

AGENDA
REVISED
PUBLIC SAFETY ADVISORY COMMITTEE

January 26, 2017

6:15pm

Public Safety Building
3200 SE Harrison Street

- | | | |
|------|--|--------------|
| I. | CONSENT AGENDA | PSAC Members |
| | A. Approve Minutes from
October 27, 2016 meeting
December 01, 2016 meeting | ALL |
| II. | ACTION ITEMS | |
| | A. Election of Chair | |
| | B. Approval of Operating Manual | ALL |
| III. | DISCUSSION | |
| | A. Work Plan | |
| | B. SSMP Fee | Chuck |
| | C. Recruitment | |
| | 1.) Ardenwald/Johnson Creek | |
| | 2.) At-Large | |
| IV. | NDA Concerns | PSAC Members |
| V. | FUTURE MEETING DATE/AGENDA ITEMS | ALL |
| | Next regular meeting: February 23, 2017 | |
| VI. | ADJOURN | |

Milwaukie Public Safety Advisory Committee
Public Safety Building
3200 SE Harrison St
Milwaukie OR 97222

DRAFT MINUTES
October 27, 2016

In attendance:

Steve Bartol, Police Chief
Chuck Eaton, Engineering Director
Angel Falconer, Chair
Meg Elston, Co-Vice Chair
Regis Niggemann, Co-Vice Chair, Linwood
Pam Denham, Island Station
Ray Bryan, Historic Downtown
Tam Guy, Lewelling
Kim Travis, Ardenwald
Nicole Perry, at large

Regrets:

Ben Rousseau, Lake Road
Kit Donnelly, at large

6:19 PM Meeting called to order.

September minutes approved.

PSAC operation documents

Updated documents were shared via email prior to the meeting and reviewed during the meeting.

- Members suggested edits prior to and during the meeting.
- City Council may suggest 4 year committee terms with a maximum of two consecutive terms (instead of two year committee terms with a maximum of three consecutive terms).
- Discussion of the current vs past roles of the Chief of Police in PSAC.
- Clarification of the role of the Secretary.
- Discussion of the non-residential NDAs.
- Discussion of the history of PSAC section—Chief Bartol + Ray will work on the section.

Holiday season meeting

As in past years, the November and December meetings will be combined and rescheduled to:

DECEMBER 1, 6:00

Safe Routes to School Update

Ardenwald received an SRTS grant. They will meet with the Principle and PTO to implement. Per Nicole (and her work with North Clackamas School District), four schools self-selected into NCSD's SRTS program. The County needs county schools to sign up. They can probably help with supporting data input, but the process will be changing soon.

ADA Transition Plan/Walk & Bike Access Updates from Chuck

- The "Safe Access for Everyone (SAFE)" fee will go before Council on November 1.
- The SSMP (street surface maintenance program)
 - Projects are being prioritized right now.
 - The outcome of the gas tax proposal will influence what can be done when.
- People keep asking about [the upkeep of] residential streets, but the SSMP program was set up for arterials.
 - Council found some funding for some residential projects this year.
 - Council directed Engineering to look at the network as a whole.
- Without more funding, the 10-year SSMP plan will take 15 years.
 - The funding mechanism for the SSMP was set up without an inflation adjustment.

Neighborhood Concerns:

Betty (Filmore) – Concerning the bump out crosswalk on Washington, shouldn't there be a temporary sign indicating the traffic control change?

Per Chuck: Flashing beacons will be installed. They should have signs during construction.

The 37th & Harrison Intersection – The intersection remains dangerous, with minor fender benders happening frequently and major crashes continuing to happen.

Per Chuck: The City looked into the intersection, hired a firm for a full evaluation, which resulted in the parking reduction on one side of the street to prevent sightline obstructions (parked cars). The intersection does not meet the warrants (national guidelines) for stop signs. If the City went ahead and put in stop signs, then the city could be held liable for crashes. [The City is not liable if it follows the national set of guidelines, even if crashes continue.]

The SE 22nd & McLoughlin intersection – Per Island Station's Nextdoor, people are worried about the potential for car crashes. Drivers could stop for a person walking or riding a bike on the trail crossing the intersection and other drivers could crash into the stopped driver's car.

- ODOT & North Clackamas Parks & Rec are responsible for the road and trail, respectively.
- Every intersection is a crosswalk by Oregon law.
- Drivers turning off of McLoughlin should always be prepared to stop for pedestrians, so they must also be prepared to stop for other drivers stopping for pedestrians.

7:50 PM Adjourned

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December 1, 2016

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Angel Falconer, Chair
Regis Niggemann, Co-Vice Chair, Linwood
Heather Ray, Hector Campbell
Tam Guy, Lewelling
Kim Travis, Ardenwald
Nicole Perry, at large

Regrets:

Meg Elston, Co-Vice Chair
Pam Denham, Island Station
Ray Bryan, Historic Downtown

6:20 PM Meeting called to order.

We did not reach a quorum, so October minutes will need to be reviewed and approved in January.

Work Plan 2016/17

We are meeting our plan as set forth for 2016/17. Going forward:

- Prioritize the ADA Transition and Safe Routes To School (SRTS) projects for adoption by the beginning of the next fiscal year (July 2017).
- Check in on whether we need to do more regarding Milwaukie Greenway/Alternative Streets guidelines.
- Continue with SRTS outreach, adjusting PSAC direct/ongoing involvement as needed

Safe Routes to School Update

Ardenwald submitted their SRTS plan!

Milwaukie/El Puente received over 100 completed parent surveys.

Updates from Chuck

- The "Safe Access for Everyone (SAFE)" fee passed and will go into effect in January 2017.

- Engineering has a backlog of requests. Discussed ways that PSAC could help reduce that backlog, such as finding out what we could cover for traffic control requests.
- PSAC will need to work on prioritizing projects in the coming months.
- The erosion controls at Riverfront Park are for SAFETY. Please do not go around them.
- Kroninberg Park received its grant and will be finished.
- Milwaukie is working with Clackamas County for funding to accurately scope the Monroe Greenway project.
- Council would have to bring up the topic, project surveys, and funding to get more work on the Railroad Road/Linwood intersection (which is failing by traffic congestion standards).

Updates from Chief Bartol

- Package theft is an issue this time of year. Please be on the lookout, especially for people following delivery trucks. If you can, send packages to places of employment. If you see something, call the police.

Neighborhood Concerns:

Ardenwald (Elementary) is interested in putting together a Spring Fun Run, possibly coordinating with Lewelling NDA since many of the children who attend Ardenwald live in Lewelling.

Thank you to Angel Falconer for her service in PSAC. Best wishes as she transitions to City Councilor.

7:30 PM Adjourned

**CITY OF MILWAUKIE
PUBLIC SAFETY ADVISORY COMMITTEE
OPERATING MANUAL**

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- A. Review and make recommendations on community livability concerns from ~~Neighborhood~~Neighborhood District Associations (NDAs) related to public and safety issues that affect neighborhood livability in Milwaukie and within its urban growth boundary;
- B. Make recommendations for police and fire community partnerships;
- C. Promote education, awareness, and pro-active community involvement in the areas of public safety (pedestrian/bike/ transit/vehicle) and emergency preparedness (earthquake, flood, fire, freight and other physical disasters);
- D. Collaborate with local, county and state government agencies to develop strategies to mitigate community livability concerns;
- E. Such other activities as the council may assign. (Ord. 1869 § 3, 2000: Ord. 1797 § 3 (part), 1996)

MILWAUKIE PUBLIC SAFETY ADVISORY COMMITTEE (PSAC)
BY-LAWS

Adopted by the Milwaukie City Council under Resolution _____
_____, 2009

ARTICLE I: MEMBERS AND VOTING PROCEDURES

Membership of the Committee shall be as established by the Milwaukie Municipal Code and appointed by City Council. There are ~~7~~seven residential neighborhood association representatives and ~~4~~four members-at-large. Members-at-large contribute a broad perspective based on experience, property ownership, business or nonprofit partnerships, or an area of expertise relating to crime prevention, traffic safety, and public safety.

1. The term of office for members shall be from July 1st to June 30th (to allow NDA's to elect officers and ~~reps~~representatives at the same meeting). Each term equals two years. Members may be reappointed to the same position by City Council based on the original application (updated if necessary).
2. Members are expected to attend all meetings. Failure to attend at least seventy-five percent (75%) of the regularly scheduled meetings in a ~~twelve~~12 month period shall be grounds for a recommendation for removal. An NDA representative shall not be recommended for removal without first notifying and consulting with the NDA which is represented. Any recommendation for removal is presented to City Council which must make the final decision.
3. A quorum consists of a majority (~~6~~six) of the (~~11~~eleven) members, one of which must be an officer. If a quorum is not attained fifteen minutes following the scheduled time of call to order, the meeting can continue as an informational exchange only.
4. All eleven members who are present at committee meetings are each allotted one vote on all motions.
5. One member must make a motion and another member must second that motion in order for the Committee to vote. A motion is passed by a majority of the Committee members present. All members who are present at committee meetings may submit or second a motion.

ARTICLE II: DUTIES OF OFFICERS

The committee shall elect a Chair, Vice Chair, and Secretary.

1. The election of PSAC officers shall take place at the July meeting. The term of office for officers shall be from their election at the July meeting until the corresponding meeting 12 months later. In the event that an officer cannot complete a term, an emergency election shall be held for the completion of the term.
2. The Chairperson shall set the agenda, preside over meetings, appoint sub-committees as needed, and call special meetings or executive sessions as described in Article III.
3. In the event the Chairperson cannot attend a scheduled meeting, another elected officer shall act as the presiding officer, either as appointed by the Chair or by agreement of the members attending.
4. The Presiding Officer shall preserve the order and decorum of the meeting; direct discussion and comment to relevant issues; establish and enforce time limits for discussion and comment as appropriate; encourage citizen input, and ensure that each person is treated with respect.

ARTICLE III: MEETINGS

Regular meetings shall be held at 6:15 PM on the fourth Thursday of each month in the Public Safety Building. The time, date, and/or location of a particular meeting may be changed by a majority vote of a quorum of the membership at least ~~3~~three weeks prior to the meeting.

1. The public shall be notified of all Committee meetings by the City's general notification procedures.
2. The secretary shall be responsible for taking the minutes for each meeting and forwarding to designated staff responsible for keeping records and attendance.
3. The Chairperson shall be responsible for sending the agenda and all meeting materials to members and interested members of the public at least seven ~~(7)~~ days before the next scheduled meeting.
4. Special Meetings may be called at the request of the Chairperson or a majority of the Committee unless good cause exists for delaying until the next regularly scheduled meeting. Good cause may include such factors as staff availability, meeting room availability, and budgetary considerations.

5. Executive Sessions may be held consistent with City Council Meeting Provisions, Section 2.04.090 of the City of Milwaukie Code and applicable state law as stated in ORS 192.660.

ARTICLE IV: OPERATING PROCEDURES

1. An Operating Manual shall be adopted and provided to each member, along with a copy of the most current by-laws and the current year's work plan. The purpose of the Operating Manual is to provide consistency, clarity, and an open record of information needed to conduct the business of PSAC.
2. The Operating Manual shall contain:
 - a. the purpose and duties of PSAC as determined by the City Council;
 - b. details useful for conducting business, including communications with members, sub-committee duties, and any other regularly used procedures;
 - c. names, addresses, email addresses, phone numbers, and terms of office of the committee members, however, personal information shall be kept confidential by committee members unless written permission to share is provided to the chairperson.
3. Changes and additions to the manual may be suggested by any member and adopted by majority vote at any regular meeting.
4. The Operating Manual must be consistent with PSAC by-laws, the policies of City Council, and state law where applicable.

ARTICLE V: COMMUNICATION

PSAC, as a committee appointed by Milwaukie City Council, is subject to Oregon's Public Meetings Law.

1. Meetings: The officers of PSAC, with the assistance of the designated staff ~~hasen~~liaison, will be responsible for adhering to the Public Meetings Law regarding:
 - a. providing notices of regular and special meetings in a timely manner;
 - b. determining if and when public input will be given at a meeting and the process for doing so;
 - c. providing public access to the agenda and minutes of all meetings (except executive sessions);

- d. proper use of executive sessions;
 - e. access to meetings by the media (media representatives are legally not excluded from executive sessions but may be asked not to reveal what is said).
2. Withholding Certain Information: All verbal and written communication distributed at meetings should be considered public unless confidentiality is requested and an executive session is called. Unless otherwise prohibited by law, identifying information may be withheld from examples given when the purpose of a discussion is to brainstorm solutions or locate resources to deal with a community safety issue and the committee and/or designated staff liaison/liaison believe it is necessary in order to:
- a. protect someone's privacy;
 - b. avoid jeopardizing an ongoing investigation;
 - c. comply with a personal safety request by a party involved.

~~4.~~ *If such information cannot legally remain confidential, all parties should be notified in advance and given the option to withdraw from discussion or record.*

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3. Communication without Email Access: The primary form of communication outside of meetings will be by email. Any member who does not have internet access and/or email available is responsible for notifying the Chairperson and Secretary so that an alternate way of distributing notices, agendas, minutes, and other documents to that member can be determined.
4. Email Decorum: Emails should be clearly written and expressed in a manner in keeping with expected conduct at PSAC meetings.
5. Email Retention: Email exchanges between members (communicating as members) are considered public records. Emails will be used primarily for notification, clarification, proposing agenda items, meeting suggestions, and reminders. Copies are to be sent to the whole group in order to avoid confusion and simplify compliance with the law. The Chairperson and Secretary will determine how and where to retain copies of emails which qualify for retention under state law.
6. Unsolicited Emails: Emails from outside PSAC to any member and which refer to PSAC related business, actions, or discussion (past, present, or future), shall be acknowledged as received by the recipient in a reply to the sender and a copy forwarded immediately to the Chairperson and designated staff liaison/liaison who will decide:
- a. whether the email is best handled by an email reply or an invitation to be on the agenda at a meeting;

- b. who should handle the follow-up communication.

This is to ensure compliance with the Public Meetings Law and to continue the practice of including all members. If all members receive a copy of an unsolicited email concerning PSAC, the Chair and designated staff ~~liaison~~ liaison will be responsible for the reply.

7. Forwarding Internal Emails: To avoid misinterpretation and confusion, discussion sorts of emails should not be forwarded outside the PSAC membership without the permission of each writer, and should always include an explanation which puts the email in a proper context. The preferred response is to encourage others to contact the Chair or Secretary for specific information rather than having an individual forwarding emails. Emails containing only meeting reminders, the agenda, and minutes may be forwarded to anyone, anytime.
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9. Public Notice: Members are encouraged to add a notice when appropriate to the PSAC emails they send informing the recipients that the email is subject to disclosure. Here is a sample:

PUBLIC RECORDS LAW DISCLOSURE: This e-mail is a public record of the City of Milwaukie and is subject to public disclosure unless exempt from disclosure under Oregon Public Records law. This email is subject to the State Retention Schedule.
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11. Members' Personal Information: The Oregon legislature has determined that the phone number, mailing address and/or residence and other personal privacy information of a public employee is not "public information." It is assumed that volunteers are subject to the same privacy protection. Each member may choose whether their personal information may be provided to the public on the city website or by any other means. PSAC members who are provided with personal information about other members (such as for a telephone tree) are expected to keep that information confidential. This information may be updated to comply with revised Oregon laws or other policies, as needed in the future.

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1. By-laws need to be reviewed annually at the January or February meeting.
2. By-laws may be amended, repealed or altered by a majority of a quorum of the committee, subject to approval by the City Council. A copy of the proposed changes must be sent to all members before a vote may be taken.

These by-laws approved by PSAC on

DRAFT

PSAC Orientation & Information

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Originally, PSAC was conceived to provide assistance to various causes such as the Milwaukie Police K9 Unit, Milwaukie Police Office Recognition Dinner, etc.

Because there are costs involved with most of the above causes, the Milwaukie Public Safety Foundation was created to be the fundraising entity to support these activities.

More recently, PSAC changed focus to matters of more general public safety concerns such as Safe Routes to School, pedestrian/bicycle safety and access, and Americans with Disabilities Act (ADA) improvements.

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Milwaukie Public Safety Advisory Committee

[DRAFT] Work Plan

2016-2017

Fall/Winter 2015-2016

ADA/Bicycle/Pedestrian Accessibility Program

Council has designated PSAC as the Community Planning Advisory Council for the federally mandated Americans with Disabilities Act Accessibility Plan. In addition to ADA accessibility, the community has a strong desire to address Milwaukie's lack of pedestrian and bicycle infrastructure in general, as was made clear in this year's goal-setting process. On the advice of the Engineering Department, and to save limited resources, PSAC intends to address ADA/pedestrian/bicycle accessibility in an "All Access" Plan rather than focusing only on ADA projects. PSAC is well suited as the only committee with members from all Neighborhood District Associations, and in this role PSAC will assist the City Manager's office, Engineering, Planning, and Community Development Departments with the following activities:

1. Identifying and prioritizing facilities, routes, obstacles and solutions;
2. Public outreach, identifying and facilitating communication with community groups and other partners so all interested parties have an opportunity to participate in the development of the plan; and
3. Make a recommendation to City Council at the completion of the plan.

Winter 2016

Greenways/Alternative Street Design Standards

PSAC will work with the city's Engineering Department regarding the design of alternative standards for greenways and other low-volume, low-speed streets. Currently, the city does not have an official plan or design standards for greenways, and as a result, they trigger the same requirements for street improvements as on any other local street (i.e. wide car lanes, traditional curbs and sidewalks). Many residents who live on these quiet streets have expressed strong preference for improving the streets only in ways that preserve the streets' current function as shared spaces (similar to Dutch *woonerfs*). PSAC will designate volunteer(s) to attend the design workshops and report back to the committee and NDAs for input.

Spring 2016, Fall 2016-Spring 2017

Safe Routes to School Action Plans

Automobile congestion and a lack of safe routes are creating unsafe conditions around schools. Many children are not walking or biking to school, and this lack of exercise negatively impacts classroom performance and contributes to long-term health problems. PSAC will spearhead or support the creation of SRTS Action Plans for all of Milwaukie's public elementary and middle schools. PSAC members will work with parent-teacher organizations, NDAs, regional SRTS and community partners, police, city staff and the principals of each of the neighborhoods' schools:

- Ardenwald Elementary (planning in progress) - Kim Travis
- El Puente/Milwaukie Elementary - Ray Bryan
- Lewelling Elementary - Tam Guy
- Linwood/Sojourner Elementary (already complete) - Nicole Perry, Regis Niggeman
- Rowe Middle School - Kit Donnelly, Ben Rousseau
- Wichita Center - Nicole Perry, Regis Niggeman

Continued/Ongoing

Milwaukie Police, Clackamas Fire, CERT, MPSF

PSAC recognizes and appreciates the ongoing work of our police force, fire and rescue, as well as the important contributions of the volunteers of Community Emergency Response Team and Milwaukie Public Safety Foundation. PSAC will continue to respond to neighborhood concerns and act as the liaison between Police/Fire and the NDAs. PSAC will work to maintain the strong relationships it has built with these organizations by inviting a member from one of these groups to each meeting and by promoting important events throughout the year and/or designating volunteers to assist as our schedules allow:

- Shred Day/Prescription Drug Drop Off Day - Each year in/around April
- 9K for K9 - Each year in around July
- Bike Giveaway - Each year in/around April
- Officer of the Year Dinner - Each year in/around February
- CERT Dinner - Each year in/around October
- Bike Rodeo - First Wed in May, First Friday (possibly adding others to promote SRTS)

CUAB Meeting Minutes
Wednesday, December 7, 2016
Johnson Creek Facility - CD Conference Room
6101 SE Johnson Creek Blvd

Members Present

Vincent Alvarez, Chair
Kevin Hasey, Vice Chair
Edward Simmons

Members Absent

Joel Bergman

Staff Present

Chuck Eaton, Engineering Director
Gary Parkin, Public Works Director

Meeting began at 7:30 p.m.

I. CONSENT AGENDA

The October 5, 2016, meeting minutes were approved 3-0.

II. REPORT

- A. SSMP Fee – Engineering Director Eaton discussed the potential updating of the Surface Street Maintenance Program. He shared the news of the SAFE program which will collect a rate of \$0.46/trip or \$4.60/residential property and asked the group how comfortable they are with the overall rate picture. Also noted was the failure of the County gas tax measure in the November 8, 2016 election. Had it passed, included funding for the City would have reduced the City funding need.

Changing the SSMP requires an ordinance revision as the rate is part of an ordinance. City Council will consider the issue, and wanting a recommendation from the CUAB, at the May 16, 2017, City Council meeting.

Chuck asked for the CUAB to look at several options:

- Maintaining status quo (no SSMP rate change) (Pavement Condition Index (PCI) falls to 61 over 20 years, no reconstruction done)
- Indexing current rate (\$4.03/residential property now, continue to index annually)

- Increasing the rate to \$6.57/residential property (PCI raised/maintained at 75)
- Increasing the rate to \$7.70 (bond to reach PCI of 75 sooner)

B. Chuck took the group on a virtual tour of the City using Google Earth for the purpose of reviewing PCI values of many streets with a variety of surface conditions.

III. DISCUSSION

- A. Ed asked that a comparison of overall utility rates paid by citizens in Milwaukie, Happy Valley, Gladstone, Oregon City and Portland be provided at the next meeting. Chuck reminded the group that the SAFE program would pay for ADA improvements required as part of some SSMP projects, funding that is currently coming out of the SSMP budget.

IV. FUTURE MEETING DATE/AGENDA ITEMS

To prepare for the budget adoption in May, upcoming meetings will focus on the following:

January will consider Street funding

February – Water rates

March – Wastewater rates

April – Stormwater rates

May - final for May 16th budget meeting

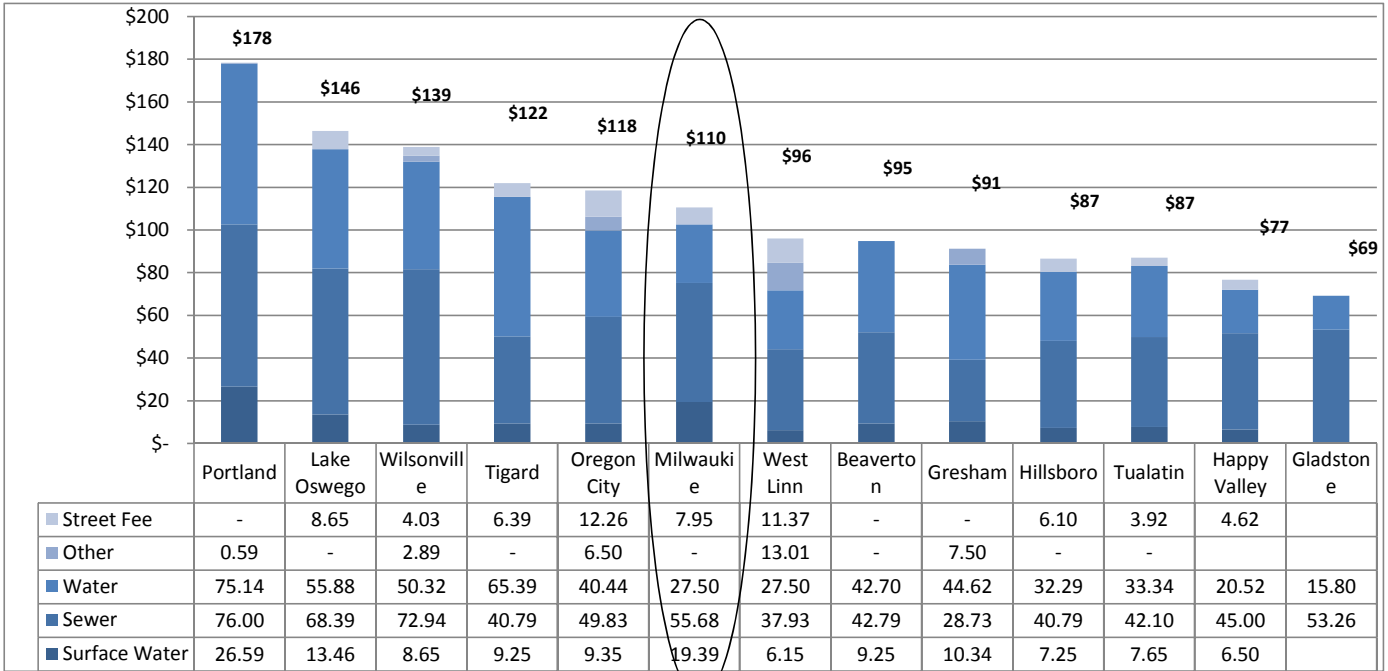
V. ADJOURN

Adjourned at 9:00 p.m.

Vincent Alvarez, Chair

Gary Parkin, Scribe

2.4. Comparison Graph of Average Utility Bills of Neighboring Cities (on a monthly basis)



This graph compares the average utility bills for the neighboring cities surrounding Milwaukie. As some cities bill monthly, some bill every two months, and some bill every three months, these amounts are converted to average monthly amounts so they are comparable to Milwaukie. Also, cities increase different rates at different times during they year; therefore, this graph is simply a picture in time reflecting the rates at the time that the survey was conducted. And finally, cities have different average water consumption amounts per household; so for the sake of this comparison, these rates are computed using an average 6ccfs of water used per month to be comparable to Milwaukie's overall average. Below are Milwaukie's calculations:

	July 1, 2014			July 1, 2015			Jan 1, 2017		
	increased	avg bill		increased	avg bill		increased	avg bill	
Water Service Fee									
Base	12.8%	0.77	\$ 6.81	5.0%	0.34	\$ 7.15	3.5%	0.25	\$ 7.40
Plus per 6ccf	12.8%	2.10	18.54	5.0%	0.90	19.44	3.5%	0.66	20.10
<i>Avg water per house (6ccfs)</i>			25.35			26.59			27.50
Sewer Service Fee									
Base fee	5.6%	1.44	27.54	4.5%	1.24	28.78	4.0%	1.15	29.93
Plus per 6ccf	5.6%	1.26	23.67	4.5%	1.08	24.75	4.0%	1.00	25.75
<i>Avg sewer per house</i>			51.21			53.53			55.68
Storm Water Management Fee	14.1%	1.84	14.89	14.1%	2.10	16.99	14.1%	2.40	19.39
Street Maintenance Fee	0%	N/A	3.35	0%	N/A	3.35		4.60	7.95
Average bill per residence			<u>\$ 7.41</u> <u>\$ 94.80</u>			<u>\$ 5.66</u> <u>\$100.46</u>			<u>\$ 5.46</u> <u>\$110.52</u>



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.

Existing Code

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,

Proposed Code Amendment

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

~~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~~

~~4A. 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.~~

~~3B. 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~~

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

Proposed Code Amendment

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

42. 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.

53. 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 homes and 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

Proposed Code Amendment

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
<u>Assisted Living facilities</u>	<u>One (1) bed</u>
<u>Residential uses, except assisted living</u>	<u>One (1) dwelling unit</u>

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.

Proposed Code Amendment

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

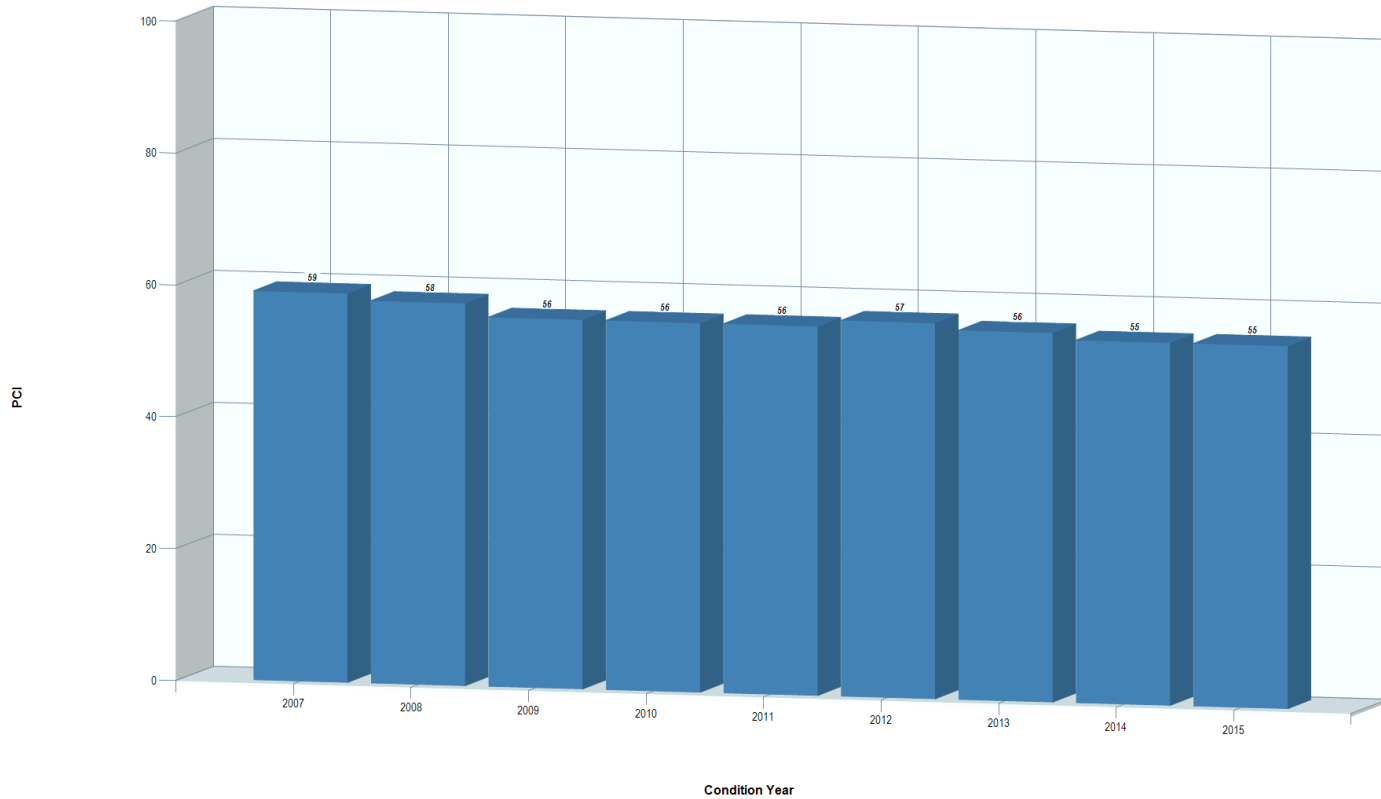
City Council Work Session

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.



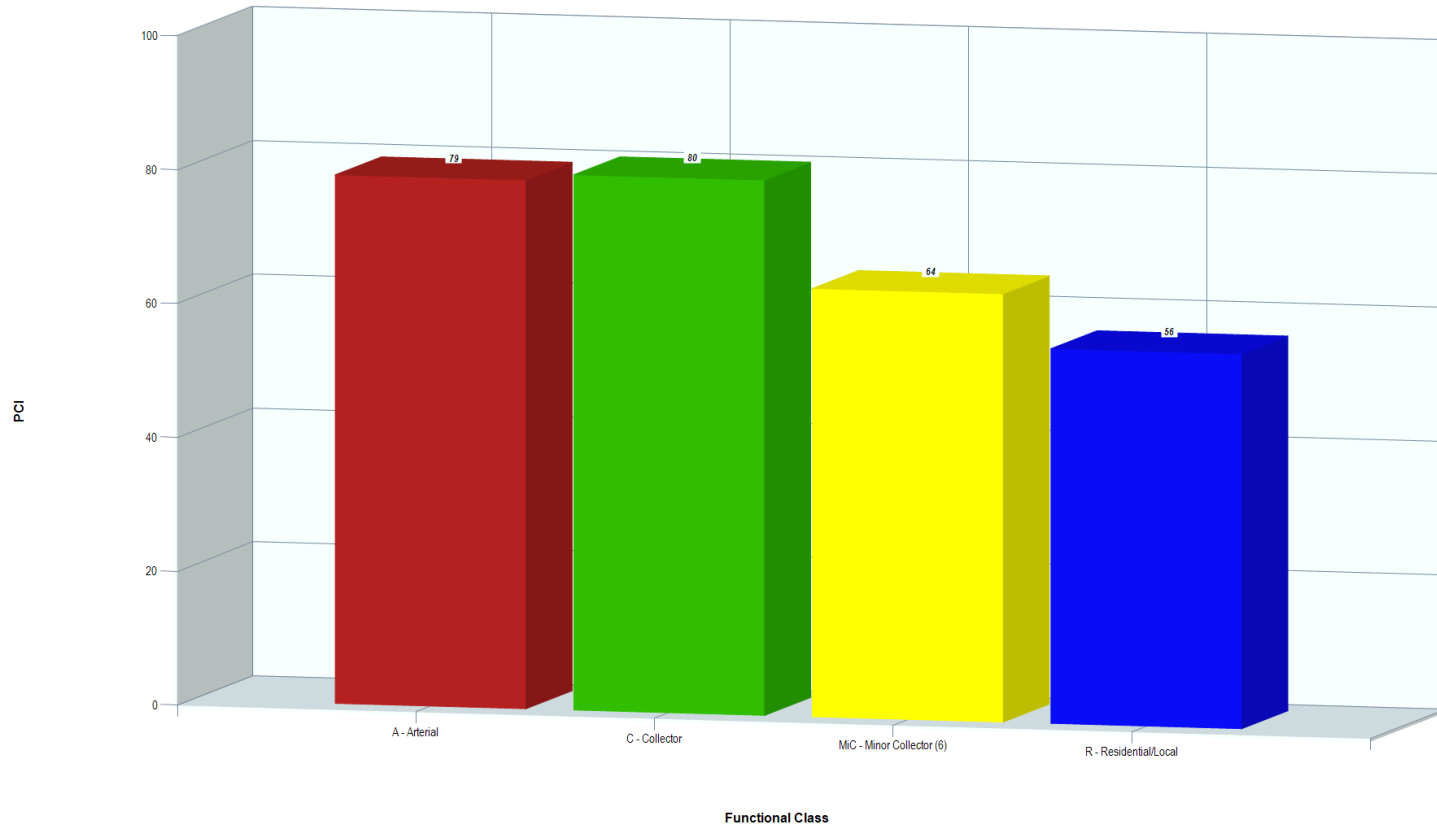
Weighted Average Pavement Condition Index



8/2/2016

City Council Work Session

Weighted Average PCI by Functional Class



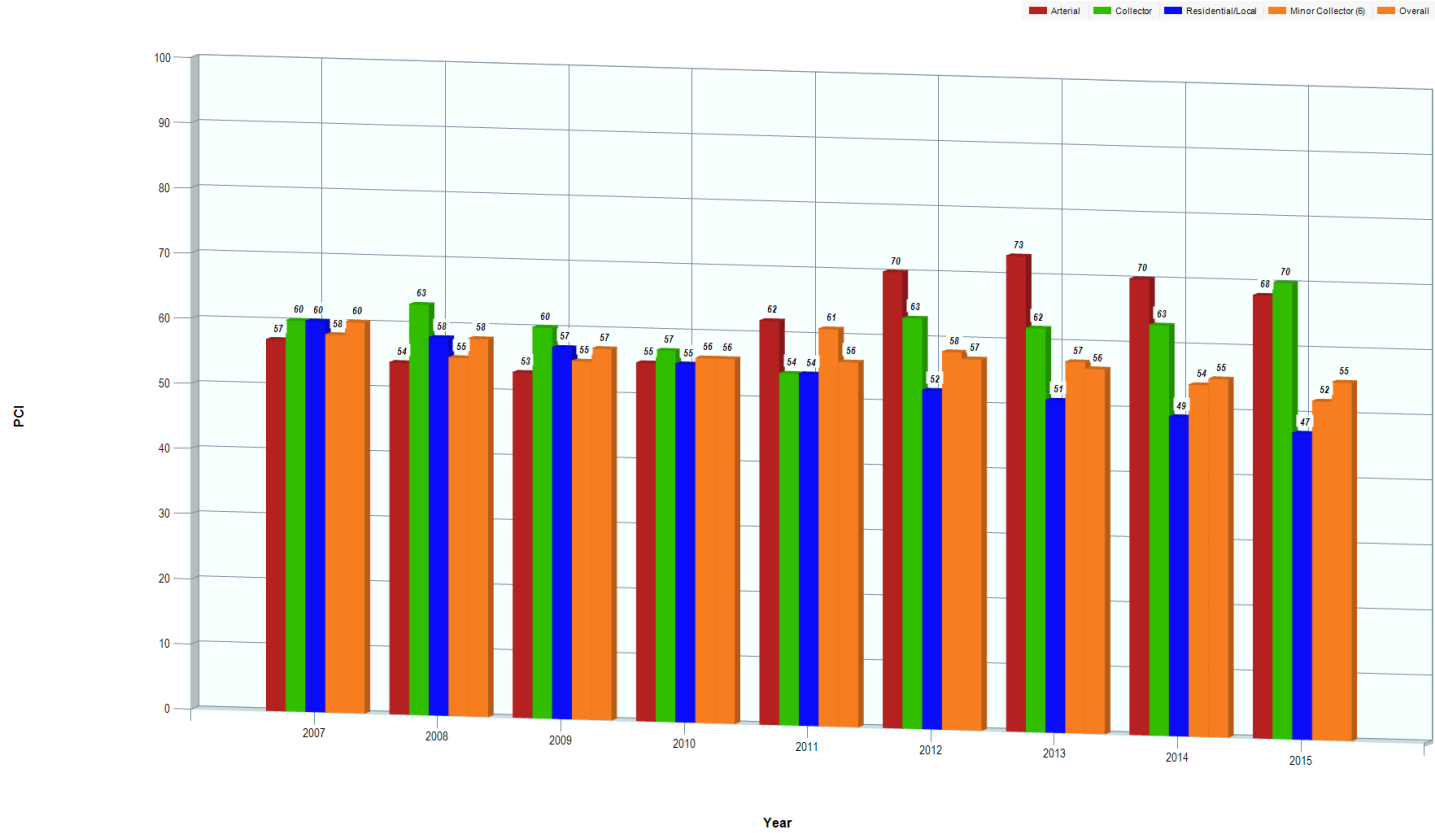
Existing Financial Status

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

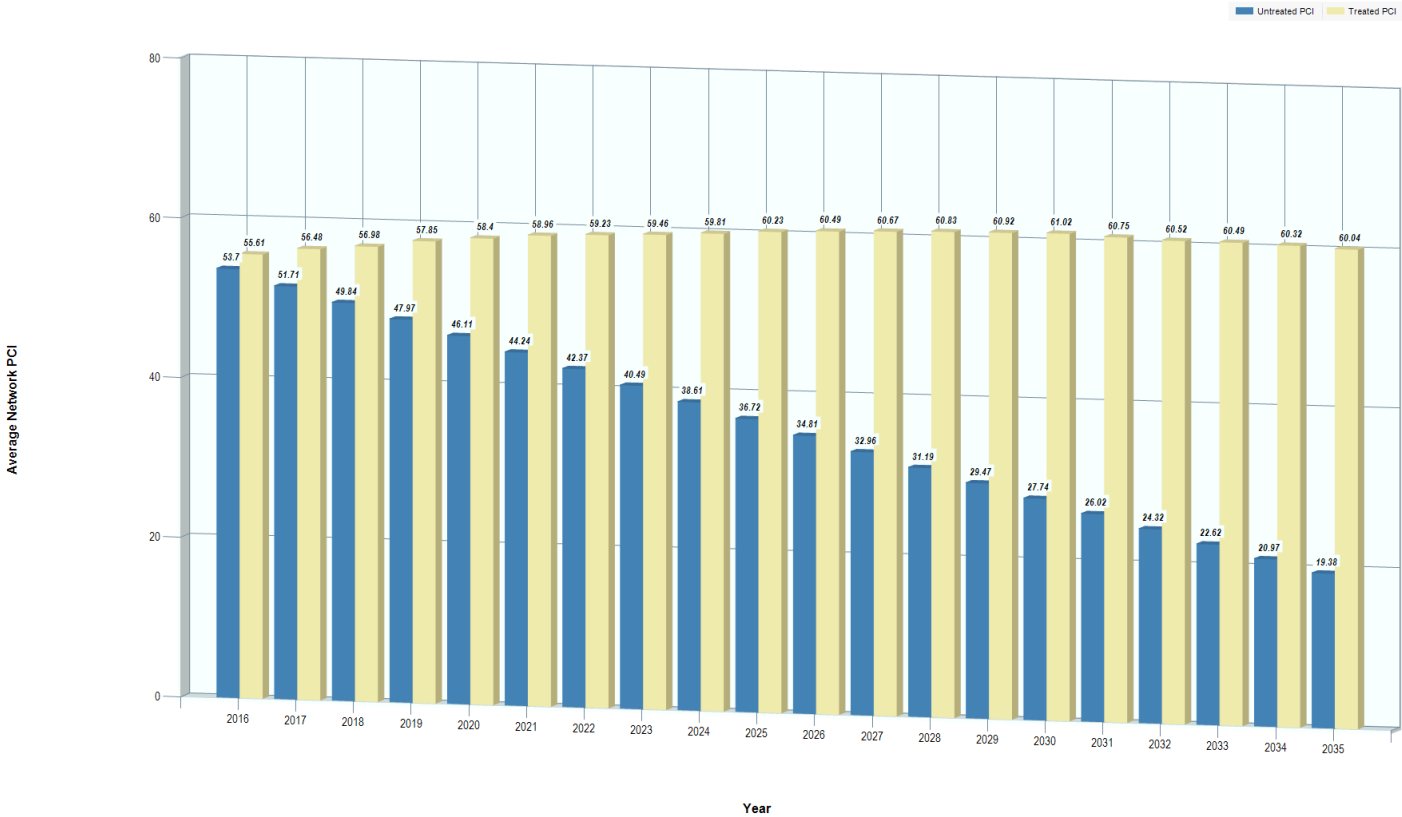
- Total estimated Income \$1,123,000/yr.



Historical Network PCI



Scenario Pavement Condition Index

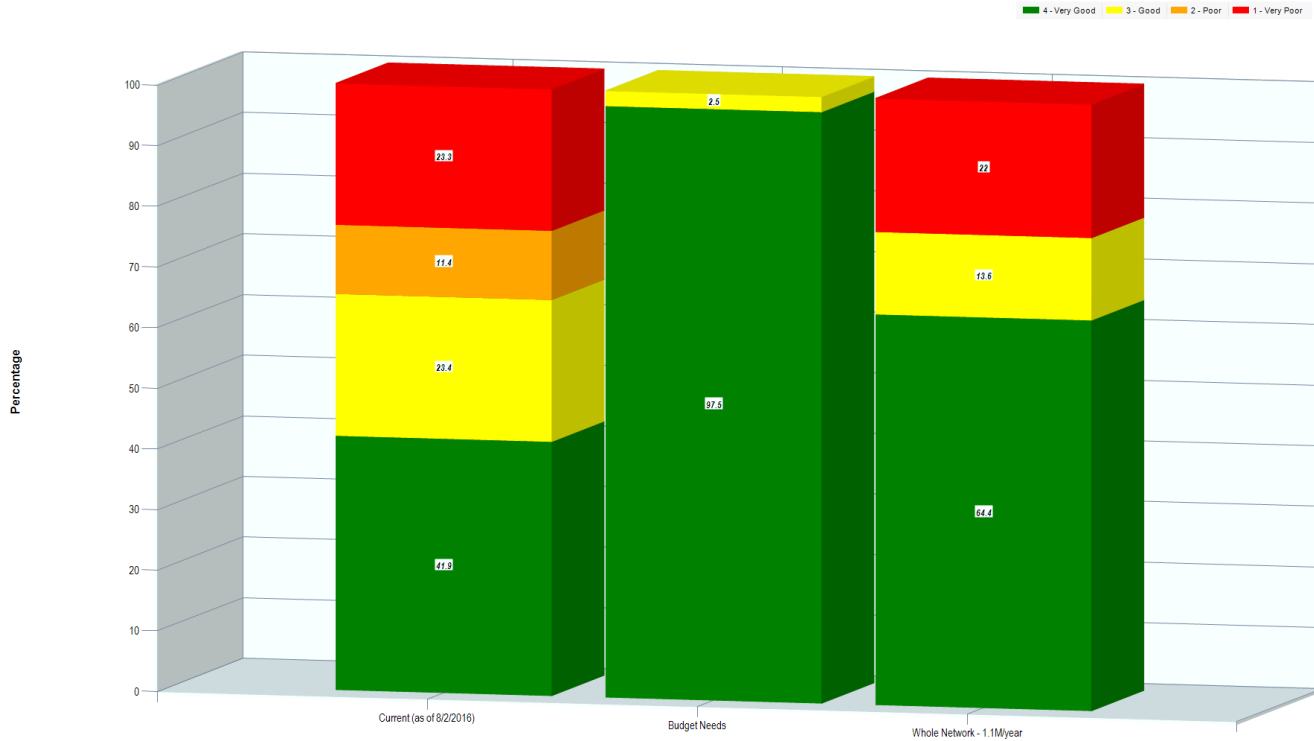


Estimated Projects

- 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)



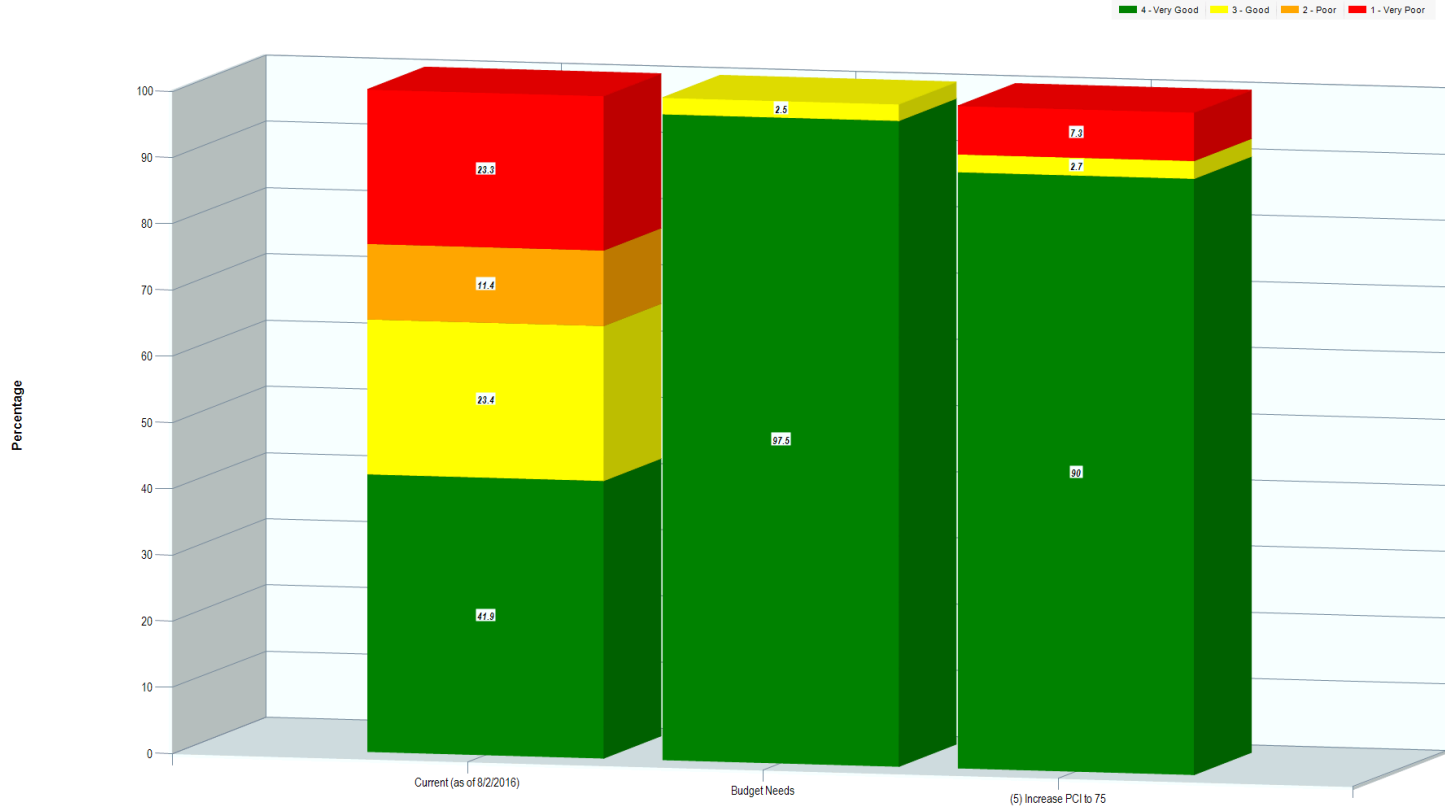
Pavement Condition Changes under Budget Scenarios as of 2035



- 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.



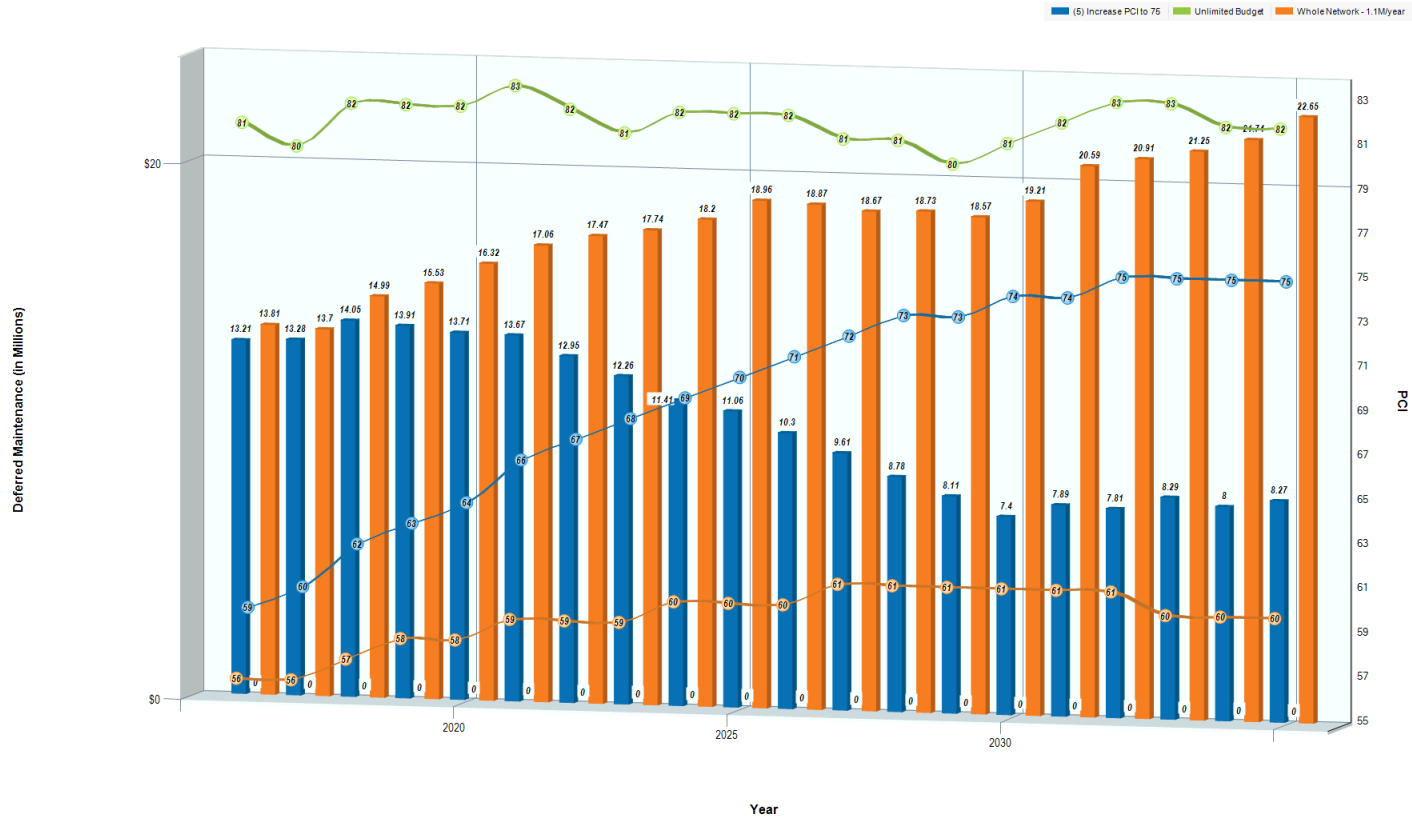
Pavement Condition Changes under Budget Scenarios as of 2035



- 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.



Scenario Comparison - Deferred Maintenance and PCI



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?



Public Safety Advisory Committee - January 2017

Position #	Title	First Name	Last Name	Date First Appointed	First Term End Date	Number of Times Reappointed	Current Term End Date	Current Full Term Serving	Termed Out (Yes or No)	NDA	Notes
1	Member - At-Large	Nicole	Perry	7/8/2015	6/30/2017	0	6/30/2017	1st	No	Linwood	
2	Member - Lewelling NDA	Tam	Guy	7/1/2016	6/30/2018	0	6/30/2018	1st	NA	Lewelling	
3	Member - Lake Road NDA	Ben	Rousseau	7/8/2015	6/30/2017	0	6/30/2017	1st	No	Lake Road	
4	Member - At-Large	Christopher "Kit"	Donnelly	4/8/2015	6/30/2016	1	6/30/2018	1st	No	Historic Milwaukie	
5	Member - Historic Milwaukie NDA	Ray	Bryan	9/2/2003	6/30/2005	6	6/30/2018	7th	NA	Historic Milwaukie	
6	Member - Island Station NDA	Pam	Denham	7/1/2016	6/30/2018	0	6/30/2018	1st	NA	Island Station	
7	Member - Ardenwald/Johnson Creek NDA	Vacant					6/30/2018				
8	Member from Hector Campbell	Heather	Ray	12/7/2016	6/30/2018	0	6/30/2018	0	NA	Hector Campbell	
9	Member - Linwood NDA	Regis	Niggemann	5/14/2015	6/30/2016	1	6/30/2018	1st	NA	Linwood	
10	Member - At-Large	Megan	Elston	7/1/2016	6/30/2018	0	6/30/2018	1st	No	Historic Milwaukie	
11	Member - At-Large	Vacant					6/30/2018				
12	Staff Liaison	Chuck	Eaton								

Terms: Eleven members (7 NDA members and 4 at-large members.) Two year terms. No term limits for NDA representatives, but for at-large members, not more than 3 successive terms unless there is an interval of at least one term prior to the reappointment. Appointments will expire the last day of June. NDA members shall be appointed by Council after nomination by the NDA. The recommendation shall be reflected in the minutes of the NDA and provided to the City.