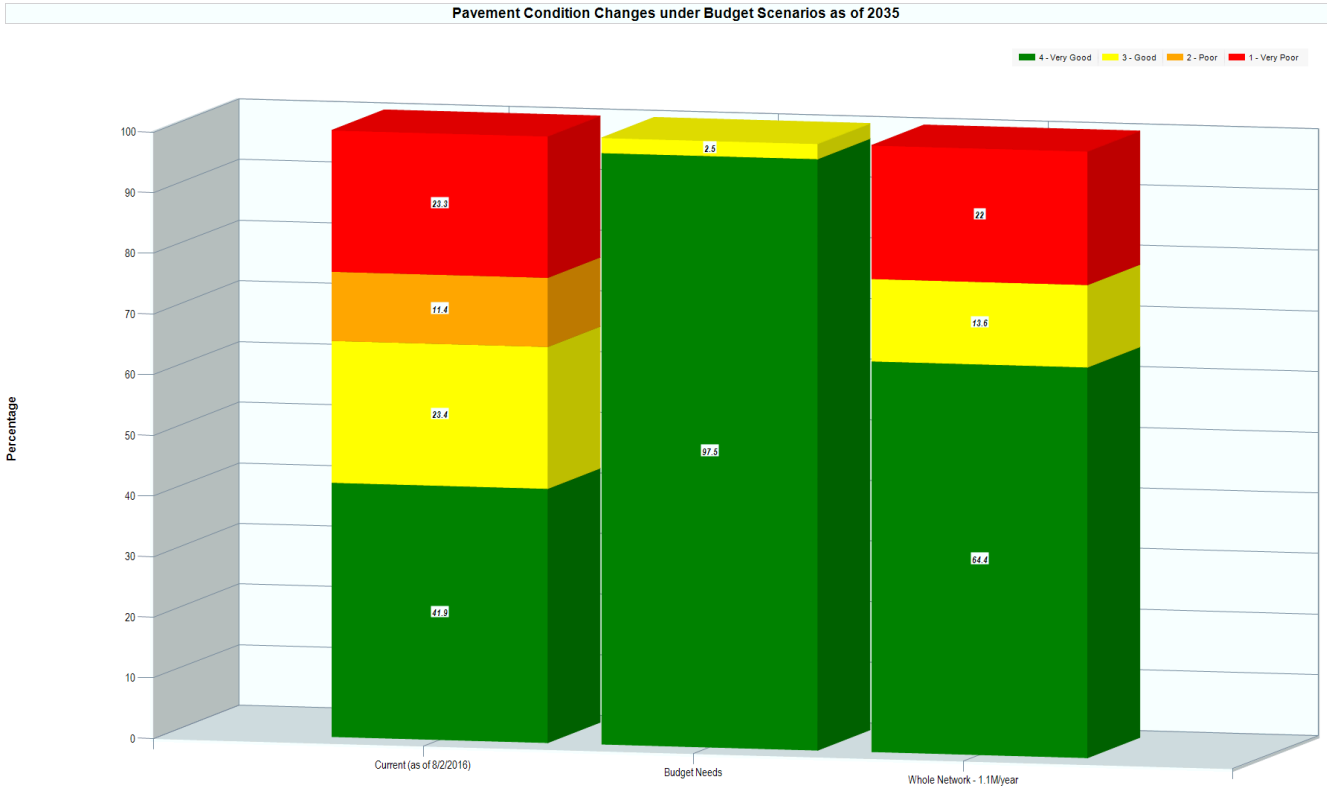


8/2/2016

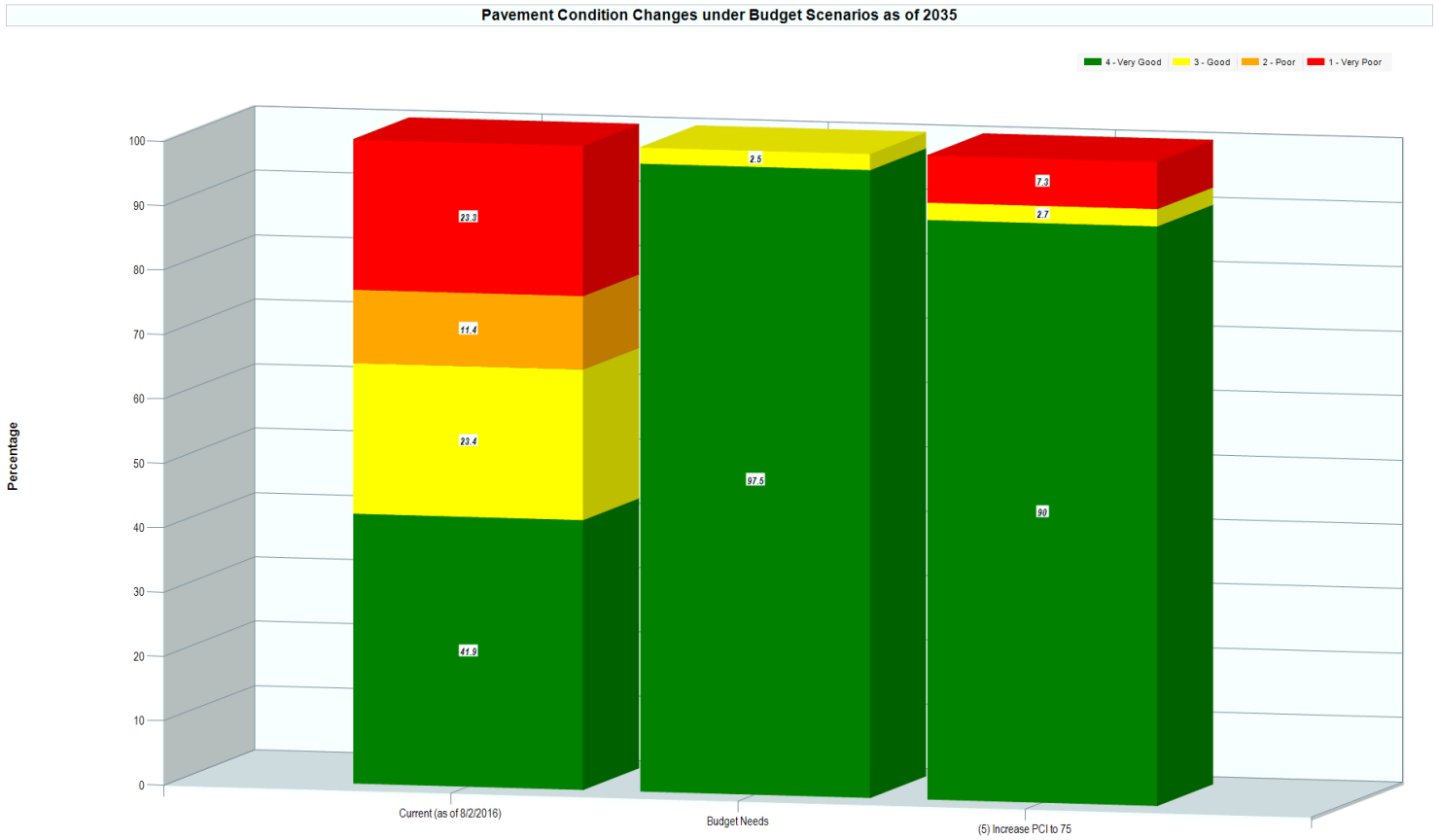
City Council Work Session

Estimated Projects

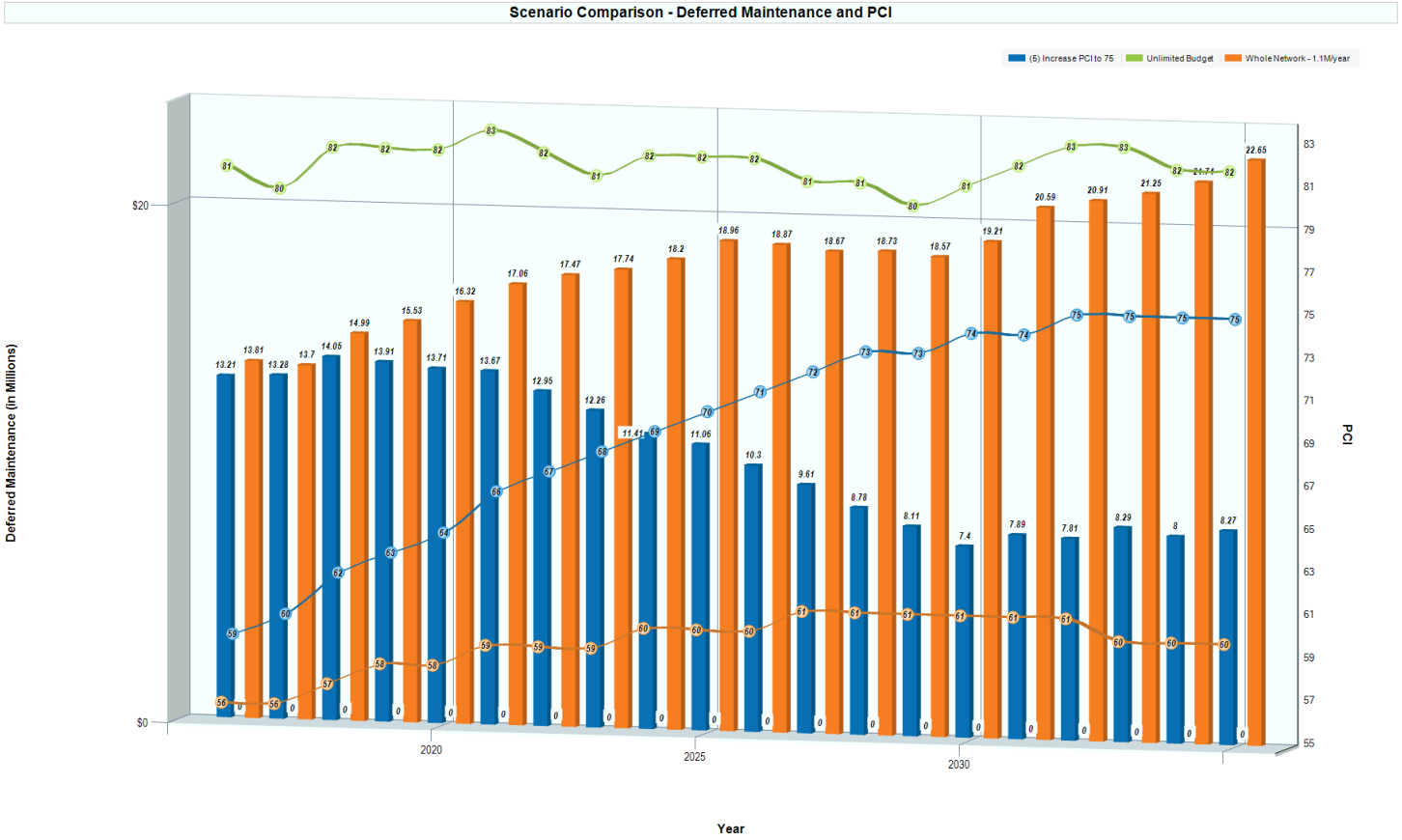
- Current Funding (Complete 10yr. Plan)
  - Maintains PCI of 61 in 20 years
  - Abandon reconstruction Projects (Overlays and preventative maintenance ONLY)
  - Deferred Maintenance
    - 13.8 million (2016); 19 million (2025); 22.6 Million (2035)


Pavement Condition Changes under Budget Scenarios as of 2035
4 - Very Good
3 - Good
2 - Poor
1 - Very Poor
Percentage
100
90
80
70
60
50
40
30
20
10
0
23.3
11.4
23.4
41.9
2.5
97.5
22
13.6
64.4
Current (as of 8/2/2016)
Budget Needs
Whole Network - 1.1M/year

- Obtain Network PCI of 75
  - Minimum funding level of 1.7 million/yr.
  - Deferred reconstruction projects as necessary to achieve funding level.
  - Deferred Maintenance
    - 13.2 million (2016); 11.1 million (2025); 8.3 Million (2035)
  - SSMP rate = $6.57.


Pavement Condition Changes under Budget Scenarios as of 2035
4 - Very Good
3 - Good
2 - Poor
1 - Very Poor
Percentage
100
90
80
70
60
50
40
30
20
10
0
23.3
11.4
23.4
41.9
2.5
97.5
7.3
2.7
90
Current (as of 8/2/2016)
Budget Needs
(5) Increase PCI to 75

- Eliminate deferred maintenance
  - Network PCI of 80
  - Requires $21.6 million investment over 6 yrs.
  - Requires $500,000/yr. to maintain
  - Bonding required (20yr.)
    - Bond amount = $22.95 million.
    - SSMP rate = $7.70 (Covers Bond).
    - Gas Tax/Franchise covers ongoing maintenance.



8/2/2016

City Council Work Session

Opportunities

- At the end of the original 10 year planning period.
- Current review of the SSMP Program.
- Proposed County Gas Tax.
  - $350,000/yr. (7 years)

Program Limitations

- Limited use of Funds restricts and eliminates some streets from program.
- Code restricts city's ability to collect funds from proposed county gas tax.
- Rate is fixed within the code without an index clause.
- Administrative changes required to recognize newly created BPAP program.

Code Revisions

- Add definition of a reconstruction project.
- Eliminate conflict with County Gas Tax proposal.
- Include auto indexing clause to account for inflation.
- Make administrative changes to bring into alignment with BPAP program.

Recommendations

- Code Revisions
  - Underline/Strikethrough?
- SSMP Goals/Targets
  - PCI level and/or differed maintenance level?
- SSMP Rate/Funding
  - Current level, Increased for CPI (~$127,000/yr.), Other level?
- Other Concerns
  - Trip generation, Maximum fee, combined fees?