



# PARKS AND RECREATION BOARD

Milwaukie Parks and Recreation Board | 6101 SE Johnson Creek Blvd, Milwaukie, OR 97206

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## Members

Ben Johnson (Chair), Ali Feuerstein (Vice-Chair), Heather Baskerville (Acting Secretary), Gary Klein, Sabina Spencer, Jackson Calhoun, Virginia Pai, Councilor Desi Nicodemus

NCPRD Staff: Heather Koch, Planning and Development Manager

Milwaukie Staff: Natalie Rogers, Climate and Natural Resources Manager (PARB Liaison), Adam Moore, Parks Development Coordinator, Ann Ober, City Manager

## **AGENDA:** August 24, 2022 | 4:30 – 6:00 p.m. | Online Zoom Meeting

4:30 – 4:35	Welcome/Review minutes from the July 27 meeting	Ben
4:35 – 4:45	Public Comment (General)	Ben
4:45 – 5:10	City Updates	City Staff
5:10 – 5:30	PARB/Parks Development Follow Up	Adam
5:30 – 6:00	Parks Development Updates	Adam

## PARB GOALS – 2022

**Engagement:** Invite and track participation from marginalized community members and community-based organizations or stakeholders/jurisdictions in park events and planning

**Engagement:** Find or create outreach materials to increase awareness of park presence and amenities for community members

**PARB Administration:** Add an equity and inclusion goal/statement in the upcoming PARB bylaws by the end of 2022

**PARB Administration:** Define how to track PARB annual goal data in monthly minutes

**Sustainability:** Learn more about food forests and edible landscaping/community gardens in parks

**Advocacy:** Advocate for a 'destination playground' for universal ability play



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## Present Members

Ben Johnson, Gary Klein, Sabina Spencer, Jackson Calhoun, Virginia Pai, Heather Baskerville, Ali Feuerstein, Martín Alvarez, Councilor Desi Nicodemus

City Staff: Natalie Rogers (staff liaison – Climate and Natural Resources Manager), Adam Moore (Parks Development Coordinator), Courtney Wilson (Urban Forester) and Ann Ober (City Manager)

## July 27, 2022 | 4:30 – 6:00 p.m. | Zoom Meeting

AGENDA: July 27, 2022 | 4:30 – 6:00 p.m. | Online Zoom Meeting

Minutes from the June 22 PARB meeting were approved.

No members of the public were present for public comment.

## City Updates

- City is considering leaving NCPRD and are progressing with exploring pathways for leaving the district. A legal argument was filed with a judge to confirm the city's ability to leave the district through the current intergovernmental agreement. Timing milestones will be based on the result. NCPRD filed a counter argument.
- Park services will be needed which will require funding (levy or park fees may be options). A levy on the upcoming ballot will be the path for continuing funding. More details are to come.
- If City proceeds with departing from NCPRD, PARB will play a significant role in helping scope this transition and the future of parks under City operations.

## Administration/Housekeeping

- Bylaws Update: Looking for 2-3 people to review bylaws to draft for adoption before October (Sabina, Martin, Ben)
- In-person meetings/virtual meetings: Open to every other or quarterly zoom / in person meeting; hybrid options to be available if in person. May need the ability to record. Follow CDC guidelines for minimum rules (seating or masking considerations); may need to determine covid expectations. no action needed from PARB, voting will happen in the future.
- Jackson is resigning from PARB after 7/27/2022
- Need coverage for August for Heather B – Staff to help find minutes/notes coverage

### **PARB/Parks Development Calendar**

- Scott Park new master plan needs to go to counsel on Dec 6; tight deadlines. If PARB is interested in deeper involvement than additional time and flexibility will be needed outside of PARB meetings.
- Calendar of events:
- Special meeting Before Aug 19 needed for Scott Park feedback and PARB review - recommended on 8/18; Second engagement opportunity in October for PARB members if special meeting not possible. Natalie to share a doodle poll.

### **Parks Development Updates – Recording available on Milwaukie’s YouTube Channel**

- Review calendar of events
- Balfour Park Open House - 57 people that signed in (estimated 75 with families)
- Survey on Engage Milwaukie is an option to provide similar feedback
- Heat wave changed the Bowman Brae open house date. 3 people showed up to original event date/time; open house was postponed to Aug 6.
- Could use help and volunteers for Bowman Brae Open house
- Opportunity for additional time for PARB meeting on 9/28 for park design discussions

6:00 Adjourn

**PARB CALENDAR OF EVENTS – DRAFT ONLY - REVISIONS PENDING (rev. 08/22/2022)**

						ACTIONS			
OPEN PUBLIC ENGAGEMENT EVENT						PARB FEEDBACK	VOLUNTEER		PUBLIC FEEDBACK
SCHEDULED PARB MEETING									
DATE	TIME	EVENT	PRESENTED MATERIALS	EVENT DELIVERABLES					
JULY 20	6-8p	<b>Balfour Park Open House</b>	Existing plans/opportunities Public Survey			X		X	
JULY 21 – AUG 4		Engage Milwaukie Survey Launch – Balfour	Public Survey					X	
JULY 25		Focus Group – Persons with Disabilities (invitation only)	Focus Group Survey						
<b>JULY 26 POSTPONED</b>		<b>Bowman Brae Open House</b>	Existing plans/opportunities Public Survey			X		X	
JULY 25 – AUG 15		Engage Milwaukie Survey Launch – Bowman Brae	Public Survey					X	
JULY 27		<b>PARB MEETING</b>	Park Development Calendar, Timelines and Deadlines	1. PARB volunteer assignments	X				
<b>AUGUST</b>									
<b>AUG-3 POSTPONED</b>		Focus Group – BIPOC Community (Invitation only)	Focus Group Survey						
AUG 4	6-8p	<b>Scott Park Public Planning Meeting</b>	Scott Park – 2 Concept Plans			X		X	
<b>AUG 6</b>		<b>Bowman Brae Open House</b>	Existing plans/opportunities + survey			X		X	
AUG 7		<b>CareFree Sunday</b>	General Outreach Materials						
AUG 9		<b>City Council - Park District Discussion</b>	Staff report – will be sent to PARB						
AUG 16		<b>City Council – Park District Vote</b>	Staff report – will be sent to PARB						
AUG 15		<b>PARB MEETING (special)</b>	Scott Park Concept Plans, Bowman Brae and Balfour Existing 2015 Plans	1. PARB minutes w/ feedback on two concept plans 2. PARB minutes w/ feedback on B+B and Balfour Park	X				
AUG 4 - 18		Engage Milwaukie Survey Launch – Scott Park	Public Survey						
AUG 19	<b>END OF FEEDBACK COLLECTION – NEED TO SCHEDULE PARB MEETING BEFORE 8/19 IF FEEDBACK REQUESTED</b>								

AUG 24		PARB MEETING	August Council Result Discussion		X			
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**SEPTEMBER**

SEPT 20		MILWAUKIE CITY COUNCIL Development Update	High level summary/engagement overview					
SEPT 22	5:15pm	Playground Design Presentation	General playground design options/challenges/opportunities (not park specific)		X			
SEPT 28		PARB MEETING (Extended meeting)	Summary report from focus groups and public meetings		X			

**OCTOBER**

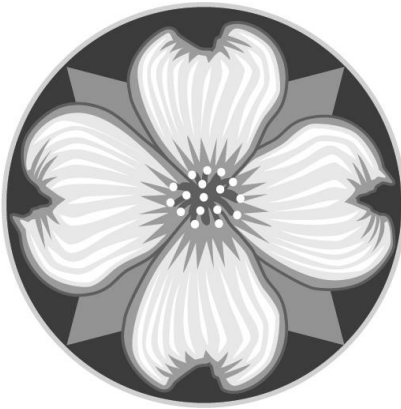
OCT 6 - 19		Public Engagement for Draft Plans - Survey	Draft Park Plans: • Bowman Brae (1) • Balfour (1) • Scott (1.5/2)					X
OCT 19		PARB MEETING (Special meeting)	Draft Park Plans: • Bowman Brae (1) • Balfour (1) • Scott (1.5/2)	PARB minutes w/ feedback on concept plan	X			
<b>END OF FEEDBACK COLLECTION - 10/19</b>								
OCT 22	10:00am-12:00pm	Arbor Day Celebration	General Outreach Materials					X
OCT 26		PARB MEETING						

**NOVEMBER**

NOV 1		MILWAUKIE CITY COUNCIL Development Update	High level engagement summary					
<b>NOV 8 - ELECTION - LEVY BALLOT</b>								
NOV 16		PARB MEETING (Special Meeting)	Final unadopted plans for all parks • NOT included in packet	1. PARB minutes w/ final feedback 2. PARB motion to approve on final unapproved plans 3. PARB coordination on letter of support for 12/6 council	X		X	
NOV 23		Staff Report submitted for Parks development designs						
NOV 23 - DEC 2		PARB writes letter of support		Letter of support				

**DECEMBER**

<b>DEC 2</b>		PARB submits letter of support to OCR	Letter of support signed by PARB members individually			X		
<b>DEC 6</b>		<b>MILWAUKIE CITY COUNCIL</b> Plan review and approval	Final unadopted plans for all parks (presented at PARB 11/6) PARB Letter of support			X		



**Study Session**

**SS**

**Milwaukie City Council**

## COUNCIL STUDY SESSION

City Hall Council Chambers, 10722 SE Main Street  
& Zoom Video Conference ([www.milwaukieoregon.gov](http://www.milwaukieoregon.gov))

## AGENDA

August 9, 2022

**Council will hold this meeting in-person and through video conference.** The public may attend the meeting at the library or by joining the Zoom webinar. The meeting will be recorded and broadcast later.

**To participate in this meeting by phone** dial 1-253-215-8782 and enter Webinar ID 837 5111 0754 and Passcode: 107967. To raise hand by phone dial \*9.

**Written comments** may be submitted by email to [ocr@milwaukieoregon.gov](mailto:ocr@milwaukieoregon.gov). Council may take limited verbal comments. **For Zoom webinar login information** visit <https://www.milwaukieoregon.gov/citycouncil/city-council-study-session-132>.

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

**Page #**

1. **Climate Goal Update - Discussion** (5:15 p.m.) 1  
Staff: Natalie Rogers, Climate and Natural Resources Manager
  
2. **Parks Update - Discussion** (6:15 p.m.) 10  
Staff: Ann Ober, City Manager
  
3. **Adjourn** (7:15 p.m.)

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

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

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

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



**COUNCIL STAFF REPORT****To:** Mayor and City Council**Date Written:** Aug 5, 2022**Reviewed:** Kelly Brooks, Assistant City Manager  
Peter Passarelli, Public Works Director  
Adam Moore, Parks Development Coordinator  
Justin Gericke, City Attorney**From:** Ann Ober, City Manager**Subject: Parks History and Funding Measure**

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**ACTION REQUESTED**

City Council has asked staff to investigate the path to departing North Clackamas Parks and Recreation District (NCPRD) as the city's park provider. This staff report provides the history and background of the city's relationship with NCPRD. It also addresses potential avenues to leave the district and investigates future funding options to fund a city parks department. Due to existing litigation and questions relating to the departure process, staff will not request a final decision at this meeting about leaving the district. The purpose of today's discussion, however, is to determine council's interest in advancing a funding measure to fund future parks services in the city. It is also to determine the Council's opinion on the current SDC process underway at NCPRD.

**Council Direction**

On May 10, 2022, Council directed staff to investigate leaving the district. That direction required staff to take the following actions:

- 1) Determine city's legal path for leaving the district.
- 2) Investigate the feasibility for the city to again provide parks services.
  - a. Determine the current park needs
  - b. Determine the cost to provide maintenance and operation services to the current standard.
  - c. Investigate programming partnerships with NCPRD and alternative agencies.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

In 1990, the City and Clackamas County worked together to create a new Parks and Recreation entity – NCPRD. The district is “governed by Clackamas County’s Board of County Commissioners. NCPRD is the only parks and recreation district structured as a county service district in the state of Oregon. Other urban parks districts are structured as independent districts under ORS 266, which was created specifically for parks and recreation districts.”(NCPRD Website, 2022)

Since its inception, the city's relationship with NCPRD has been governed by an Intergovernmental Agreement (IGA). The original agreement was signed in 1990 and subsequent amendments were adopted in 1992, 1995, 2008 and 2020. Throughout that time, the

entities have also adopted several project specific agreements. The city's ability to withdraw was an important consideration in participating in the district and always understood to be a decision of council.

### **Milwaukie Parks**

Prior to and since joining the District, the city has been the primary developer of park spaces within the city. Currently, the city is constructing Balfour, Bowman Brea and Scott Parks. The city's 2023-2027 adopted capital improvement plan includes funding for Dogwood Park (2024) and realignment of the Trolley Trail at Milwaukie Bay Park (2027).

Milwaukie currently offers 87 acres of parks and natural open spaces, not including trails or linear parks. 82.8 acres is dedicated as park land. The remaining acreage is public right of way, natural areas, and detention ponds. Given Milwaukie's current population based on the US Census's American Community Survey for 2021, Milwaukie currently offers 3.93 acres of dedicated parkland per 1000 residents. Oregon's Statewide Comprehensive Outdoor Recreation Plan (SCORP) recommends between 6.25 acres and 13.5 acres of public parkland per 1,000 residents. Both before and since creating the district, these parks have largely been constructed by the city (instead of NCPRD), utilizing grants and city resources. The exceptions to this have been early investments in North Clackamas Park, construction of Wichita Park in 2019 and the unpaved natural trails in Spring Park and Kornberg Park.

### **Milwaukie Bay Park**

Planning for Milwaukie Bay Park—previously named Riverfront Park—began in earnest in 1998 with the establishment of the Milwaukie Riverfront Task Force by the City Council with a mission to advance the development of the park. Subsequently, the Downtown and Riverfront Land Use Framework Plan adopted in 2000 (and updated in 2015) identified development of the Riverfront Park as a high priority project. The plan recognized the park as the City's "living room," established it as a location for special events, and called for strengthened connections to the north and south and to downtown.

Master planning began in 2005 with a survey to determine what components the community would like to see included in the park. City Council approved of the preliminary plan in 2006; the Milwaukie Design and Landmarks Committee and Milwaukie Planning Commission approved the master plan in 2010. The park's planned amenities represented the core values of the community: promoting health and quality of life, and creating new opportunities for fitness, recreation, social and civic engagement. The plan included new parking areas north and south of Kellogg Creek, a play area for children, two restroom facilities, a performance venue for cultural arts, a festival lawn, pathways for pedestrians and bikers, improved pedestrian crossings from downtown to the park and two overlooks for river viewing including improvements located near the Kellogg Waste Treatment Plant. Because full funding of the master plan with an estimated cost of \$8.7 million was not secured, civic leaders anticipated the improvements would be built in phases.

In November 2012, the city took on the initial construction of the park, starting with the overlook at Klein Point. That phase was quickly followed by Phase 2, the parking and boat ramp area of the park. In July 2013, the city was awarded two grants for the development of the next phase of the park. For Phase 2, the city secured and funded a total of \$2.5 million dollars in project development. This phase brought a new boat launch and boarding float, a riverside pathway and plantings, a small restroom, parking areas north and south of Kellogg Creek and

vehicle access improvements along McLoughlin Blvd. This portion of the project was dedicated on May 1, 2015.

In 2016, the space experienced significant flooding, which damaged the waterfront of the property. With funds largely contributed by the Federal Emergency Management Aid office, the city reconstructed Kellogg Bridge (located inside the park) and completed the designed work for the waterfront portion of the park including stone stairs to the waterfront and Milwaukie Bay beach. In 2017, we also renamed the park Milwaukie Bay Park (previously known as Riverfront Park).

Following a verbal agreement between the City Manager and Executive Director of NCPRD in 2017, the County initiated what was intended to be a modest update to the master plan but transitioned to a full redesign of Milwaukie Bay Park. According to the bid documents at the time Phase 3 was started, a majority of the Master Plan elements had been accomplished. With these items completed and with removal of the park concepts located next to the Kellogg Treatment Plant, the city evaluated the remaining costs for the park to be approximately \$3.5 million as assessed by the city engineer in 2017. Since the park was regional in nature and current use, the city asked NCPRD to partner in the funding and construction of Phase 3.

Since that initial agreement, NCPRD has done a complete overhaul of the design. After the robust planning and design process, the total cost of Phase 3 is now being priced at \$7.869 million for construction without contingency costs or soft costs (approximately \$1.5 million). The majority of these new costs stem from increased cost of construction.

### ***Procedural Delays and Failed Negotiations (2020-2022)***

Over the past several years, council has grown increasingly frustrated with the governance of NCPRD. During meetings specific to the creation of the District Advisory Committee (DAC) and subsequently as the city and county have met to discuss Milwaukie Bay Park, there has been a shift at the board level to reduce services and capital funding provided to the city for shared amenities and services.

In 2019 and 2020, NCPRD created the new DAC to replace the previous District Advisory Board. As the construct of the Council was outlined in the City's IGA, the city was included as a stakeholder. Though we reached agreement, the process was long and involved regular pointed attacks at city leadership.

In 2020, city staff met with NCPRD to negotiate a financial contribution from the city to the Milwaukie Bay Park construction project. The city approved that IGA promptly and forwarded it to the County. Though making no written financial commitments themselves, the County Commission pulled the agreement on November 17 from their commission meeting. The city had to again engage to move the agenda item forward on December 3. The process caused further issues within the relationship.

In 2021, Commissioner Savas proposed, and the Commission approved placing a hold on budget line items for Milwaukie Bay Park until the county had "a Cooperative IGA with the City of Milwaukie" and "SDC funding [is] discussed with the District Advisory Committee." To meet the named cooperative agreement, Mayor Gamba and Commissioner Savas held subsequent negotiations to fund the construction of Milwaukie Bay Park, beginning on July 7 and lasting until October 7, 2021. Just after the negotiations started, the commission again removed a Milwaukie Bay Park agreement (July 22) from their agenda – this time the

construction contract. City Councilors individually testified at the commission meetings and the Commission approved the contract in August 2021.

Negotiations between Commissioner Savas and Mayor Gamba were completed in October 2021. Those negotiations produced two agreements – an IGA to construct Milwaukie Bay Park and an amended finance IGA outlining a financial commitment from both parties to fund the park. The city quickly adopted both agreements in November 2021, with a June 2022 sunset clause to allow for the project to continue without further price escalations. The Commission approved the construction IGA that November but did not approve the financial IGA.

On Oct 7, NCPRD staff provided Milwaukie staff with an overview of next steps for the NCPRD process to approve the Finance agreement. The email outlined that NCPRD staff would provide an overview of the agreement to the DAC and that the commission would take up the agreement before December 8, when the DAC would receive the approved agreement. On October 27, the Commission removed the items from their agenda and directed NCPRD staff to return the item to the DAC for their recommendation. On Jan 12, the item was heard by the DAC and unanimously approved by the Commission. It was then sent to the NCPRD Board. On January 20, February 15 and February 17, the item was again removed from the Commission agenda.

On March 31, 2022, the Commission allowed the financing IGA item to remain on their agenda. At that meeting, they approved the agreement and added the stipulation that the funds could not be spent until a third IGA (known as the updated Master IGA) was negotiated and approved. The draft provided to the city removed prior language allowing the city to leave the district at any time.

## **ANALYSIS**

As was stated above, there are two components to leaving the district – process and availability of funds. Specific to this process, there are two statutes in the Oregon law that specifically outline the process for leaving a district. The city’s Master IGA with NCPRD states the city will use ORS 222, which would require public noticing, followed by a vote of the city council. The second, ORS 198, would require County Commission action. This section provides an overview of both, plus an alternative path that may become available to the city at a future date.

### ***ORS 222 - Mediation and Validation Process***

On May 18, the city contacted NCPRD Director Michael Bork to affirm the city’s ability to leave the district using language included in our IGA:

The city may choose at any time to withdraw entirely from the District pursuant to ORS 222.524 or its successor statute (attached).

County Counsel Jeff Munns contested our assertion in a May 19 letter(attached). According to the IGA, the initial step in a contested provision is mediation and on July 6, 2022, the city and NCPRD met through a mediator. Mediation did not resolve the issues.

NCPRD’s position is that the ORS 222.524 process is not available, and the withdrawal process of Chapter 198 is applicable. As stated during mediation, the City thereafter filed a Validation Petition pursuant to ORS 33.710 and 33.720 (Clackamas County Circuit Court Case No. 22CV22550) for a declaration as to the withdrawal provisions of the Agreement. The City also

agreed to provide preliminary concepts on City withdrawal and provision of park and recreation services. The county's response to date has been to request to extend mediation.

### **ORS 198**

As discussed above, NCPRD believes the city's path to leaving the district is codified under ORS 198. That process provides that owners of land included in a district or electors of an area within a district may petition the county board for withdrawal of the property from the district. Notice of the petition for withdrawal must be in writing and within five days after the petition is filed, petitioners shall furnish the secretary with a copy of the petition as filed. The county board may approve the petition as presented or it may adjust the boundaries and approve the petition. The petition shall be denied if it appears that it is, or would be, feasible for the territory described in the petition to receive service from the district.

### ***Opt out of the New District***

In 2014, NCPRD placed Ballot Measure 3-451 on the ballot. The measure would have re-formed NCPRD as an independent district, separate from county government. The measure failed. However, conversations have again started at NCPRD about the possibility of reintroducing the measure to voters in May 2023.

According to the statute, the new district would need to gather permission from all cities included in its boundaries. The city could, at that time, decline to participate in the new district and would then be independent should the vote pass in the rest of the district.

### **Current Needs**

The second component to Council's request is understanding the city's ability to provide these services if we do leave. This request has required city staff to evaluate and analyze our current assets, service levels and programs.

### ***Deferred Maintenance***

Staff's first step was to review Milwaukie's parkland and park amenities. Based on estimated age and condition of infrastructure, the inventory was adjusted, and an updated replacement schedule was developed. This assessment concluded that there was at least \$941,000 in deferred maintenance and replacements costs in Milwaukie parks.

Staff also compared the inventory of Milwaukie's parkland and amenities to State of Oregon guidelines and recommendations for park and recreation service that come from the SCORP. The SCORP guidelines make recommendations for the number of acres of park land and number of amenities offered to the public based population size. Based on this analysis, Milwaukie is currently deficient in several areas.

As stated above, Oregon's SCORP recommends between 6.25 acres and 13.5 acres of public parkland per 1,000 residents. Other organizations such as the Trust for Public Land (6 acres per 1,000 residents) and National Recreation and Park Association (10 acres per 1,000 residents) also make recommendations on park acreage. Based on these recommendations, Milwaukie, with its current population, needs between 44 and 181 acres of additional dedicated parkland. Through the master planning process, it will be up the City of Milwaukie to determine how much parkland it feels is appropriate for it to offer. For example, the City of Happy Valley recently determined that it should provide 4 acres of parkland per 1,000 residents.

Source*	Standard Acres per 1,000	Acres Needed to Meet Standard
<i>City of Milwaukie - Current Conditions**</i>	3.93	
National Recreation & Parks Association	10	128
State of Oregon - Low	6.5	49
Trust for Public Lands	6	44
City of Happy Valley	4	2

### **Amenities and capital needs**

Using these same tools, staff also determined that Milwaukie is currently deficient in several amenities within our current park assets. As an example, the city does not have any pickleball courts, basketball courts, soccer fields or lacrosse fields. To determine the future level of service, the city would need to undertake a robust community engagement and master planning process, which could take at least 18 months and would be initiated following a decision to leave the district. This information would be incorporated into Milwaukie’s parks capital improvement future funding strategies.

### **Programming**

Ongoing programming – namely at the Milwaukie Center (a city facility) and Aquatic Center (a NCPRD facility) – have been top priorities in conversations with local residents about a potential departure from NCPRD. Currently the Milwaukie Center provides a significant number of senior and aging services, funded using federally granted aging services dollars. The Milwaukie Center is one of 10 centers providing aging services in Clackamas County (CANBY Adult Center, ESTACADA Community Center, GLADSTONE Senior Center, HOODLAND Senior Center, LAKE OSWEGO Adult Center, MOLALLA Community Adult Center, PIONEER Community Center, SANDY Senior & Community Center and WILSONVILLE Senior Center). The city has communicated to NCPRD an openness to continue using the site for these and related services. If the services are not provided at this site, the County would need to find an alternative location in this general area to provide these services.

Youth and recreational programs are different. Those services are funded primarily using property tax and fees collected by individual and team users. Many of these services are provided on constructed fields using contracted fields and North Clackamas Park, as well as at the Aquatic Center. A limited number utilize facilities within the Milwaukie Community Center. The city is currently in conversations with NCPRD to see if there is a mutually beneficial partnership that would allow residents their current or similar access, using the revenue collected by NCPRD at our sites to offset costs and those services.

### **Cost to operate and maintain**

City staff conducted several budget analyses to determine operational and maintenance costs for parks. Using several sources of data, discussions with other park providers and some reasonable assumptions, Milwaukie staff developed estimates for park operation and maintenance. Preliminary estimates using the methodology developed by the consulting firm ECONorthwest for the Oak Lodge Governance Project suggested that the \$1,271,000 Milwaukie would receive from a similar property tax would be sufficient for our initial operations, maintenance, and programming.

Using these as a starting point, staff developed a preliminary budget and six-year forecast for parks operations and maintenance. With the addition of the current parks development coordinator personnel costs reflected as a transfer to a “parks” fund, and funding from the Marine Board for dock removal this increased projected funding to \$1,445,000 in FY 23/24. The estimated operating expenses include personnel costs, contract services (landscaping and janitorial), professional services, repair and maintenance costs and transfers. The budget does not include programming costs, based on the paragraphs above in which the city would negotiate programming services to be provided by NCPRD. The table below forecasts revenues, O&M expenses and positive income through FY 2027. Staff is refining the budget forecast to also include projected capital expenses and the dedicated capital funding sources for current and future park projects.

	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Total Operating Revenues	\$ 1,455,155	\$1,501,273	\$1,548,672	\$1,596,479	\$1,646,490	\$1,697,639
Total Operating Expenses	\$1,373,167	\$1,430,055	\$1,466,349	\$1,547,344	\$1,633,350	\$1,724,704
Operating Income	\$ 81,988	\$71,218	\$82,323	\$49,135	\$13,139	<b>-\$27,065</b>
Cash Forward Beginning Year	0	\$81,988	\$153,206	\$235,529	\$284,664	\$297,803
Balance	\$ 81,988	\$153,206	\$235,529	\$284,664	\$297,803	\$270,738

### **Funding Mechanisms**

To determine a department’s viability, city staff also investigated current funding sources and the associated processes to gain revenues.

#### **Property Tax**

60 percent of the funds NCPRD uses to pay for operating the parks and recreation services is derived from property taxes. NCPRD receives a property tax within the district of \$0.5382 per \$1,000 of assessed valued. Based on the average home taxable value in Milwaukie, that equates to \$108 per year in property tax. Should the city be interested in levying that rate on our taxpayers in place of NCPRD, the city will need to place a five-year levy request on the ballot and our voters will need to approve the rate. Collection of the rate by NCPRD would be discontinued at the time a city levy was collected, assuring that Milwaukians are not double charged.

#### **Fee Based Financing**

Neither NCPRD, nor the city currently utilize a monthly fee to fund parks and recreation services. However, as an alternative to a levy, the Council could consider the establishment of a parks fee. A parks utility fund could be setup as a special revenue fund that is used for maintenance and operation of city parks, trails, and green-spaces. This fee treats park services more like a utility. Several communities in Oregon have a parks fee, including West Linn, Tualatin, Tigard and Gresham. The revenue generated from these fees in these communities are generally allocated for parks maintenance, although in some instances communities have used the fee to pay for debt service on capital programs. A Parks utility fee would be charged to all utility customers and could include low-income assistance to eligible customers. The fee would also generate revenue from parcels that may be tax exempt

The table below provides a preliminary comparison for discussion purposes between a levy and a potential utility fee.

	Estimated Parks Levy vs Fee				
	FY23/24	FY 24/25	FY 25/26	FY 26/27	FY 27/28
<b>Annual Levy Proceeds</b>	\$1,271,000	\$1,309,000	\$1,349,000	\$1,389,000	\$1,431,000
<b>Levy amount for Average Assessed Value (annual basis)</b>	\$108	\$111	\$114	\$118	\$121
<b>Levy amount for Average Assessed Value (monthly basis)</b>	\$8.97	\$9.24	\$9.51	\$9.80	\$10.09
<b>Levy amount for Highest Assessed Value (monthly basis)</b>	\$2,272.29	\$2,340.46	\$2,410.68	\$2,483.00	\$2,557.49
<b>Parks Fee Based on Utility Account (monthly basis)</b>	\$15.46	\$15.92	\$16.41	\$16.90	\$17.41
<b>Parks Fee Residential with Employee Fee (monthly basis)</b>	\$8.00	\$8.24	\$8.49	\$8.74	\$9.00
<b>Parks Fee Large Commercial/ Industrial with Employee Fee (monthly Basis)</b>	\$2,901.44	\$2,988.48	\$3,078.14	\$3,170.48	\$3,265.60

## Fees

A significant portion of NCPRD’s budget is collected through user fees. These fees are primarily collected through services provided at North Clackamas Park, the Milwaukie Community Center and the Aquatic Center. Should the city leave NCPRD, the city could choose to continue to provide services at North Clackamas Park and the Milwaukie Community Center. Alternatively, the city and NCPRD could partner as discussed above in the “Programming” section of this report, with those funds being used to offset city resident’s participation in NCPRD programming including pool access and recreational teams and classes. It is expected that in such a five-year scenario, NCPRD would retain collected fees to provide those services to our resident.

## Grants

Over the past 15 years, most capital/construction dollars used to develop park amenities within the city have been secured through grants and earmarks secured by the city. Most recently, the city was provided \$2.25 million in funding through Oregon’s portion of the American Rescue Plan Act (ARPA) of 2021. These funds were allotted to the state’s senators and representatives. Senator Kathleen Taylor and Representative Karin Power each requested that a portion of their district funds be allocated towards the improvement and development of neighborhood parks. City staff will continue to apply for grants and earmarks in a similar fashion, whether or not the city leaves NCPRD.

## SDCs

System Development Charges (SDCs) are one-time charges assessed on new development, additions and changes of use to pay for the costs of expanding public facilities. Growth creates additional infrastructure demands. SDCs provide a mechanism to fund new growth in a community along with the related demand placed on storm and sanitary sewer systems, parks and recreation facilities, water and street systems. Specific to parks, these funds are collected to



assure that there are sufficient park amenities for our growing community and can provide a significant amount of funding towards the development of new park services.

Currently, the city collects the park SDCs when other SDCs are collected for our utilities. However, the park SDCs are immediately transferred to NCPRD. A significant increase in the development occurring throughout the city has led to more SDCs being collected for parks over the past year. This past fiscal year, the city collected and transferred \$1.1 million in SDCs. If the city were to stay in NCPRD and collect SDCs at their current rate, we expect we would collect \$3.255 million in the coming three years.

Should the city council decide to proceed with leaving the district and/or place the levy on the ballot for community support, the city will need to engage with a consultant team to develop an interim Parks SDC methodology for the city. This interim or transitional methodology will allow for the city to engage in a robust engagement and master planning effort with community on parks at a future date and still capture parks SDC revenues. This methodology will be based on the capital project list developed from existing NCPRD documentation and modified with input from city staff. The work will include discussion of key policy choices that will frame the resulting SDC and SDC structure, within the constraints provided by Oregon SDC statutes and clarifying case law. The effort will ultimately result in a defensible Park SDC and supporting documentation and calculations. The SDC analysis will include both a reimbursement fee (as applicable) and an improvement fee. Upon completion of the master planning effort, the city will review the interim SDC methodology and update based on the outcomes of the master planning effort.

Because SDCs are a critical part of funding future parks and due to comments made at recent DAC meetings, council may want to consider revoking a resolution approved by the council on April 3, 2018. That resolution endorsed the process of eliminating zones, which could lead to city generated SDCs being spent in unincorporated county.

### **Milwaukie Bay Park Funding**

Milwaukie Bay Park has been a long sought-after project in the Milwaukie downtown core. Currently, the staff of NCPRD have included a proposal for full funding to construct Milwaukie Bay Park. However, the County Commission refuses to use such funds unless the city makes concessions in the overarching IGA. In the initial draft, those changes include forgoing the city's long standing right to leave the district with a simple vote of the council. This would permanently lock the city into its relationship with NCPRD without an ability for recourse when the district does not provide deferred maintenance at existing sites or construct new parks, even as the district collects all the revenues from our residents to do so.

Should the city leave the district, the city will be solely responsible for funding the park improvements. Currently, the budget for construction sits at \$7.869 million with an additional \$1.5 in contingency and soft costs for a total of \$9.369 million. The city currently has allocated \$250,000 in General Fund, \$750,000 in Metro grant funding, and \$600,000 in Urban Renewal funding. Staff at NCPRD have secured approximately \$1,796,125 in project specific grants that the city would request remain in the project. Further, the district has approximately \$1.5 million in SDCs collected within the city boundaries and an additional \$3.255 million in SDCs are expected over the coming couple years. Should all of those funds be secured and applicable to this project, that would leave the city with \$8.151 million and a shortfall of approximately \$1.218 million. Staff cannot guarantee full construction of the park without identifying and securing all

the associated funds. However, staff does believe that a Phase 3 could be completed, at least partially, with available funds.

### **Council Questions**

Should the Council want to leave NCPRD at a future date, the city would need a dedicated funding source. Staff recommends, as the current funding is derived from property taxes, a similar tax should be its replacement. To levy that tax, the city would need to place the levy on the ballot for consideration by the voters of Milwaukie.

- 1) Would council like to proceed with the levy (\$.5382 per \$1000 in assessed value)?
- 2) Further, would council be interested in a resolution rescinding the 2018 SDC resolution?

### **BUDGET IMPACT**

Proceeding with a city parks levy would generate over \$1.2 million in revenues. Creating the fund would also require a budget adjustment to move existing park funding to a combined account.

### **COORDINATION, CONCURRENCE, OR DISSENT**

This staff report has been developed in partnership with the city attorney, Public Works, and Strategic Engagement Team.

### **ALTERNATIVES**

City Council could choose not to proceed with a levy or could choose to develop a fee, similar to a utility fee at the time members determined the city's future involvement in NCPRD.

### **ATTACHMENTS**

1. NCPRD – City of Milwaukie Master IGA
2. May 19, 2022 Letter – Mr. Jeffry Munns

**Amendment #1**

**2008 Cooperative Intergovernmental Agreement  
Between City of Milwaukie and North Clackamas  
Parks and Recreation District**

1) The District shall maintain the areas of the Parks listed below as described in this amendment:

**Riverfront Park** - from McLoughlin Blvd to the River and between southern edge of Log dump property and Johnson Creek) - NOTE: Parking strip on west side of McLoughlin and lawn area adjacent must be maintained at a high level. All other areas can be moderate to low - unless there is a specific need or event preparation. As the Park or portions of the Park are improved, a high maintenance level will be applied to the improved portion(s). (The median strip in the center of McLoughlin Blvd will be maintained by the City of Milwaukie.)

**Scott Park** - from north edge of sidewalk along north end of library building. Includes natural area within split rail fence but excludes pond. City covers lawn area south of Library and front landscape

**40<sup>th</sup> and Harvey** - NCP areas only (NCP will maintain the grounds inside its fenced shop area including beds next to building. NCP will maintain the grounds inside the entire fenced area where the NCP vehicles are parked. NCP will maintain the unfenced grounds from the access road on the south of the building to the south property line and up to the west edge of the sidewalk on the east in front of the NCP shop.

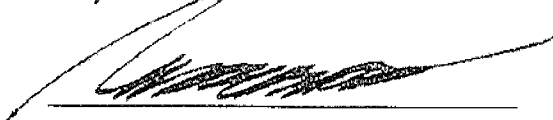
**Robert Kronberg Park** (including City-owned parcels to north and south)

2) "Minthorne North" shall be added to Attachment #1, under the header:

**A. Milwaukie Parks to Be Maintained and Operated by the Service District**

3) "Minthorne North" shall also be added to the list of sites in Attachment #2, listed under the header: "Natural Resource Areas"

City of Milwaukie



By:  
Date:

North Clackamas Parks  
And Recreation District



By: Lynn Peterson, Chair  
Date: 1-21-2010 III, 1.

10/28/2008

## COOPERATIVE INTERGOVERNMENTAL AGREEMENT

This Cooperative Intergovernmental Agreement (this "Agreement"), made this 21<sup>st</sup> day of October 2008, is entered by and between North Clackamas Parks and Recreation District, a county service district formed under ORS Chapter 451 hereinafter referred to as "District," and the City of Milwaukie, hereinafter referred to as "City," pursuant to the provisions of the Intergovernmental Cooperation Act, ORS 190.003-190.250.

WHEREAS, City is part of the District; and

WHEREAS, the District provides park services for the benefit of City residents; and

WHEREAS, the parties desire to revise that certain intergovernmental agreement dated August 20, 1992 to better clarify the roles and relationship of the parties regarding the provision of park and recreation services; and

WHEREAS, when the District was established in 1990 by a vote of the Clackamas County residents, the District agreed to acquire land and develop regional parks and recreation facilities for the North Clackamas area including:

- A State-of-the Art Aquatics Complex;
- 4 Lighted Softball Fields;
- 2 Lighted Soccer Fields;
- 2 Multi-purpose fields;
- 1 Riverfront Park in Oak Grove;
- Approximately 75 Acres of Natural Areas;
- Walking Trails Linking North Clackamas Park, the Southern Pacific Property (now called North Clackamas District Park), and Mount Talbert; and

WHEREAS, the City maintained and operated the Milwaukie Center through August 31, 1992; and

WHEREAS, during the fiscal year 1991-92, the District provided the City of Milwaukie with the funding to maintain and operate the Milwaukie Center; and

WHEREAS, this "pass-through" of funding was equivalent at a minimum to the 1990 City of Milwaukie budget allocation for the Milwaukie Center (\$165,955) plus a 6% annual increase for inflation. Upon transition the Milwaukie Center's budget increased each year by at least 6% per year until June 30, 1995; and

WHEREAS, the District also provided the Milwaukie Center's budget with an additional funding of \$98,000 to maintain and operate the Milwaukie Center upon completion of the Center's expansion by the City of Milwaukie. Subsequently, this sum was increased annually by at least 6% per year until June 30, 1995; and

WHEREAS, as of September 1, 1992, the City transferred maintenance and operations responsibility of the Milwaukie Center to the District and the District assumed responsibility for the maintenance and operation of the Milwaukie Center; and

WHEREAS, upon assuming maintenance and operation of the Milwaukie Center, the District accepted and assigned employees for the Milwaukie Center staff in accordance with ORS 236 under which employees were to perform to District standards and abide by District personnel regulations; and

WHEREAS, at the time of transfer (September 1, 1992) all Milwaukie Center policies developed by the Milwaukie Center Community Advisory Board ("C/CAB") were adopted by the District. This Board continues its role as primary policy advisor with regards to the activities and operations of the Milwaukie Center; and

WHEREAS, The Board of County Commissioners is the governing body (referred herein as the "BCC") of the District.

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements set forth herein, the City and District hereby agree:

## I. PARKS CAPITAL IMPROVEMENTS

### A. DISTRICT

- 1) While the City continues to support the development of the parks and recreation facilities listed here it acknowledges that parks and recreation facility development priorities continue to grow and change. To this end, the District shall coordinate closely with City staff and its citizens when developing its annual budget, its capital improvement plan, when amending and reviewing its master plan and modifying its System Development Charges ("SDC"). Notices of all District Advisory Board (or subcommittees thereof) or BCC meetings pertaining to the District's budget, Capital Improvement Plan, Master Plan or SDC changes will be sent to the City Manager or his or her designee.
- 2) The District may undertake improvements to parks owned by the City. These improvements are subject to the approval of the Milwaukie City Council, or its designee.

### B. CITY

- 1) The City will retain the deeds to all parks and facilities owned by the City and operated and maintained by the District as listed in Attachment #1 ("Joint Parks").

All proposed name changes to parks and facilities within the City of Milwaukie will be reviewed according to the City's naming policy.

All parks and facilities owned by the City, but maintained and operated by the District, will have signage explaining this dual relationship. Signs within these parks shall state: "This park owned by the City of Milwaukie and maintained by the North Clackamas Parks and Recreation District."

- 2) The City may, at any time, construct new parks or make improvements to parks currently under its jurisdiction. These improvements will be at the City's own expense unless the District agrees to provide funding for these improvements. The District shall have no obligation to maintain or operate such parks unless otherwise agreed in writing. City staff will coordinate with District staff on any proposed park modifications to ensure ease of maintenance and operation.
- 3) For any parks other than Joint Parks, the City and the District will negotiate a level of service to be provided and any additional compensation owed by the City to the District. In those cases where the District denies the City's request to enhance, operate or maintain parks or facilities, the City will have the exclusive right to the option to enhance, maintain and operate these facilities at the City's own expense.
- 4) The City's requests for District enhancement, maintenance or operation of new City facilities will be made in writing and addressed to the Director of the District. The District Director shall review the request with the District Advisory Board ("DAB") and respond to the City with a decision within two months of the City's request.

## II. MAINTENANCE OF PARKS FACILITIES

### A. DISTRICT

- 1) The District will maintain and operate all Joint Parks.
- 2) The District will maintain all Joint Parks at a level equal to or better than the Milwaukie maintenance standards as set forth on Attachment #2.
- 3) Joint Parks may be shifted among maintenance standard levels at the mutual agreement of the City and the District.

### B. CITY

- 1) City shall maintain all parks owned by the City unless otherwise agreed to herein.

## III. RECREATIONAL PROGRAMMING

### A. DISTRICT

- 1) The District will provide aquatics and recreational programming including programs for all ages and differing abilities, coordination and scheduling of fields services, and summer youth recreation programs for the entire North Clackamas area.
- 2) Except for North Clackamas Park (and the Milwaukie Center), use of all City parks and recreation facilities will be on a first come, first served basis. The District will be responsible for scheduling and management of all North Clackamas Park and Milwaukie Center facilities.

#### B. CITY

- 1) The City may provide recreation programs in addition to those provided by the District. These programs will be at the City's own expense and will not be covered by District funds. The City will coordinate its recreational programs with the District in order to avoid scheduling or service conflicts.

#### IV. MILWAUKIE CENTER

##### A. DISTRICT

- 1) Under the jurisdiction of the District, the Milwaukie Center continues to administer and provide a combination of educational, recreational, and social services to the community. These programs shall be primarily geared towards the needs and interests of older residents in the North Clackamas area.

##### B. JOINTLY, CITY AND THE DISTRICT

- 1) The District and the City may use the Milwaukie Center facilities for such activities as public meetings consistent with building policies. All other governmental users will pay a fee consistent with building use policies approved by the BCC.
- 2) From September 1, 1992 to October 2008, half (9) of the C/CAB members were appointed by the BCC and half (9) were appointed by the Milwaukie City Council.
- 3) Effective on the signing of this agreement, the C/CAB will reorganize and consist of a minimum of twelve (12) members who live or work within the District boundaries.

Of the twelve C/CAB members, there will be representation of one member each appointed by the City and the City of Happy Valley. The C/CAB and DAB and agree to recommend to the BCC for approval the individuals nominated by the City and City of Happy Valley city councils to fill the City representative seats. The BCC agrees to appoint the individuals nominated by the city councils unless there is good cause for rejecting the nomination. All other C/CAB applications for any of the remaining at-large board positions may be made directly to the C/CAB.

The C/CAB members will be recommended by the C/CAB and DAB and appointed by the BCC. C/CAB members will be appointed to staggered three-year terms with terms ending in October of each year. Current members will continue to serve until their term ends.

- 4) During the annual budget process the C/CAB will provide budget recommendations for the operation and maintenance of the Milwaukie Center, and in addition, the C/CAB will identify and prioritize necessary capital projects and provide project recommendations to the DAB. The recommendations for maintenance and operations, and capital improvements shall be reviewed by the DAB, who will then forward their recommendations to the District Budget Committee. The Budget Committee will then submit recommendations to the BCC for final decision.
- 5) The City will continue to retain the deed to the Milwaukie Center and all name changes made by the District to parks and facilities within the City must be approved by the City Council, under advisement of the C/CAB.

## V. ADMINISTRATIVE ISSUES

### A. DISTRICT ADVISORY BOARD

- 1) The DAB currently consists of an eleven-member board with representation allocated as follows:
  - 3 members from east of I-205 (one of which may reside in the City of Happy Valley), with one member term expiring in 2009;
  - 3 members from west of I-205 (one of which may reside in the City of Milwaukie), with one member term expiring in 2009;
  - 1 member from the City of Happy Valley;
  - 1 member from the City of Milwaukie;
  - 1 member from the Milwaukie Center; and
  - 2 members at large (one from east of I-205 and one from west of I-205).
- 2) District agrees to appoint the individual nominated by the City Councils to fill the City's representative seat unless there is good cause for rejecting the nomination.
- 3) DAB composition will be revisited and adjusted, in the event of significant District boundary changes or major population changes.
- 4) DAB members will be appointed to staggered four-year terms and may be removed at will by the BCC.
- 5) Effective July 1, 2009, representation on the DAB shall change to a nine member board. As of July 1, 2009, composition will include two members each from east and west of I-205, one member from the City of Happy Valley, one member from



the City of Milwaukie, one member from the Milwaukie Center and two members at large (one from east of I-205 and one from west of I-205).

- 6) Any subsequent substantive changes to the composition of the DAB will be reviewed by the City Council.

B. The District Director or their designee will provide the City Council with an annual report describing District operations and maintenance of facilities and programs within the City.

#### VI. REMOVAL OF CITY PARKS AND RECREATION FACILITIES FROM DISTRICT MAINTENANCE RESPONSIBILITY

- 1) The City may choose at any time to remove some or all of the Joint Parks or the Milwaukie Center from the District's maintenance responsibility.

If the City removes one or more of the Joint Parks and/or senior facilities, no reduction in the District tax rate will be provided to City residents. City residents will continue to receive all of the benefits of in-District residents (e.g., lower user fees, priority use of facilities). Further, District residents will continue to receive all of the benefits (e.g., scheduling, priority use of facilities, equal or lower fees) of the removed facilities and will be treated equally with residents of the City.

- 2) If the City chooses to remove those parks currently under its jurisdiction and/or the Milwaukie Center, a pass-through regarding operations and maintenance support will be negotiated at that time.
- 3) Employees of the District primarily responsible for the operations or maintenance of these facilities will be transferred to the City per ORS 236. Contracts entered into by the District for operations and maintenance support for the subject facilities will be assigned, either in part or in whole depending on the scope of project, to the City for the remainder of the contract term. The Parties agree to enter into any additional agreements or documents necessary to effectuate such transfers and/or assignments.
- 4) The City may choose at any time to withdraw entirely from the District pursuant to ORS 222.524 or its successor statute.

#### VII. ADDITIONAL PROVISIONS

##### A. HOLD HARMLESS

Each party agrees to release, defend, indemnify and/or hold harmless the other, its officers, commissioners, councilors, employees, and agents from and against all damages, claims, injuries, costs or judgments which may in any manner arise as a result of such party's performance under this Agreement, subject to Oregon Tort claims limitations.

## B. DISPUTES

- 1) Disputes/Attorney Fees. If a dispute arises between the parties regarding breach of this Agreement or interpretation of any term of this Agreement, the parties shall first attempt to resolve the dispute by negotiation followed by mediation if negotiation fails to resolve the dispute.
  - a) Step One. The City Manager and the District Director, or other persons designated by the governing bodies, will negotiate on behalf of the entities they represent. The nature of the dispute shall be reduced to writing and shall be presented to each representative who shall then meet and attempt to resolve the issue. If the dispute is resolved at this step, there shall be a written determination of such resolution, signed by each party's representative and ratified by each governing body, which shall be binding upon the parties.
  - b) Step Two. If the dispute cannot be resolved within ten (10) days at step one, the parties shall submit the matter to non-binding mediation. The parties shall attempt to agree on a mediator. If they cannot agree, the parties shall request a list of five potential mediators from an entity or firm providing mediation services that is mutually acceptable to the parties. The parties will attempt to mutually agree on a mediator from the list provided, but if they cannot agree, the parties shall submit the matter to the Presiding Court of Clackamas County and the Presiding Judge shall appoint such a mediator from the list of mediators submitted by the mediation entity or firm. The mediator's fees shall be borne equally by the parties and the parties shall each bear their own costs, attorney fees and fees associated with the mediation. If the issue is resolved at this step, a written determination of such resolution shall be signed by each representative and approved by the respective governing body.

## C. GOVERNING LAWS

This Agreement shall be construed and governed in all respects in accordance with laws of the State of Oregon without giving effect to the conflict of law provisions thereof.

## D. SEVERABILITY

Should any portion of this Agreement or amendment thereto be adjudged by a Court of appropriate final jurisdiction to be in violation of any local, state or federal law, then such portion or portions shall become null and void, and the balance of this Agreement shall remain in effect. Both parties agree to immediately renegotiate any part of this Agreement found to be in such violation by the Court and to bring it into compliance with said laws.

E. NOTICES

All notices required or permitted to be given shall be in writing and shall be deemed given and received upon personal service or deposit in the United States mail, certified or registered mail, postage prepaid, return receipt requested, addressed as follows:

To the City:           City Manager  
                          10722 SE Main Street  
                          Milwaukie, OR 97222

To the District        District Director  
                          150 Beaver Creek Road  
                          Oregon City, Oregon 97045

The foregoing addresses may be changed by written notice, given in the same manner. Notice given in any manner other than the manner set forth above shall be effective when received by the party for whom it is intended.

F. TERM

This Agreement shall remain in effect to the end of the fiscal year in which both parties have signed and will be automatically renewed for successive one (1) year periods effective on July 1 of each year unless written notice of cancellation is given by either party to the other at least 180 days prior to the beginning of the next fiscal year.

G. REVIEW

Formal review of this Agreement shall take place either:

- 1) At any time during the term of this Agreement, at the request of either party the Agreement may be formally reviewed by either or both parties and amended as agreed;
- 2) Beginning on July 1 of 2013, and each five years after that date, the City will formally review the IGA and meet with the DAB to discuss potential amendments; or
- 3) At such time as the District Master Plan is amended, the City will review the IGA and propose amendments to the District within one year of the effective date of the amended master plan.

H. CONSTITUTIONAL LIMITS

This Agreement is subject to any applicable constitutional debt limitations and is contingent upon funds being appropriated thereof.

I. ENTIRE AGREEMENT

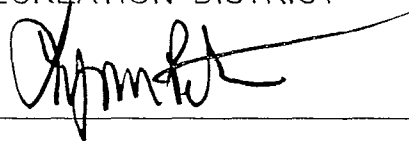
This Agreement contains the entire agreement between the parties and supersedes any and all other agreements, written or oral, expressed or implied, pertaining to the subject matter hereof.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by the duly authorized officers on the dates hereinafter written.

CITY OF MILWAUKIE

NORTH CLACKAMAS PARKS AND RECREATION DISTRICT

Pat Duval / AIC



By: Pat Duval

By: Lynn Peterson

Date: 10/28/08

Date: December 18, 2008

ATTACHMENT #1

A. MILWAUKIE PARKS TO BE MAINTAINED AND OPERATED BY  
THE SERVICE DISTRICT

SITE

Ardenwald Park  
Jefferson Street Boat Ramp  
Spring Park (enhanced)  
Stanley Park (excluding well site)  
Century Park  
Water Tower Park (excluding well site and water tank)  
Furnberg Park  
North Clackamas Park  
Dogwood Park  
Wichita Park  
Scott Park  
Robert Kronberg Park (enhanced)  
40<sup>th</sup> and Harvey – NCP areas only  
Lewelling Community Park  
Homewood Park  
Riverfront Park (enhanced)  
Balfour Property (local share 2008)  
Lake Rd Property (local share 2008)  
Monroe Street Triangle (at 37<sup>th</sup> Ave)

B. MILWAUKIE OPEN SPACES TO BE MAINTAINED AND OPERATED BY  
THE CITY OF MILWAUKIE

Old Shop (40th & Harvey)  
City Hall Grounds and Parking Lot  
Well #8  
New Century Player/Historic Society Building  
Stanley Well area behind fence  
Monroe/Washington Triangles  
Water Tower Well areas behind fences and access road

If the City of Milwaukie so chooses, it may contract with the District to maintain some or all of the facilities listed above in Section B. If the City contracts with the District to maintain a facility listed in Section B, the District will charge the City a fee that will allow the District to cover (but not exceed) its maintenance costs.

## ATTACHMENT #2

### Park Maintenance Standards City of Milwaukie

The Milwaukie Parks facilities are divided into several categories. The categories include: High Maintenance, Moderate Maintenance, Basic Maintenance, Special Use Facilities, Infrastructure and Natural Resource Maintenance.

#### HIGH MAINTENANCE AREAS

High Maintenance Areas include: Ardenwald Park, Dogwood Park, Lewelling Community Park, the Milwaukie Center, North Clackamas Park, Riverfront Park, Scott Park and Water Tower Park.

High Maintenance areas are those associated with City buildings, located in the downtown area, located at an entry point into the City or are high use areas. These areas are mowed a minimum of once per week, edged twice per month and fertilized two times per year. Tree rings and flowerbeds are edged with string trimmers bi-weekly. Broadleaf weeds will be treated as needed. Flower beds are weeded and sprayed as needed. Trash and litter will be picked up weekly. All high maintenance areas are irrigated. Irrigation will be programmed, maintained and winterized. Trees and shrubs will be pruned as needed. Leaves will be removed annually in the fall. Picnic tables, playground equipment and signage will be monitored and repaired. Fencing will be repaired as needed. Mowing in these areas should be performed March through November as weather permits.

#### MODERATE MAINTENANCE AREAS

Moderate Maintenance areas include: Century Park, Furnberg Park, Homewood Park, Stanley Park, and 40<sup>th</sup> Avenue Maintenance Area.

Moderate maintenance areas are typically neighborhood parks. These facilities are mowed an average of once a week, trimmed and edged with a weed-eater monthly. Fertilizers are not applied. Trash and litter is collected on a weekly basis. Playgrounds are inspected on a weekly basis. Herbicides are applied as needed. Picnic tables, playground equipment and signage will be monitored and repaired when needed. Mowing in these areas should be performed March through November as weather permits.

#### BASIC MAINTENANCE

Basic Maintenance areas include: Balfour St, Jefferson Street Boat Ramp, Lake Rd, Robert Kronberg Park, Spring Park, Wichita Park and Balfour St.

Basic maintenance includes weekly litter and trash removal. Mowing will occur twice

yearly. Restrooms will be cleaned and stocked weekly. Parking lot islands will be string trimmed as needed. Signage and picnic tables will be monitored and repaired as needed. Herbicides will be applied as needed. Mowing in these areas should be performed March through November as weather permits.

## SPECIAL USE FACILITIES

Special use facilities: There are a variety of special use facilities. The facilities are treated differently based on the activities that occur within them. These facilities range from the Cemetery to the Boat Ramp. Pieces of larger facilities are included within this category. An example of this would be the horse arena at North Clackamas Park. Although North Clackamas Park is listed as a High maintenance area, many of its amenities fit within the special use category. For the purpose of establishing a standard, Special use facilities will be listed independently and defined separately.

Boat Ramp: The boat ramp is primarily a parking lot. It does have some planting area between the upper and lower lots which are kept clear of vegetation. The vegetation removal is done both manually and chemically. To the southern end of the parking lot is a small grass area. This area is mowed on an as-needed basis. Litter and garbage is collected twice a week during the non-fishing season and three times a week during fishing season. The heaviest use time for this facility is during the Spring Chinook run. During this time of year, the ramp area is patrolled on a daily basis for litter.

North Clackamas Park (NCP) Horse Arena: The horse arena at NCP is offered on both a reservation and drop in basis. The critical elements of the arena include the fencing and the footing. Footing is replaced on an ongoing basis. Fencing is repaired as needed.

NCP Ballfields: The Softball fields are mowed on a weekly basis. This begins in late March or early April. Lighting maintenance is performed on an annual basis when the ground is firm enough to support the needed truck. Historically, these facilities are fertilized annually.

NCP Picnic areas: The three picnic areas in NCP are rented on a daily basis beginning the week after May 1<sup>st</sup> through September 30<sup>th</sup>. The shelter tables are washed before every picnic.

## INFRASTRUCTURE

Infrastructure: This heading includes such items as roads, irrigation, and restrooms.

Restrooms: There are ten restrooms. The first eight restrooms are located at NCP. These block-constructed restrooms are washed and sanitized using a mixture of chlorine bleach on a weekly basis. During days of scheduled events they are inspected at regularly scheduled intervals depending on the size and type of the event. The other two restrooms are all steel and are located at the boat ramp. These restrooms are

cleaned at least once per week. During high use time, such as the spring Chinook run, the restrooms are cleaned and inspected on a daily basis.

Sidewalks and Parking Lots: All debris is blown from sidewalks on a weekly basis. Parking lots and roadways are swept and repaired on an as needed basis by City of Milwaukie Public Works. The city street sweeper will sweep NCP and Milwaukie Center parking lots twice monthly.

## NATURAL RESOURCE AREAS

Natural areas are found in the following City parks: Furnberg Park, Homewood Park, Spring Park, Kronberg Park, Dogwood Park, Scott Park, North Clackamas Park and Riverfront Park.

Natural areas are characterized as being largely undeveloped landscapes, with relatively intact ecosystem structure and functions, and used primarily for passive recreation. Natural areas are considered to have limited or minimal human disturbance and provide habitat for Lower Willamette Valley biotic communities in an urban setting.

The District will provide staff, organize volunteers or coordinate contract workers to enhance park ecosystems utilizing methods such as removing invasive and/or dangerous plants and trees, litter collection on an as-needed basis, replacing or planting native plants and clearing pathways in a manner fitting natural areas. The use of chemicals shall be minimized in these areas.

Where practical and safe, the District will consider the impacts of maintenance to natural cycles of succession, disturbance, and wildlife habitat needs. For example, dead or declining trees in a natural area may create opportunities for standing snags, nurse logs and brush piles. Aquatic features like pools or in stream woody debris are maintained even if doing so decreases drainage. Every effort should be taken to retain or increase available enhancement resources on a given site while maintaining a safe environment for the public.

Natural and sensitive areas shall be monitored for the following:

- Public use, such as high impact, vandalism, graffiti, or illegal activity
- Silt or debris loading and drainage of wetlands, ponds, and streams
- Presence of invasive plants
- Water quality and upstream impacts
- Dog or other pet impacts to turf, trails and wetlands



Natural areas are subject to litter and dumping activity. Park visitors are less likely to dump or litter if a site is clean and appears well maintained. Maintenance activities may discourage this activity through these routine tasks:

- Weekly to semi-monthly inspection of trailheads and street ends
- Quick response clean-up when incidents are reported
- Inspection of dumped materials to identify the perpetrator
- Prompt removal of encampments (Milwaukie Code Enforcement staff should be contacted to assist with this)



## OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING  
2051 KAEN ROAD | OREGON CITY, OR 97045

**Stephen L. Madkour**  
County Counsel

**Kathleen Rastetter**  
**Scott C. Ciecko**  
**Amanda Keller**  
**Nathan K. Boderman**  
**Shawn Lillegren**  
**Jeffrey D. Munns**  
**Andrew R. Naylor**  
**Andrew Narus**  
**Sarah Foreman**  
Assistants

May 19, 2022

Via email to [GerickeJ@milwaukieoregon.gov](mailto:GerickeJ@milwaukieoregon.gov)

Mr. Justin Gericke  
City Attorney  
City of Milwaukie  
10722 SE Mail St.  
Milwaukie, OR 97222

Re: Withdrawal from NCPRD

Dear Justin:

We have received City Manager, Ann Ober's letter of May 18, 2022 to Michael Bork, Director of the North Clackamas Parks and Recreation District (NCPRD). This letter is written in the spirit of compromise pursuant to OEC 408. NCPRD respectfully disagrees that Section VI(4) of the current Cooperative Intergovernmental Agreement (IGA) is the proper method for the City to withdraw from NCPRD. We do agree to join the City in non-binding mediation. Who does the City request to serve as mediator?

NCPRD entered into this agreement in good faith and believed that ORS 222.524 was the appropriate method for the City to withdraw at the time, we have subsequently learned this statute does not apply to the present situation. This issue was litigated in the case, *Clackamas County Assessor, et al. v. City of Happy Valley*, Clackamas County Circuit Court Case No. 18CV30439. The Court found that ORS Chapter 222 does not apply to a situation where a city was annexed into a district.

The City of Milwaukie was not annexed to the district, it was included at the time of formation. However, the language of ORS 222.524 similarly does not apply to this situation. This statute only applies if authorized by ORS 222.520. That statute provides:

"Whenever a part less than the entire area of a district named in ORS 222.510 **becomes incorporated as or annexed to** a city in accordance with law and the city, **after the incorporation or annexation**, will provide for the service to the part of the district that the district provided before the incorporation or annexation, the city may cause the part to be withdrawn

from the district in the manner set forth in ORS 222.120 or at any time after the incorporation or annexation in the manner set forth in ORS 222.524.” ORS 222.520(1). (Emphases added.)

This statute contemplates a situation in which a city was wholly outside of a service district and then annexed property that was being served by the district. The city may then withdraw the territory from the district and provide the service. The statute also contemplates the situation in which previously unincorporated territory within a district incorporates, and the new city determines that it will provide the service and withdraws territory from the district.

Like the City of Happy Valley, the City of Milwaukie has neither annexed a portion of NCPRD, nor has it incorporated within NCPRD after district formation. In this situation the proper method for the City to withdraw from NCPRD is ORS 198.870. NCPRD is a County Service District formed under ORS Chapter 451. Boundary changes for a County Service District are governed by ORS Chapter 198. Pursuant to ORS 198.870 electors may present a Petition for withdrawal to the Board of County Commissioners for consideration.

I look forward to hearing from you with regards to your requested mediator. If NCPRD requests a different mediator we will forward names for your review promptly.

Very truly yours,



Jeffrey D. Munns  
Assistant County Counsel



# Parks Department Discussion



# Context



On May 10 2022, Council directed staff to investigate leaving the district. That direction required staff to take the following actions:

- 1) Determine city's legal path for leaving the district.
- 2) Investigate the feasibility for the city to again provide parks services.
  - a. Determine the current park needs
  - b. Determine the cost to provide maintenance and operation services to the current standard.
  - c. Investigate programming partnerships with NCPRD and alternative agencies.

# Roadmap



- Background
  - Current Growth
  - Intergovernmental Agreement
- General Funding avenues for a future Parks Department
- SDC process underway at NCPRD

# Milwaukie's Growth



The City of Milwaukie is experiencing a significant period of growth.

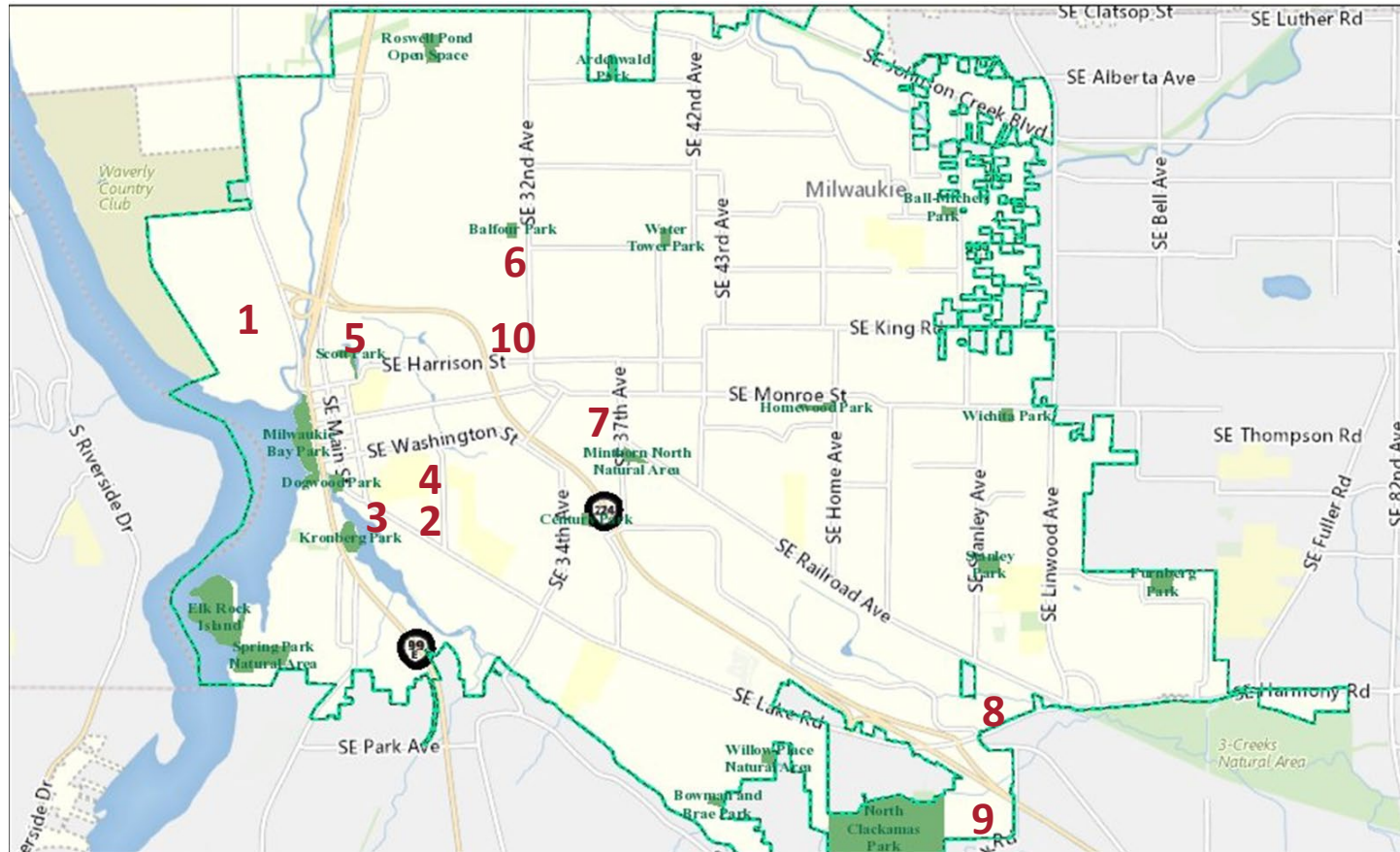
In 2017, the city had **9,428** individual units.

By 2025, the city is projected to have **11,085** individual units.

This equates to an **18 percent increase** in the number of units in eight years.

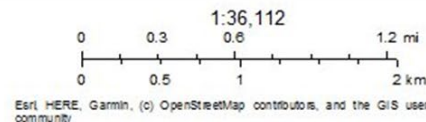


# Development by 2025



8/8/2022, 8:53:08 AM

- Milwaukie City Limits
- Parks



## Development Projects

1. Burnam Oaks – 100 units
2. Axletree – 110 units
3. Coho Point – 195 units
4. Dogwood Station – 55 units
5. Henley Place – 178 units
6. Hillside – 600 units
7. Monroe – 234 units
8. Harmony Apts – 15 units
9. Bonaventure – 170 units
10. Murphy Site – TBD

**Total: 1,657 units**



# Cooperative IGAs



- Formation of NCPRD
- Original IGA in 1990 and subsequent amendments were adopted in 1992, 1995, 2008 and 2020

“The city may choose at any time to withdraw entirely from the District pursuant to ORS 222.524 or its successor statute”

# Departure Process

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- ORS 222
  - Validation Process
- ORS 198
  - County Process
- Reformulation of NCPRD



# Future Park Department Funding - Operations

# Voter Approved Levy



- Maintain the previous rate imposed by the North Clackamas Parks and Recreation District (NCPRD), but directs the funds raised by the levy to the city
- 5 years
- \$0.5382 per \$1000
- If the city does not withdraw from the district, it will not collect this rate

# Alternative - Utility Fee



	Estimated Parks Levy vs Fee				
	FY23/24	FY 24/25	FY 25/26	FY 26/27	FY 27/28
<b>Annual Levy Proceeds</b>	\$1,271,000	\$1,309,000	\$1,349,000	\$1,389,000	\$1,431,000
<b>Levy amount for Average Assessed Value (annual basis)</b>	\$108	\$111	\$114	\$118	\$121
<b>Levy amount for Average Assessed Value (monthly basis)</b>	\$8.97	\$9.24	\$9.51	\$9.80	\$10.09
<b>Levy amount for Highest Assessed Value (monthly basis)</b>	\$2,272.29	\$2,340.46	\$2,410.68	\$2,483.00	\$2,557.49
<b>Parks Fee Based on Utility Account (monthly basis)</b>	\$15.46	\$15.92	\$16.41	\$16.90	\$17.41
<b>Parks Fee Residential with Employee Fee (monthly basis)</b>	\$8.00	\$8.24	\$8.49	\$8.74	\$9.00
<b>Parks Fee Large Commercial/ Industrial with Employee Fee (monthly Basis)</b>	\$2,901.44	\$2,988.48	\$3,078.14	\$3,170.48	\$3,265.60



# Future Park Department Funding - Construction

# Capital Expenditures



- Grants
  - Balfour
  - Bowman Brae
  - Scott
- Urban Renewal and General Fund
  - Dogwood
  - Milwaukie Bay Park
- SDCs
  - Milwaukie Bay Park

# SDCs



System Development Charges (SDCs) are one-time charges assessed on new development, additions and changes of use to pay for the costs of expanding public facilities. Growth creates additional infrastructure demands. SDCs provide a mechanism to fund new growth in a community along with the related demand placed on storm and sanitary sewer systems, parks and recreation facilities, water and street systems. Specific to parks, these funds are collected to assure that there are sufficient park amenities for our growing community and can provide a significant amount of funding towards the development of new park services.



# SDC Growth



FY 2011	\$15,781
FY 2012	\$4,123
FY 2013	\$12,786
FY 2014	\$8,128
FY 2015	\$23,790
FY 2016	\$24,621
FY 2017	\$61,838
FY 2018	\$36,878
FY 2019	\$388,319
FY 2020	\$176,110
FY 2021	\$142,025
FY 2022	\$1,098,608
FY 2023 (Projected)	\$1,441,000
FY 2024 (Projected)	\$1,043,000
FY 2025 (Projected)	\$1,337,000
	\$ 1,993,007 (current)
	\$ 5,814,007 (w/ projected)



# NCPRD SDC Process

# 2018 Council Resolution



## **COUNCIL RESOLUTION No.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, IN SUPPORT OF ELIMINATING ZONES WITHIN THE NORTH CLACKAMAS PARKS AND RECREATION DISTRICT FOR THE PURPOSES OF SYSTEM DEVELOPMENT CHARGE FUND**

### **DISTRIBUTION.**


**WHEREAS**, the North Clackamas Parks and Recreation District is considering revisions to its System Development Charge policies; and

**WHEREAS**, the city of Milwaukie is the charter member of the North Clackamas Parks and Recreation District and jointly involved with the district on priority projects within the city; and

**WHEREAS**, the existence of funding zones within the district is an outlier within the overall history of the district and prevent the distribution of funds to regional priority projects that are ready for development

**Now, Therefore, be it Resolved** that the Milwaukie City Council supports the immediate elimination of fund zones within the North Clackamas Parks and Recreation District.

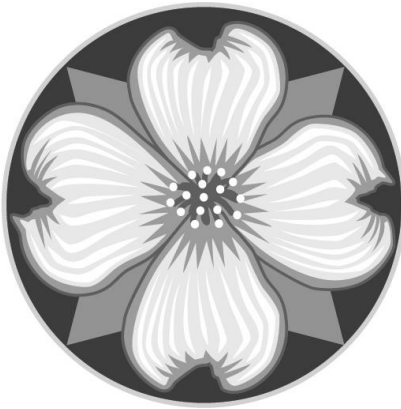
Be it Further Resolved that Milwaukie City Council authorizes the Mayor, City Council and staff to advocate for the dissolution of funding zones within the district.

- 
- Would council like to proceed with the levy (\$.5382 per \$1000 in assessed value) at the Aug 16 meeting?
  - Further, would council be interested in a resolution rescinding the 2018 SDC resolution?

# Questions?



- Ann Ober, City Manager
  - [obera@milwaukieoregon.gov](mailto:obera@milwaukieoregon.gov)
- Peter Passarelli, Public Works Director
  - [passarellip@milwaukieoregon.gov](mailto:passarellip@milwaukieoregon.gov)



**Regular Session**

**RS**

**Milwaukie City Council**

**COUNCIL REGULAR SESSION**

City Hall Council Chambers, 10722 SE Main Street  
& Zoom Video Conference ([www.milwaukieoregon.gov](http://www.milwaukieoregon.gov))

**REVISED AGENDA****AUGUST 16, 2022****(Revised August 10, 2022)**

**Council will hold this meeting in-person and through video conference.** The public may attend the meeting by coming to City Hall or joining the Zoom webinar, or watch the meeting on the [city's YouTube channel](#) or Comcast Cable channel 30 in city limits. **For Zoom login** visit <https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-330>.

**To participate in this meeting by phone** dial 1-253-215-8782 and enter Webinar ID 841 6722 7661 and Passcode: 097479. To raise hand by phone dial \*9.

**Written comments** may be delivered to City Hall or emailed to [ocr@milwaukieoregon.gov](mailto:ocr@milwaukieoregon.gov). Council will take verbal comments.

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

**Page #**

1. **CALL TO ORDER** (6:00 p.m.)
  - A. **Pledge of Allegiance**
  - B. **Native Lands Acknowledgment**
  
2. **ANNOUNCEMENTS** (6:01 p.m.) **2**
  
3. **PROCLAMATIONS AND AWARDS**
  - A. **None Scheduled.**
  
4. **SPECIAL REPORTS**
  - A. **Youth Advocacy and Empowerment Summer Camp – Report** (6:05 p.m.) **4**  
Presenter: Michelle Bolling, Northwest Family Services
  - B. **City Manager Updates – Report** (6:25 p.m.)  
Staff: Ann Ober, City Manager
  
5. **COMMUNITY COMMENTS** (6:40 p.m.)

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

6. **CONSENT AGENDA** (6:45 p.m.)  
 Consent items are not discussed during the meeting; they are approved in one motion and any Council member may remove an item for separate consideration.
- A. **Approval of Council Meeting Minutes of:** 6
    - 1. July 19, 2022, work session, and
    - 2. July 19, 2022, regular session.
  - B. **Appointments to City Boards and Committees – Resolution** 10
  - C. **Oregon Liquor Control Commission (OLCC) Application for The Office, 10598 SE 32<sup>nd</sup> Avenue – Change of Owner** 13
7. **BUSINESS ITEMS**
- A. **Parks Levy Ballot Measure Referral – Resolution** (6:50 p.m.) 15  
 (Added to the agenda August 10, 2022)  
 Presenter: Mark Gamba, Mayor
  - B. **Parks System Development Charges (SDCs) – Resolution** (7:05 p.m.) 21  
 (Added to the agenda August 10, 2022)  
 Staff: Ann Ober, City Manager
  - C. **North Clackamas Watersheds Council (NCWC) Cooperative Study Agreement – Discussion** (7:20 p.m.) 23  
 Staff: Kelly Brooks, Assistant City Manager
  - D. **Main Street Trees and Sidewalks – Update** (7:50 p.m.)  
 Staff: Steve Adams, City Engineer
8. **PUBLIC HEARINGS**
- A. **None Scheduled.**
9. **COUNCIL REPORTS** (8:10 p.m.)
10. **ADJOURNMENT** (8:15 p.m.)

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

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

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

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

**Executive Sessions**

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





**RS Agenda Item**

**7**

**Business Items**

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council

**Reviewed:** Justin Gericke, City Attorney  
Clark Balfour, Attorney, and  
Peter Passarelli, Public Works Director

**From:** Ann Ober, City Manager

**Subject:** **Five-Year Parks and Recreation Local Option Levy**

**Date Written:** Aug. 12, 2022

**ACTION REQUESTED**

Council is asked to review and approve the draft resolution and ballot measure for city voters to establish a five-year parks and recreation local option levy in place of the North Clackamas Parks and Recreation (NCPRD) tax.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

[May 10, 2022](#): Council directed staff to investigate leaving the district.

[August 9, 2022](#): Council heard a presentation about parks that included a discussion about NCPRD system development charges (SDCs) and the 2018 Council resolution that supported the comingling of SDC zone funds.

**ANALYSIS**

The following is included in the resolution and provides the analysis for the action.

[The attached] measure will not increase taxes. Instead, this measure maintains the previous rate imposed by NCPRD, but directs the funds raised by the levy to the city rather than NCPRD in the event the city withdraws from NCPRD.

The City of Milwaukie intends to assume the role of the parks and recreation provider from NCPRD. Property owners currently pay property taxes to NCPRD at the rate of \$0.5382 per \$1000 of assessed value (approximately \$108/year for the Milwaukie median home value).

Milwaukie is asking voters to consider a levy at the same rate as the current NCPRD tax. If approved, the levy would replace the funds that residents currently pay to NCPRD and direct those resources to the City for parks maintenance and recreation programming. If the city does not withdraw from NCPRD, the city will not collect this rate to avoid duplicate taxation of property owners in Milwaukie.

It is estimated that this rate will generate approximately \$1,350,000 per year over the next five years. Should this levy fail, the city would not have enough resources to maintain the parks or provide recreation programming. The amount of funds raised by this proposed levy for each of the next five fiscal years is estimated to be as follows: FY 2023/24: \$1,271,000; FY 2024/25: \$1,309,000; FY 2025/26: \$1,349,000; FY 2026/27: \$1,389,000; FY 2027/28: \$1,431,000, for an estimated total of \$6,748,000.

The City of Milwaukie owns all of the parks within the city limits including the majority of the land within North Clackamas Park. The city also owns the Milwaukie Community Center. The

city is currently constructing Balfour, Bowman-Brae, and Scott Park. In 2025, the city is scheduled to reconstruct Dogwood Park.

This measure would allow the city to collect revenue beyond its permanent tax rate on a five-year basis dedicated to parks and recreation service.

This proposed levy continues the overall existing tax rates. Instead of \$0.5382/\$1,000 of assessed value going to NCPRD, the levy will direct that amount to the city to be used for park maintenance and recreation programming.

#### **BUDGET IMPACT**

Placing this item on the ballot will lead to the use of city resources to educate the public about the measure.

#### **WORKLOAD IMPACT**

Placing this item on the ballot will lead to the use of limited staff time to educate the public about the measure.

#### **ATTACHMENTS**

1. Resolution and Ballot Measure Title



**COUNCIL RESOLUTION No.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CALLING FOR AN ELECTION IN THE CITY OF MILWAUKIE ON NOVEMBER 8, 2022 TO SUBMIT TO CITY VOTERS THE ESTABLISHMENT OF A FIVE-YEAR PARKS AND RECREATION LOCAL OPTION LEVY IN PLACE OF THE NORTH CLACKAMAS PARKS AND RECREATION TAX.**

**WHEREAS** public park and recreation services are some of the most important community services provided for the community members of Milwaukie; and

**WHEREAS** park and recreation services are currently provided to the community members of Milwaukie by the North Clackamas Parks and Recreation District (NCPRD); and

**WHEREAS** the Council believes that it is in best interest of the community members of Milwaukie to re-establish a city-run parks department to provide the services currently provided to the city by NCPRD; and

**WHEREAS** the Council has determined that in order to do so there is a need to seek funding from property owners in Milwaukie of approximately one million three hundred and fifty thousand dollars (\$1,350,000) per year in order to provide dedicated park maintenance and recreation services in Milwaukie for the fiscal years 2023/2024 through 2027/2028; and

**WHEREAS** the Council finds it is in the best interest of the community members of Milwaukie to submit to the voters a local option levy for parks and recreation services of \$0.5382 per \$1,000 of assessed value for five years beginning with Fiscal Year 2023/24; and

**WHEREAS** this levy is equal to the tax rate that property owners in Milwaukie have paid and are currently paying to NCPRD, and

**WHEREAS** the city will not impose this levy if the city does not withdraw from NCPRD or otherwise establish a city-run parks department.

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

**Section 1.** An election is hereby called in and for the City of Milwaukie, Clackamas County, Oregon, to submit to the legal voters of the city the following question:

**Shall Milwaukie maintain a tax rate of \$0.538/\$1,000 previously levied by NCPRD for parks and recreation provided by the city?**

**Section 2.** Tuesday, November 8, 2022 is hereby designated as the date for holding the election for voting on the measure.

**Section 3.** The election shall be conducted by the Clackamas County Elections Department.

**Section 4.** The precincts for said election shall be and do constitute all of the territory included within the corporate limits of the City of Milwaukie.

**Section 5.** The ballot title to appear on the ballots shall read as follows:

**CAPTION: APPROVAL OF MILWAUKIE PARKS AND RECREATION LEVY FOR FIVE-YEARS**

**QUESTION: Shall Milwaukie maintain a tax rate of \$0.538/\$1,000 previously levied by NCPRD for parks and recreation provided by the city? This measure may cause property taxes to increase more than three percent.**

**SUMMARY:**

This measure replaces and maintains the current rate imposed by the North Clackamas Parks and Recreation District (NCPRD), but directs the funds raised by the levy to the city rather than NCPRD in the event the city withdraws from NCPRD.

Milwaukie intends to resume the role of the parks and recreation provider from NCPRD. Property owners currently pay property taxes to NCPRD at the rate of \$0.5382 per \$1000 of assessed value.

If approved, the levy would replace the funds that property owners currently pay to NCPRD and direct those resources to the city for park maintenance and recreation programming. If the city does not withdraw from NCPRD, the city will not collect this rate to avoid duplicate taxation of property owners in Milwaukie.

It is estimated that this rate will generate approximately \$1,350,000 per year over the next five years. Should this levy fail, the city would not have enough resources to maintain the parks or provide recreation programming. The amount of funds raised by this proposed levy for each of the next five fiscal years is estimated to be as follows: FY 2023/24: \$1,271,000; FY 2024/25: \$1,309,000; FY 2025/26: \$1,349,000; FY 2026/27: \$1,389,000; FY 2027/28: \$1,431,000, for an estimated total of \$6,748,000.

**Section 6.** Consistent with ORS 251.345, the City Recorder is hereby authorized to submit an impartial explanatory statement for the Clackamas County Voters' Pamphlet on behalf of the city to read substantially similar to the following:

**EXPLANATORY STATEMENT:**

This measure replaces and maintains the current rate imposed by the North Clackamas Parks and Recreation District (NCPRD), but directs the funds raised by the levy to the city rather than NCPRD in the event the city withdraws from NCPRD.

The City of Milwaukie intends to resume the role of the parks and recreation provider from NCPRD. Property owners currently pay property taxes to NCPRD at the rate of \$0.5382 per \$1000 of assessed value.

Milwaukie is asking voters to consider a levy at the same rate as the current NCPRD tax. If approved, the levy would replace the funds that residents property owners currently pay to NCPRD and direct those resources to the city for parks maintenance and recreation programming. If the city does not withdraw from NCPRD, the city will not collect this rate to avoid duplicate taxation of property owners in Milwaukie.

It is estimated that this rate will generate approximately \$1,350,000 per year over the next five years. Should this levy fail, the city would not have enough resources to maintain the parks or provide recreation programming. The amount of funds raised by this proposed levy for each of the next five fiscal years is estimated to be as follows: FY 2023/24: \$1,271,000; FY 2024/25: \$1,309,000; FY 2025/26: \$1,349,000; FY 2026/27: \$1,389,000; FY 2027/28: \$1,431,000, for an estimated total of \$6,748,000.

The City of Milwaukie owns all of the parks within the city limits including the majority of the land within North Clackamas Park. The city also owns the Milwaukie Community Center. The city is currently constructing Balfour, Bowman-Brae, and Scott Park. In 2025, the city is scheduled to reconstruct Dogwood Park.

This measure would allow the city to collect revenue beyond its permanent tax rate on a five-year basis dedicated to parks and recreation service.

This proposed levy continues the overall existing tax rates. Instead of \$0.5382/\$1,000 of assessed value going to NCPRD, the levy will direct that amount to the city to be used for park maintenance and recreation programming.

**Section 7.** A copy of the ballot title shall be published in the next available edition of a newspaper of general distribution in the city as well as notice of the seven day challenge ballot title challenge period as required in ORS 250.296.

**Section 8.** This resolution is effective upon its adoption by the City Council.

Introduced and adopted by the City Council on **August 16, 2022**.

This resolution is effective immediately.

---

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

---

Scott S. Stauffer, City Recorder

---

Justin D. Gericke, City Attorney

**Scott Stauffer**

---

**From:** Lisa Lashbrook <lisamlashbrook@gmail.com>  
**Sent:** Tuesday, August 16, 2022 6:14 PM  
**To:** Scott Stauffer  
**Cc:** Ann Ober; Kathy Hyzy; Mark Gamba; Adam Khosroabadi; Lisa Batey; Desi Nicodemus  
**Subject:** Testimony for Parks

**This Message originated outside your organization.**

---

Hello Scott, Ann and members of the council,

I have another commitment tonight and can only watch part of the meeting, so I decided to give a brief written testimony.

My name is Lisa Lashbrook and I have resided in the Lewelling neighborhood for 26 years. I served on the Parks and Recreation Board for the City of Milwaukie for 8 years, first as Vice Chair, and then Chair. I also served on the Steering Advisory Committee for the design selection for Milwaukie Bay Park.

I am in support of the resolution to put the tax levy to fund parks and recreation for the City of Milwaukie on the ballot. I also support SDC's that are generated from within the city to be retained by the City for parks in Milwaukie.

Thank you for your time and consideration,  
Lisa





CITY OF MILWAUKIE  
CITY COUNCIL

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

# Speaker Registration

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

Name: GARY KLEIN

Address: 10795 SE RIVERWAY LANE,

Organization:

Phone: 503/780-2294 MIL., OR.

Email:

Meeting Date: 8.16.22

Topic: PARK LEVY BALLOT REFERRAL

Agenda Item You Wish to Speak to:

You are Speaking...

- #4 Audience Participation
- #5 Public Hearing, Topic:
- #6 Other Business, Topic:

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

7. A. Parks Levy

Comments:



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CITY COUNCIL

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## Speaker Registration

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

Name: REBECCA STAVENJORD

Organization:

Address: 4467 SE MASON HILL DR  
Phone: 503-810-7873  
Email: stavenjord@gmail.com

Meeting Date: 9/16/22 Topic: PARKS

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing, Topic:
- #6 Other Business, Topic: PARKS

You are Speaking...

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

Comments:

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council

**Date Written:** Aug. 12, 2022

**Reviewed:** Justin Gericke, City Attorney, and  
Peter Passarelli, Public Works Director

**From:** Ann Ober, City Manager

**Subject:** **Resolution to Retain NCPRD System Development Charge (SDC) Zones**

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**ACTION REQUESTED**

Council is asked to consider adopting a resolution rescinding its previous support for comingling system development charge (SDC) zones in the North Clackamas Parks and Recreation District (NCPRD).

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

[April 3, 2018](#): Council approved a resolution in support of comingling NCPRD SDCs.

[August 9, 2022](#): Council heard a presentation about parks that included a discussion about NCPRD SDCs and the 2018 resolution.

**ANALYSIS**

In April 2018, the Council adopted a resolution supporting the comingling of NCPRD SDCs. Currently, these funds are segregated by zones and this process would combine the funds into a single account. The Milwaukie City Council's position on zone specific versus districtwide expenditure of parks SDCs was issued before recent discussions between NCPRD and the city regarding the city leaving the district. Given Council's recent direction to explore the possibility of the city leaving the district, staff have submitted the attached resolution to retract the 2018 resolution.

**BUDGET IMPACT**

None.

**WORKLOAD IMPACT**

None.

**ALTERNATIVES**

Council could continue to support the comingling of NCPRD SDCs.

**ATTACHMENTS**

1. Resolution Against Eliminating NCPRD SDC Zones.

**COUNCIL RESOLUTION No.****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, RECINDING SUPPORT FOR ELIMINATING ZONES WITHIN THE NORTH CLACKAMAS PARKS AND RECREATION DISTRICT FOR THE PURPOSES OF SYSTEM DEVELOPMENT CHARGE FUND DISTRIBUTION.**

**WHEREAS** on April 3, 2018, City Council approved a resolution to support the elimination of fund zones within the North Clackamas Parks and Recreation District (“NCPRD”) and thereby supporting the comingling of System Development Charges (“SDC”); and

**WHEREAS** circumstances have changed since that time and the City Council is now considering withdrawing from NCPRD and recreating a city-run parks department to provide parks and recreation services to the residents of Milwaukie; and

**WHEREAS** this change in circumstances has caused the City Council to reevaluate its support for eliminating the fund zones; and

**WHEREAS** the City Council finds that the existing district policy that requires SDCs to be used within the fund zone from which they were generated is more equitable as it requires SDCs generated within the City of Milwaukie to be used in the City of Milwaukie.

**Now, Therefore, be it Resolved** by the City Council of the City of Milwaukie, Oregon, that the Milwaukie City Council rescinds its support for the elimination of fund zones within NCPRD; and

**Be it Further Resolved** that Milwaukie City Council authorizes the Mayor, City Council and staff to advocate continued use of funding zones within the district.

Introduced and adopted by the City Council on **August 16, 2022**.

This resolution is effective immediately.

---

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

---

Scott S. Stauffer, City Recorder

---

Justin D. Gericke, City Attorney

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council  
Ann Ober, City Manager

**Date Written:** Aug. 5, 2022

**Reviewed:** Peter Passarelli, Public Works Director  
Kelli Tucker, Accounting and Contracts Specialist, and  
Justin Gericke, City Attorney

**From:** Kelly Brooks, Assistant City Manager

**Subject:** **Cooperative Agreement for Kellogg Creek Restoration & Enhancement Project**

---

**ACTION REQUESTED**

Council is asked to receive an update on development of a cooperative agreement with North Clackamas Watershed Council (NCWC) for the purposes of administering \$585,000 in Congressional Directed Spending (CDS) funds awarded to the Kellogg Creek Restoration and Community Enhancement Project. Staff will also provide a brief update on a grant application submitted on August 15 to obtain additional design funds for dam removal.

**ANALYSIS****Congressionally Directed Spending (CDS) - Awarded**

In March 2022, Congress passed an omnibus spending bill which included \$585,000 in congressionally directed spending for a Kellogg Dam Channel Study. NCWC worked directly with United States (US) Senator Jeff Merkley's office to request the funds. While NCWC will be the primary subrecipient of the funding, they are not eligible to receive the dollars directly from the National Oceanic and Atmospheric Administration (NOAA). Therefore, the city must receive and administer the funds in accordance with all applicable rules and regulations. The purpose of the attached cooperative agreement is to ensure that the primary subrecipient, NCWC, and any other subrecipients, agree to fulfill all federal responsibilities prior to the city releasing the first round of funds in the fall of 2022.

The attached draft is still under review by NOAA, the city attorney, and NCWC and will change prior to final adoption. The purpose of the August Council discussion is to provide an update on the timing of the funds, the restrictions and rules related to their use, and answer any questions in advance of a September vote to approve the cooperative agreement.

**Restoring Fish Passage through Barrier Removal Grants – Application Pending**

Up to \$65 million in funding is available under the federal Bipartisan Infrastructure Law for fish passage projects that will remove in-stream barriers. This funding will support transformational projects that reopen migratory pathways and restore access to healthy habitat for fish around the country. NCWC has partnered with the non-profit group American Rivers to submit a \$15 million grant request on August 15. If secured, these funds would substantially complete design of all elements of the project including bridge replacement, channel design and lakebed restoration.

## **BUDGET IMPACT**

The city will claim a total of \$45,091 from the CDS grant to provide administrative oversight and support to meet grant reporting requirements, technical review, and technical advisory committee participation. The city will also retain an additional \$6,759.40 to cover indirect costs associated with the funds.

## **WORKLOAD IMPACT**

City staff will provide oversight and ensure grant compliance. City staff will disburse funds to the subrecipient (NCWC) and complete federal financial reports and required audits, and NOAA Performance Progress Reports. Workload will be interdependent on evolving project needs and any unforeseen changes in the scope of work.

## **CLIMATE IMPACT**

Restoration of Kellogg Creek will help restore up to 14 acres of floodplain connectivity and riparian habitat to reduce flood risk, provide shading, create ecological uplift, and stabilize water temperature.

## **COORDINATION, CONCURRENCE, OR DISSENT**

In early 2022, NCWC coordinated key partners in forming a project Technical Advisory Committee (TAC). The TAC will provide technical support to address constraints associated with design and permitting and ensures a collaborative design process will be conducted. The TAC is comprised of representatives from:

- NCWC
- NOAA Fisheries
- American Rivers
- Oregon Department of Fish and Wildlife (ODFW)
- Oregon Department of Transportation (ODOT)
- Oregon Division of State Lands (DSL)
- Oregon Department of Environmental Quality (DEQ)
- US Fish & Wildlife Services
- Confederated Tribes of the Warm Springs Indian Reservation
- Confederated Tribes of the Grande Ronde
- Clackamas County Water Environment Services (WES)
- North Clackamas Parks & Recreation District (NCPRD)
- Native Fish Society

## **STAFF RECOMMENDATION**

Not applicable.

## **ALTERNATIVES**

Not applicable.

## **ATTACHMENTS**

1. CDS Project Narrative
2. Barrier Removal Grant Project Narrative (if provided by NCWC to staff)

# Narrative

## **Kellogg Creek Restoration & Community Enhancement Project** *Restoring Habitat and Fish Passage, Strengthening Community, and Updating Infrastructure*

### **Summary**

Removing Kellogg Dam and restoring fish passage into the Kellogg – Mt. Scott Watersheds is the highest-priority fish passage project in Oregon owned by ODOT (ODFW, 2020). The dam was built before statehood and has served no functional purpose since the 1890s. The Highway 99E Kellogg Creek Bridge, resting on the dam, is rated as earthquake vulnerable.

This project will:

- Restore volitional fish passage past Kellogg Dam and create access to Kellogg & Mt. Scott Watershed's spawning and juvenile rearing and migration habitat for Willamette and Lower Columbia ESA-listed salmonids
- Remove the existing impoundment behind the dam that has flooded the lower portion of Kellogg Creek and restore a natural channel and stream biophysical processes
- Create a new publicly accessible natural area, improved access to Milwaukie Bay Park, the Willamette River, Downtown Milwaukie, and the Orange Line MAX with a trail undercrossing of Highway 99E
- Restore needed floodplain storage and reduce flood risk to adjacent properties.
- Remove a warm-water hazard to aquatic life and contribute to species climate resiliency
- Produce quality of life improvements for the community and increase public accessibility to nature for low-income communities and communities of color
- Provide an unparalleled example of stream restoration in an area of high visibility allowing many education opportunities and increased public understanding of natural system functioning and its benefits to society
- Create 563 jobs in construction and environmental restoration
- Leverages \$8 million in OWEB funding invested in restoring the Clackamas Fish Populations.
- The project has a proven successful analog in lower Rinearson Creek at its confluence with the Willamette River. Following removal of a similar dam in Gladstone in 2017, over 500 juvenile Chinook salmon returned to the restored habitat.

Previous efforts to begin planning for Kellogg Dam removal and a restored lower Kellogg Creek have been made at different times since 2010. Project planning will build upon the stakeholder support and studies conducted since 2010 and leverage private and public funding to advance planning of a project that can be successfully delivered

with Infrastructure Investment & Jobs Act funding. We will utilize these appropriated funds to advance integrated planning of the Kellogg Restoration Project, including site studies and assessments needed for permitting and design, development of the project management framework with all project elements integrated, and coordination of partners and stakeholders to ensure all necessary issues, risks and constraints are being considered and addressed so the project can efficiently move through planning.

## **Statement of Need and Benefits**

### **Ecological Significance**

Kellogg Dam is the #1 statewide fish passage priority for ODOT-owned infrastructure as ranked by the Oregon Wildlife Commission. Located at the confluence of Kellogg Creek and the Willamette River, Kellogg Dam blocks passage into all of Kellogg and Mt. Scott watersheds, including 14.8 miles of mainstem and tributaries. Restoring fish passage and eliminating the warm-water impoundment behind the dam will benefit threatened and endangered salmonids and other priority species, including winter steelhead, Chinook and coho salmon, Pacific lamprey, and cutthroat trout. ESA-listed salmon and steelhead from the Clackamas River and upper Willamette Basin use the lower Willamette River and its tributary junctions and lower reaches; for migration, and creek confluences in the lower Willamette provide critical and limited off-channel rearing habitat for juveniles. In addition, the project will open 7.8 miles of juvenile rearing habitat and spawning habitat, including spawning habitat in Upper Mt. Scott Creek.

Specifically, the project will:

- Address critical habitat needs of ESA-listed salmon and steelhead, including multiple ESUs: Upper Willamette steelhead, Lower Columbia River steelhead, Lower Columbia River coho salmon, and Upper Willamette River Chinook salmon.
- Address multiple critical needs in the ESA Recovery Plan for Lower Columbia River coho salmon, Lower Columbia River Chinook salmon, Lower Columbia River chum salmon, and Lower Columbia River steelhead, as well as addressing key limiting factors cited in the Oregon Department of Fish and Wildlife's Lower Columbia River Conservation & Recovery Plan for Oregon Populations of Salmon and Steelhead, and the Upper Willamette River Conservation & Recovery Plan for Chinook Salmon & Steelhead.
- Support Pacific lamprey access to important spawning and rearing habitat.
- Provide access to cold-water tributaries as the Willamette River mainstem more frequently exceeds 22\* C (USGS, 2018; DEQ, 2020), and reduce the water quality impact of the warming created by Kellogg Lake.
- Provide up to 14 acres of increased floodplain storage for reduced flood risk and restore a natural stream channel.

This request for appropriated funds is the result of a stakeholder process involving the North Clackamas Watersheds Council (NCWC), the City of Milwaukie (City), the Natural Resources Office of Governor Kate Brown (Governor's Office), multiple state agencies,



Metro, The Confederated Tribes of the Warm Springs Indian Reservation, the Confederated Tribes of Grande Ronde, the Native Fish Society, the United States Fish & Wildlife Service (USFWS), NOAA Fisheries (NMFS), American Rivers (AR), and private, state, and local funders to restore a free-flowing Kellogg Creek.

### **Environmental Equity and Significance to Disadvantaged and Minority Communities**

Disadvantaged and minority communities are disproportionately impacted by pollution burdens that negatively affect their physical health and have higher rates of respiratory disease, as well as reduced quality of life access to green, natural, and outdoor recreation spaces (EPA, 2010). Revegetation of the current lakebed will provide additional trees and a shaded natural area for relief from extreme heat events, a reduction in air pollution and urban heat island index, and increased carbon sequestration of greenhouse gas emissions.

Access to nature for healthy exercise is particularly important to low-income populations and populations of color, which has been highlighted during the Covid pandemic. The pandemic highlighted longstanding disparities in who has access to venues for exercise and experiencing nature.

The Kellogg-Mt. Scott watershed's human population is more diverse than Oregon as a whole, with Latinx and Asian populations above the statewide average. (US Census Bureau, RLIS, Zohner, 2018). The Census tract containing Kellogg Dam (#410050210002) is the most racially diverse tract in Milwaukie. The Census FIPS areas containing the north shore of Kellogg Lake (#41005020800) is the second most diverse census tract in Milwaukie and has been identified as a low-income community by the US Small Business Administration (8.3% poverty rate). These two tracts rate the worst (6.9 out of 10) in Milwaukie in terms of Pollution Index (10 being the most polluted) (Shandas, 2021). In 2022, Metro identified the Kellogg-Mt. Scott Watersheds as offering multiple opportunities to increase equity and to address the watershed's low access to nature, low environmental justice scores, and high environmental burdens, especially in the western portion of the watershed, including the area near Kellogg Dam (Metro, 2022).

Kellogg Dam and the project site is located two blocks from Milwaukie High School, whose students routinely use the Kellogg Lake pedestrian Bridge, Kronberg Park, and the Milwaukie Presbyterian Church Nature Sanctuary within the project area. Milwaukie High School is made up of 49% students of color and 59% students on free/reduced lunch. The school district has seen a 92% increase in students of color from 2010 to 2020 (North Clackamas School District, 2022). Students of color comprise a higher percentage of the student population than the adult population, indicating that the future population of these watersheds will be increasingly diverse. High School students have been involved in making a video history of Kellogg Dam and in restoration projects in the riparian zone of the current impoundment. The project will provide many additional opportunities for environmental awareness, evidence based and interactive learning, scientific research and involvement with monitoring and/or adaptive management of the

restored stream channel and floodplain as a real-world laboratory. With additional awareness and interaction between nature and students, we envision a longer-term opportunity to increase the diversity of the workforce seeking a career in the environmental industry with implications for longer-term environmental justice and broad societal benefit.

Two Indian Tribes, the Confederated Tribes of the Warm Springs Indian Reservation, and the Confederated Tribes of the Grande Ronde) consider the area part of their traditional territory and their usual and accustomed places. Both are engaged in planning and have representatives on the project Technical Advisory Committee. Kellogg Creek is historical Pacific lamprey habitat, a culturally important species for both tribes. The Confederated Tribes of the Warm Springs Indian Reservation have formally petitioned ODOT and the Governor's Office to prioritize this project for the significant cultural resource benefits it would provide.

#### Other Project Benefits:

Additional surrounding community benefits include:

- Providing a trail crossing of Highway 99E to connect bike/pedestrians from downtown Milwaukie and light rail to Milwaukie Bay Park/and the Willamette River as Milwaukie Bay Park becomes more heavily used.
- Creating new access and recreational opportunities in a new natural area.
- Connecting pedestrian and bicycle routes to the Trolley Trail, Kronberg Park, and Light Rail (Milwaukie Downtown Max Station), and Milwaukie High School to increase public accessibility to a natural resource.
- Further revitalizing downtown Milwaukie with a restored stream at the center.
- Creating jobs in construction and environmental restoration. The project will create an estimated 453 jobs based on methodology developed by the University of Oregon (Economic Policy Institute, 2019, Neilsen-Pincus & Moseley, 2010).

#### Future Science, Stewardship and Education Opportunities

Many opportunities exist to engage diverse populations, as well as Milwaukie High School, mentioned above, and those at its nearby feeder school, Rowe Middle School, located just upstream of the impoundment behind the dam. These include:

- Student monitoring and documenting of changes in the area as the lake impoundment is restored to a natural stream channel with volitional fish passage. This could include monitoring of vegetation change, photo points, fish surveys, wildlife habitat surveys, managing wildlife cameras, water sampling, etc. These activities have multiple rich service-learning opportunities to tie directly to science, math, language arts, and other curricula.
- Stewardship of the restored river channel, including tree planting, weed management, monitoring vegetation survival, trail construction and maintenance, leading tours of the restored natural area, etc.
- Creation of interpretive signage and interpretive programs. These could be designed by Native American tribal partners to ensure that their history is articulated as well as to convey the story of dam removal and restoration.

- Engagement of local residents, graduate students, and Milwaukie High School in monitoring fish upstream of the dam site as fish passage is restored, modeled after Johnson Creek Watershed Council's salmon survey community science project. Because salmon are noted well upstream in upper Mt. Scott Creek after the 4-5 days/year when the Willamette River is high enough for adult salmon and steelhead to move upstream, this will be a watershed-wide monitoring effort and will need to use multiple methodologies to determine increased habitat use by multiple species and life stages of salmon, steelhead, trout, and lamprey.

### **Project History:**

Kellogg Dam was constructed in 1858, before either Oregon statehood or the Civil War, for a flour mill. The mill stopped operation in the 1890s, but the dam was left in place and has served no purpose since.

In 1932, Highway 99E was built atop Kellogg Dam. The bridge, now 90 years old, is earthquake vulnerable. A fish ladder was constructed in 1934 and again in the 1970s, both with little to no fish passage efficiency. Various studies and planning efforts related to the current project being proposed were conducted by a number of local, state, and federal entities between 2001 and 2018. A review of and information acquired from those efforts helped to shape the current understanding of the proposed project and allow identification of desired project outcomes for project goal development, with a better understanding of constraints and issues that need to be addressed.

### **Project Goals and Objectives**

The draft project goal statement is to remove a barrier at the mouth of Kellogg Creek to restore volitional fish passage, critical habitat, and floodplain habitat; improve water quality, flood conveyance, recreational access, and pedestrian safety; reduce interdependency of constraining infrastructure on Kellogg Dam for long-term resilience; and create educational opportunities and quality of life benefits for the surrounding diverse community.

Collaborative stakeholder development of specific, measurable, achievable, realistic, time-based, inclusive, and equitable (SMARTIE) objectives are currently under development by the project's Technical Advisory Committee. The goal statement and objectives statement will be confirmed in July 2022. Objectives will encompass the following desired outcomes and key aspects of the project:

- Provide volitional fish passage past Kellogg Dam to access to 14.8 miles of the greater Kellogg-Mt Scott watershed for species resiliency to climate change impacts
- Restore a naturally functioning stream channel through the previous impoundment created by the dam to improve water quality and ecological function, address contaminated sediment stored in the impoundment, and provide thermal refugia riverine habitat for off-channel utilization by fish species.
- Restore up to 14 acres of floodplain connectivity and riparian habitat to reduce flood risk, provide shading, and create ecological uplift.

- Reduce or eliminate dependence of the Oregon State Highway 99E Bridge on the Kellogg Dam, improve or modernize the bridge to ensure seismic criteria compliance for long-term bridge infrastructure resiliency, and address any other adjacent infrastructure constraints on the project goal.
- Create and/or improve access connectivity between City, park, and restored resources for public access with a focus on improved pedestrian safety, access, recreational opportunities, and project awareness through informational kiosks
- Equitably engage diverse, minority, and disadvantaged stakeholders to address needs, incorporate input and considerations, and collaborate to develop educational opportunities and benefits to the surrounding community

### **Project Initiation and Collaborative Framework**

In 2018, NCWC, the City, Governor's Office, ODOT, ODFW, DEQ, NOAA Fisheries, USFWS, and other partners launched a stakeholder engagement effort to identify next steps to move the project forward. This effort identified the need for additional site studies, development of design concepts, and stakeholder selection of a preferred design alternative. Fulfilling this need will create a pathway to implementation by integrating and addressing planning needs for all elements of the project, including fish passage, restoration of the stream channel and floodplain, bridge replacement, improved public safety and recreational access, among others. Funding support from private foundations, state agencies, and in-kind contributions from partners above enabled that effort.

In late 2021, NCWC, the City, American Rivers, and ODOT began project management coordination of the proposed project. These entities will serve as the Leadership Team and have ultimate responsibility for delivering the project as the project sponsor and project management team.

In early 2022, NCWC coordinated key partners in forming a project Technical Advisory Committee (TAC). The TAC will provide technical support to address constraints associated with design and permitting and ensures a collaborative design process will be conducted. The TAC is comprised of representatives of:

- City of Milwaukie
- North Clackamas Watersheds Council
- NOAA Fisheries
- American Rivers
- Oregon Dept. of Fish & Wildlife
- Oregon Dept. of Transportation
- Oregon Division of State Lands
- Oregon Dept. of Environmental Quality
- NOAA Fisheries
- US Fish & Wildlife Service
- Confederated Tribes of the Warm Springs Indian Reservation
- Confederated Tribes of the Grande Ronde

- Clackamas Water Environment Services
- North Clackamas Parks & Recreation District
- Native Fish Society

Iterative review by the TAC with critical input from regulatory agencies will be facilitated through at least five TAC meetings in 2022. That same collaborative TAC role in design development and addressing permitting requirements will continue until final design has been completed and project permits secured. The broader community will also be engaged through meetings, presentations, and outreach soliciting their input and feedback to optimize their realization of project benefits, while also allowing the project planning timeline to be streamlined as much as possible given the inherent complexity of the project.

### **Current Phase and Allocation of FY22 Appropriations Act Funding**

Appropriations fill a critical gap in the Feasibility & Design phases.

Inter-fluve, Inc. and a team of subcontractors, including a bridge expert, was retained in May 2022 to provide professional services and has initiated the feasibility phase with the goal of completing key site studies and modeling, alternatives analysis, and development of conceptual design alternatives for restoration. The selection of a preferred restoration alternative that best meets the project goal, the site analysis performed by Interfluve, and assessment of infrastructure constraints and recommendations will combine to inform ODOT's development of bridge design.

Several additional site studies and consideration of built infrastructure integration is proposed for completion with the appropriated funding and is outlined below. This will allow the primary interdependent project elements (barrier removal, bridge, stream and floodplain restoration through the previous impoundment) to advance together in an integrated fashion through the formal planning phase to include advanced stages of design and permitting.

The appropriated funding for the project will answer remaining feasibility questions and allow integration of:

- project management, stakeholder coordination, communication, and outreach;
- completion of critical site studies to inform identification of a streamlined permitting pathway and design of all project elements;
- and transition to integrated planning of all project elements with a more targeted focus on infrastructure constraints.

Specific activities, products, sub-award recipient, and contract services funded through this proposal are detailed in the Budget Justification Narrative and Budget worksheet. Additional funding will be sought in the future for final design, permitting, construction, and post-project monitoring.

### **Project Phase Timeline with Outcomes Description**

Appropriations fill a critical gap in the Feasibility & Design phases and the transition between them.

The table below outlines the project phases and provides a brief description of what each phase entails or key outcomes. The grey-shaded feasibility phase is the current phase where appropriated funds will be primarily utilized.

Project Phases with Description	Status/Target
<p><b>Scoping and Project Initiation</b> Key stakeholders coordinated on leadership and technical teams, site studies and feasibility effort scoped, and consultant procured to initiate the project feasibility phase.</p>	<p>Complete: 2021 - May 2022</p>
<p><b>Feasibility (Pre-Design) (This phase)</b> Site Studies and H&amp;H modeling, Conceptual Restoration Design Alternatives Development, Alternatives Analysis, Range of Magnitude Cost Estimate, and Project Fundraising for final planning, construction, and monitoring phases. A preferred alternative will be selected and implementation pathway defined in this phase.</p>	<p>Underway: 2022-2023</p>
<p><b>Design and Permitting:</b> Preliminary to Final Design with design review at several design milestones completed, project permits secured, and remaining project funding secured. Bid document finalization will occur at the end of this phase.</p>	<p>2023 - 2025*</p>
<p><b>Construction:</b> Contractor procurement, Mobilization, Implementation, As-built surveys, Substantial Completion achieved</p>	<p>2026-2027</p>
<p><b>Post-Project:</b> Effectiveness Monitoring &amp; Adaptive Management</p>	<p>2027-2032</p>
<p>*Conservative Estimate. The goal is to integrate project elements in design and permitting, and secure all funding needed to fast track the project for earlier implementation. The project will be evaluated after the Feasibility Phase to determine its eligibility for an alternative delivery method, which could speed project delivery.</p>	

**Qualifications of Applicant and Sub-Award Recipient**

The City of Milwaukie owns much of the overall project footprint and will have long-term management responsibilities. The City has a key interest in preserving and enhancing the quality of life for the City’s population and therefore the opportunities and resources available to them. The City has a key role in defining project goals and objectives, and

ensuring City requirements are met to achieve desired outcomes. The City has received and administered many grants, frequently sponsors public works projects, and has partnered with NCWC for years to achieve greater benefits in the watershed for the community.

The North Clackamas Watersheds Council (NCWC) has a vested interest in Kellogg Creek watershed restoration and developed key partnerships and raised critical seed funding to initiate the first phase of project planning. NCWC had led many restoration projects in the Kellogg-Mt Scott watershed, has a history of securing and managing grant funds and overseeing consultants, and is the primary contact for the project.

American Rivers (AR) NW Dam Removal program staff focuses on developing and managing dam removal projects, coordinating a broad range of project partners and stakeholders, and guiding design, permitting and fundraising through an integrated planning process so complex high-quality projects can be completed faster than is traditional. Program staff specialize in complex river restoration projects that involve water resource infrastructure components, in either a direct project development role or management role. American Rivers will provide direct support to NCWC and the City in project management plan, process development, and project fundraising.

Inter-Fluve has completed over 2,400 river restoration projects across the United States and on four continents, and has worked on 135 dam removal project focused on improving fish passage and aquatic habitat. Marty Melchior is one of the country's leading dam removal experts. Marty has been a key player in the development of national dam removal standards of practice, having written some of the first scopes of work for dam removals in New England and the Midwest, and helped numerous states develop dam removal standards of practice. Marty was an invited participant in the Federal Subcommittee on Sedimentation taskforce that developed sediment management guidelines for dam removal (USBR 2019), and has managed or designed over 40 dam removal projects across the country. Inter-Fluve has conducted over 50 dam removal feasibility studies across the country, and has in experience covers all aspects of dam removal and impoundment restoration, including concept design, final design, sediment management plans, drawdown and demolition plans, water routing and dewatering plans, infrastructure protection plans, and river and floodplain restoration plans.

RS 7. C. 8/16/22  
Presentation



# Kellogg Dam Project Update

Kelly Brooks  
8/16/2022



# Project Overview

- Restore fish passage past Kellogg Dam and create access to Kellogg & Mt. Scott Watershed's spawning and juvenile rearing and migration habitat for Willamette and Lower Columbia ESA-listed salmonids
- Remove the existing impoundment behind the dam that has flooded the lower portion of Kellogg Creek and restore a natural channel
- Restore needed floodplain storage and reduce flood risk to adjacent properties.
- Remove a warm-water hazard to aquatic life and contribute to species climate resiliency



# Congressionally Directed Spending (CDS)

## Scope

- Establish a preferred alternative for the channel design.

## Schedule

- Funding begins in Fall of 22 and will continue for three years.

## Funding

- \$585,000 - City will claim \$51,850 for staff time and indirect costs associate with administering funds.

# NOAA Fisheries Grant

## Scope

- Fully design all elements (bridge, sediment management, and lake restoration)
- Complete permitting and bid development
- Contracting and beginning of some construction activities is possible.

## Schedule

- Dec 22 / Jan 23 - Notice of Award. Funding will be for 3 years with option to extend to 5 years
- March / April 2023 - Grant agreement with American Rivers
- Summer /Fall 2023 subagreements with City, NCWC and ODOT

## Funding

- \$15,000,000 grant submitted on 8/15/2022 by American Rivers. \$150,000 for city staff.
- Remainder of construction costs will have to come from other sources.
- USDOT expected to release additional Culvert Replacement funds in August/September.

# Next Steps

